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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council
No. prev. doc.: 18056/13+ ADD 1
No. Cion doc.: COM(2013) 924 final
Subject: COUNCIL DECISION on the conclusion, on behalf of the Union, of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part
- Adoption

1. On 29 November 2010, the Commission transmitted to the Council a proposal for a Council Decision on the signing of the Framework Agreement on Comprehensive Partnership and Cooperation (PCA) with Vietnam¹. The Asia-Oceania Working Party examined the proposal and reached agreement in principle on 15 December 2010.

¹ Doc. 18041/10 + COR 1.

2. However, in the light of the Council Legal Service opinion², issued on 24 January 2011, calling for the addition of legal bases in the draft Council Decision on the signing of the PCA with the Philippines³, the Asia-Oceania Working Party agreed to include three additional bases in the draft Council Decision on the signing of the PCA with Vietnam⁴. It took note of the intention of the Commission to issue a unilateral declaration to be attached to the Council minutes.
3. At its meeting of 2 December 2011, the Permanent Representatives' Committee asked the Council's Legal Service whether the Council Decision on the signing of the PCA with Iraq could be split into two, in view of the fact that the composition of the Council would be different depending on whether it adopted a decision based on Article 79(3) of the Treaty on the Functioning of the European Union (TFEU) or based on other provisions of the Treaties. The Council Legal Service delivered its opinion on 14 December 2011⁵.
4. At its meeting on 20 December 2011, the Permanent Representatives' Committee decided to launch a horizontal discussion on whether Council Decisions relating to PCAs and similar mixed international agreements should be split. This resulted in arrangements for the adoption of Council Decisions on mixed Partnership and Cooperation Agreements concluded by the Union containing provisions pursuant to Part 3 Title V TFEU⁶.
5. At its meeting on 18 April 2012, the Permanent Representatives' Committee reached agreement on the application of the above arrangements to the three pending PCAs, namely those with the Philippines, Vietnam and Mongolia, on the understanding that this solution should not set a precedent for future PCAs.
6. In view of this, the Council Decision on the signing⁷ of the PCA was adopted on 14 May 2012 and the Agreement⁸ was signed on 27 June 2012.

² Doc. 5711/11.

³ Agreement by COREPER on 28 January 2011.

⁴ Art. 79(3), 91, 100 (TFEU).

⁵ Doc. 18624/11.

⁶ Doc. 7004/12.

⁷ Doc. 18200/10.

⁸ Doc. 18204/10.

7. On 19 December 2013, the Commission submitted to the Council a proposal⁹ for a Council Decision on the conclusion of the Framework Agreement on Comprehensive Partnership and Cooperation ('the Agreement') between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part.
8. The Asia-Oceania Working Party examined the proposal at its meeting on 29 January 2014 and agreed to finalise its deliberations following the judgment of the Court of Justice in Case C-377/12 - Commission v. Council¹⁰.
9. By its judgment of 11 June 2014, the Court of Justice (Grand Chamber) annulled Council Decision 2012/272/EU of 14 May 2012¹¹ on the signing, on behalf of the Union, of the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part, in so far as the Council added to the Decision the legal bases in the Treaty on the Functioning of the European Union (TFEU) relating to Article 79.3 (readmission of nationals), to Article 91 and 100 (transport) and to Article 191 (environment).
10. On 3 September 2014, the Asia-Oceania Working Party examined the consequences of the judgment and on 21 January 2015 it reached agreement on a draft Council Decision on the conclusion of the Agreement, based on Article 207 (common commercial policy) and Article 209 (development cooperation) of the TFEU.
11. On 17 February 2015, the Council decided to forward the draft Council Decision on the conclusion of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part¹², as well as the text of the Agreement as set out following finalisation by the legal/linguistic experts¹³, to the European Parliament so that it may give its consent at its earliest possible convenience.
12. Consent by the European Parliament was given on 17 December 2015.

⁹ Doc. 18056/13 + ADD1 - COM(2013) 924 final.

¹⁰ Doc. 11079/14.

¹¹ Doc. 15615/1/10.

¹² Doc. 5432/15.

¹³ Doc. 18204/10.

13. On 3 June 2016, the ratification procedures of the Framework Agreement on Comprehensive Partnership and Cooperation by Member States were finalised.
14. The Asia-Oceania Working Party reached agreement on the draft Council Decision in question on 22 June 2016.
15. The Agreement will enter into force on the first day of the month following the date on which the parties have notified each other of the completion of the necessary legal procedures.
16. The Permanent Representatives Committee is accordingly invited to recommend that the Council at one of its upcoming meetings:
 - adopts as an 'A' item the Council Decision on the conclusion of the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part, as contained in J/L document 5432/15, as well as the text of the Agreement as contained in J/L document 18204/10.