



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 January 2014

**9959/02
EXT 1**

**AELE 13
JAI 139
AUDIO 9
WTO 64**

PARTIAL DECLASSIFICATION

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Subject: EU-Switzerland relations
- Adoption of the four recommendations of negotiating mandates
presented by the Commission on 10 April 2002

Delegations will find attached the partially declassified version of the above-mentioned document.



ANNEX

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 June 2002

**9959/02
EXT 1 (23.01.2014)**

**AELE 13
JAI 139
AUDIO 9
WTO 64**

"A" ITEM NOTE

From: Permanent Representatives Committee
Dated: 12 June 2002
To: Council

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Subject : EU-Switzerland relations
- Adoption of the four recommendations of negotiating mandates presented by the Commission on 10 April 2002

1. On 10 April 2002, the Commission sent to Council a communication and recommendations for Council Decisions authorising the Commission to open negotiations with Switzerland in four sectors (Schengen, Dublin, free trade in services and audiovisual).
2. In accordance with the COREPER conclusions of 18 April 2002, these recommendations were examined within the EFTA Working Party, JHA Counsellors, the Article 36 Committee, the Strategic Committee on Immigration, Frontiers and Asylum, the 133 Committee (Services) and the Audiovisual Working Party.
3. COREPER reviewed, at its meetings on 29 May and 12 June 2002, the result of the work achieved at Working Group level and undertook an examination of the remaining reservations and requests of delegations and the Commission.

Following these meetings and the resolution of all the issues at stake, the Council is invited by way of an "A" item to:

- adopt the decisions on negotiating mandates in the four sectors, as set out in Annex I;
 - enter in the minutes of its meeting the joint Council and Commission declaration regarding the participation by Switzerland in Community programs on education, training and youth, as set out in Annex II.
 - approve a text of Council conclusions, as set out in Annex III.
 - enter in the minutes of its meeting a number of declarations, as set out in Annex IV.
4. a) The UK and Ireland have stated their intention to participate in the adoption and application of the Council Decision regarding the negotiating mandate on Dublin without prejudice to their right under the Protocol on the position of the UK and Ireland, annexed to the TEU and to the TEC, to decide whether or not to participate in the adoption of any future Council Decisions to sign and conclude the resulting agreement.
- b) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and to the EC Treaty, Denmark does not take part in that part of the Council Decisions regarding the negotiating mandates on Schengen and Dublin adopted with reference to Title IV of the EC Treaty, and Denmark is not bound by that part of the Council Decision nor subject to its application.

Annexes

Draft Council Decision authorising the Commission and the Presidency to open negotiations with a view to associating Switzerland with the implementation of the Schengen *acquis* and its further development

The Council:

- authorises the Commission - as far as the institutional framework and the aspects of the Schengen *acquis* covered by the EC Treaty are concerned - and the Presidency assisted by the Commission - where those aspects of the Schengen *acquis* governed by the EU Treaty are concerned - to negotiate, in accordance with the directives in the Annex, an Agreement between the European Community and the European Union on the one hand, and Switzerland, on the other, associating the latter with the implementation and development of the Schengen *acquis*;
- appoints the Article 36 Committee, the Strategic Committee on Immigration, Frontiers and Asylum and the EFTA Working Party, assisted by the Working Party on the Schengen *acquis*, as special committees to assist the Commission and the Presidency in the negotiations;
- invites Iceland and Norway to take part in the negotiations between the EC/EU and Switzerland.¹

¹ The Council Legal Service is of the opinion that Iceland and Norway should conclude a separate agreement with Switzerland.

Substance and development of the Schengen *acquis*

- Switzerland must accept the Schengen *acquis* in its entirety, including the relevant EU/EC legislation to the extent it replaces corresponding parts of the Schengen *acquis* (e.g. data protection and directive on firearms); no exemptions or derogations are permissible.
- Switzerland must also accept to implement all decisions concerning the application and development of the Schengen *acquis*. The agreement should include a provision according to which the agreement will terminate if Switzerland does not implement the decisions adopted for the development of the *acquis*.

Organisational framework with a view to enabling Switzerland to be associated with the implementation and development of the Schengen *acquis*

The association of Switzerland in the implementation, application and development of the Schengen *acquis* must be implemented through the same type of organisational framework established by the association agreement with Iceland and Norway, subject to the following provisos:

- The provisions on Switzerland's acceptance of a measure to develop the Schengen *acquis* (Article (2)(b) and (c) of the agreement of 18 May 1999) must be adapted to its constitutional requirements.
- The provisions (Article 12(1) of the agreement of 18 May 1999) must establish Switzerland's annual contribution to the administrative and operational costs proportionate to that of Iceland and Norway.

Denmark's participation in the association agreement with Switzerland in the areas governed by Title IV of the Treaty establishing the European Community

The association agreement should include provisions taking into account Denmark's special position with regard to acts adopted pursuant to Title IV of the Treaty establishing the European Community.

United Kingdom and Ireland participation in the association agreement with Switzerland

The association agreement should include provisions taking into account the extent to which it applies to United Kingdom and Ireland.

