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"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Coreper/Council
No. prev. doc.:	13656/15 JUSTCIV 252, 13777/15 JUSTCIV 256 + ADD 1
No. Cion doc.:	10748/13 JUSTCIV 144
Subject:	Draft Council Decision authorising the Republic of Austria to sign and ratify, and Malta to accede to, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, in the interest of the European Union - Statement by the United Kingdom

The United Kingdom fully supports the accession of, and ratification by, Austria and Malta to the 1965 Hague Convention on the Service of Judicial and Extra-Judicial Documents (the Convention).

The United Kingdom continues to dispute the existence of EU exclusive external competence in relation to this proposed Council Decision. The uniform and consistent application of the parallel EU internal rules has not been shown to be capable of being undermined by the operation of the Convention between an EU Member State and a third state party to the Convention.

In the opinion of the United Kingdom, the Council Decision is unnecessary, and Austria and Malta are entitled to accede to and ratify the Convention without the need for authorisation by the European Union.

The question of exclusive external competence impacts across the whole range of EU work, and has profound implications for how the EU and its Member States engage internationally. The United Kingdom welcomes the fact that detailed discussions took place in the Working Group on this aspect of the proposal, and places great importance on such discussions, not only on individual dossiers but more horizontally, to ensure a consistent and effective analysis of the test and its application.

Notwithstanding the points set out above, the United Kingdom notes that, in accordance with the provisions of Protocol 21 to the Treaties, the United Kingdom has notified the President of the Council that it wished to take part in the adoption of this Decision, and considers the inclusion of the word “therefore” in the text of Recital 6 to be inaccurate. The fact that the United Kingdom is taking part in Regulation 1393/2007 or indeed in Regulation 1215/2012 does not, in its view, render inoperative the provisions of Protocol 21.
