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**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)/Council  
Subject: COUNCIL DECISION on the signing, on behalf of the Union, and provisional application of the Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part  
- Adoption

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1. On 10 November 2011, the Council and the Representatives of the Governments of the Member States, meeting within the Council, authorised the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations with the Islamic Republic of Afghanistan on a Cooperation Agreement on Partnership and Development<sup>1</sup>.

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<sup>1</sup> Council Decision authorising the Commission and the High Representative to negotiate on behalf of the European Union, the provisions of a Cooperation Agreement on Partnership and Development between the European Union and its Member States and Afghanistan, that fall within the competence of the European Union (doc 16146/11) and Decision of the Representatives of the Governments of the Member States, meeting within the Council authorising the European Commission to negotiate, on behalf of the Member States, the provisions of a Cooperation Agreement on Partnership and Development between the European Union and its Member States and Afghanistan, that fall within the competences of the Member States (doc. 16147/11).

2. Negotiations were successful and the Agreement was initialled on 2 July 2015 in Kabul.
3. On 17 December 2015, the Commission submitted to the Council a Joint Proposal for Council Decision on the signing, on behalf of the European Union, of the Cooperation Agreement on Partnership and Development between the European Union and the Islamic Republic of Afghanistan, and, at annex, the final result of the negotiations in the form of a draft Cooperation Agreement on Partnership and Development between the European Union and the Islamic Republic of Afghanistan (15503/15 + ADD 1). At the same time, the Commission also submitted to the Council a Joint Proposal for Council Decision on the conclusion, on behalf of the European Union, of the Cooperation Agreement on Partnership and Development between the European Union and the Islamic Republic of Afghanistan (15504/15 + ADD 1).
4. At its meeting on 13 January 2016, the Asia Oceania Working Group examined the proposals and called for changing the legal nature of the Agreement so as to become a mixed one, as envisaged when the opening of the negotiations had been authorised. Delegations also requested the Commission and the EEAS to examine options for the provisional application of the Agreement.
5. At its meeting on 20 July 2016, the Asia Oceania Working Group considered again the proposals. Delegations unanimously confirmed their call for the Agreement to be a mixed one and for exploring the possibility of applying the agreement provisionally.
6. On 7 September 2016<sup>2</sup>, the Permanent Representatives Committee endorsed the position of the Asia Oceania Working Group on the legal nature of the Agreement as well as on applying the Agreement provisionally, and asked the Commission and the EEAS to revise the proposals accordingly.

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<sup>2</sup>

Doc. 11846/16

7. On 22 September 2016, the Commission submitted to the Council a revised Joint Proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part, with at annex, the revised draft Cooperation Agreement on Partnership and Development as discussed and agreed with the Afghan side (12507/16 + ADD1).
8. At its meeting on 28 September 2016, the Asia-Oceania Working Party examined the revised proposals and reached agreement in principle on the texts on 3 October 2016.
9. The Permanent Representatives Committee is accordingly invited to recommend that the Foreign Affairs Council on 6 February 2016:
  - adopts as an 'A' item the Council Decision on the signing, on behalf of the European Union, and provisional application of the Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part, as set out after finalisation by the Legal/Linguistic experts in document 12965/16, and thereby authorises the signature and the provisional application of the Cooperation Agreement on Partnership and Development as set out in document 12966/16 + COR1 (de).

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