The link between the agreement on Schengen and the agreement on the implementation by Switzerland of the legislation establishing Eurodac and the forthcoming legislation establishing the State responsible for examining requests for asylum

The agreement should include a provision linking its implementation and termination to the implementation and termination of the agreement on the implementation by Switzerland of the

legislation establishing Eurodac and the forthcoming legislation establishing the State responsible for examining requests for asylum.

Draft Decision by the Council and the representatives of the Governments of Member States meeting within the Council authorising the Commission to open negotiations with a view to concluding an agreement with Switzerland on the implementation of the legislation establishing Eurodac and of the forthcoming legislation establishing the State responsible for examining requests for asylum, and their further development

The Council and representatives of the Governments of Member States meeting within the Council:

- authorise the Commission to negotiate, in accordance with the annexed directives, an agreement between the European Community, on the one hand, and Switzerland, on the other, on the implementation of the legislation establishing Eurodac and of the forthcoming legislation establishing the State responsible for examining requests for asylum, and their further development;
- appoint the Strategic Committee on Immigration, Frontiers and Asylum and the EFTA Working Party, assisted by the Asylum Working Party, as special committees to assist the Commission in the negotiations;
- invite Iceland and Norway to take part in the negotiations between the EC and Switzerland.²

² The Council Legal Service is of the opinion that Iceland and Norway should conclude a separate agreement with Switzerland.

Substance and development of the “*acquis*”

- Switzerland must accept the legislation establishing Eurodac in its entirety; Switzerland must also accept the relevant data protection legislation; no exemptions or derogations are permissible. The agreement should include a provision according to which Switzerland will accept in its entirety the forthcoming legislation on the State responsible for examining requests for asylum; no exceptions or derogations are permissible.
- Switzerland must also accept to implement all decisions concerning the application and development of the legislation establishing Eurodac and the forthcoming legislation on the State responsible for examining requests for asylum. The agreement should include a provision according to which the agreement will terminate if Switzerland does not implement the decisions adopted for the development of the *acquis*.

Organisational framework with a view to enabling Switzerland to participate in the implementation, application and development of the legislation establishing Eurodac and the forthcoming legislation on the State responsible for examining requests for asylum

The association of Switzerland in the implementation, application and development of the legislation establishing Eurodac and the forthcoming legislation on the State responsible for examining requests for asylum must be implemented through the same type of organisational framework established by the agreement of 19 January 2001 with Iceland and Norway, subject to the following provisos:

- The provisions on acceptance of a measure to develop the legislation establishing Eurodac and the forthcoming legislation on the State responsible for examining requests for asylum (Article 4(3) and (4) of the Agreement of 19 January 2001) must be adapted to its constitutional requirements.
- The provisions (Article 9(1) of the agreement of 19 January 2001) must establish Switzerland's annual contribution and a contribution to the reference amount referred to in Article 9(1) of the Agreement of 19 January 2001.

Denmark’s participation in the association agreement with Switzerland in the areas governed by Title IV of the Treaty establishing the European Community

The association agreement should include provisions taking into account Denmark’s special position with regard to acts adopted pursuant to Title IV of the Treaty establishing the European Community.

United Kingdom and Ireland participation in the association agreement with Switzerland

The association agreement should include provisions taking into account the extent to which it applies to United Kingdom and Ireland.

The link between the agreement on Schengen and the agreement on the legislation establishing Eurodac and the forthcoming legislation on the State responsible for examining requests for asylum

The Agreement should include a provision linking its implementation and termination to the implementation and termination of the agreement on Schengen.

**DRAFT DECISION BY THE COUNCIL AND THE REPRESENTATIVES OF THE
GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE COUNCIL
AUTHORISING THE COMMISSION TO OPEN NEGOTIATIONS WITH THE SWISS
CONFEDERATION WITH A VIEW TO CONCLUDING A FREE TRADE AGREEMENT
ON SERVICES**

The Council and the representatives of the governments of the Member States meeting within the Council decide that:

- the Commission is authorised to open negotiations with the Swiss Confederation with a view to concluding a Free Trade Agreement on Services;
 - the Commission will conduct these negotiations in accordance with the negotiating directives attached hereto and in consultation with the EFTA Working Party and the Ad hoc 133 Committee (Services), to assist the Commission in its task.
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NOT DECLASSIFIED

NOT DECLASSIFIED

Draft Council Decision authorising the Commission to open negotiations with the Swiss Confederation with a view to concluding a bilateral agreement in the audiovisual field

The Council decides that:

- the Commission is authorised to open negotiations with the Swiss Confederation with a view to concluding a bilateral Agreement in the Audiovisual field;
- the Commission will conduct these negotiations in accordance with the negotiating directives attached hereto and in consultation with the EFTA Working Party, and where appropriate, the Audiovisual Working Party.

NOT DECLASSIFIED

NOT DECLASSIFIED

DRAFT DECLARATION BY THE COUNCIL AND THE COMMISSION

"In conformity with the EU/Switzerland Joint Declaration on the occasion of the signature of the seven agreements on 21 June 1999, the Council and the Commission agree to prepare negotiations with Switzerland to allow for a Swiss participation in the next programme cycle on education, training and youth. The Commission will look into the possibility of setting up practical arrangements for the present programme cycle".

NOT DECLASSIFIED UNTIL THE END OF THE DOCUMENT (page 20)
