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#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

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Subject: The Agreement between the European Parliament and the European Commission amending point 4 of the Framework Agreement on relations between the European Parliament and the European Commission:  
- Statement of the Council

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1. On 7 February 2018 the European Parliament and the European Commission signed an agreement amending point 4 of the Framework Agreement on relations between the European Parliament and the European Commission<sup>1</sup>. That amendment replaces point 4 of the Framework Agreement to allow members of the Commission to participate in campaigns in elections to the European Parliament.
2. The Legal Service issued on 28 February 2018 a legal opinion on the said Agreement, considering it contrary to the principle of institutional balance laid down by the Treaties<sup>2</sup>.
3. The Antici Group examined on 6 March the opinion of the Legal Service on that Agreement. Further to that discussion the Presidency concluded that a statement, as recommended by the Legal Service, would be submitted for approval to the Council as I/A item.
4. The draft statement is annexed to this Note.
5. The Permanent Representatives Committee is invited to recommend that the Council, in part A of its agenda for a forthcoming meeting, approve the statement annexed to this note and record it in the minutes of the meeting.

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<sup>1</sup> OJ L 45 of 17.02.2018, page 46.

<sup>2</sup> Document 6607/18.

DRAFT COUNCIL STATEMENT

The Council notes the "Agreement between the European Parliament and the European Commission amending point 4 of the Framework Agreement on relations between the European Parliament and the European Commission", signed in Strasbourg on 7 February 2018.

The Council reiterates that compliance with the founding Treaties of the Union, in the terms in which they have been ratified by the Member States, is the fundamental principle governing the existence and the functioning of the Union. The Treaties define exhaustively the respective powers conferred on the Institutions (Article 13(2) TEU). Those powers may not be modified or supplemented by the Institutions themselves. The Treaties provide for the conclusion of arrangements between them for their cooperation, in full compliance with the Treaties.

The Council notes that by requiring the agreement of the European Parliament to determine the conditions for a member of the Commission to participate in campaigns for the European Parliament, the agreement grants the European Parliament a power not conferred upon it by the Treaties and thereby limits the autonomy of the Commission and of its President, thus infringing the principle of institutional balance laid down by the Treaties. Furthermore, the Council reiterates, in line with its statement of 21 October 2010 on "the Framework Agreement", that other provisions of this Agreement modify the institutional balance set out in the Treaties.

The Council reiterates that it will submit to the Court of Justice any act or action of the European Parliament or of the Commission performed in application of the provisions of "the Framework Agreement" that would have an effect contrary to the interests of the Council and the prerogatives conferred upon it by the Treaties.