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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 European Union, and provisional application of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part  
- Adoption

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1. On 29 November 2012, 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 Japan on a Framework Agreement (16443/12 and 16445/12).
2. The negotiations on the Framework Agreement between the European Union and its Member States, of the one part, and Japan, of the other part, were successfully concluded in April 2018. The negotiations took account of the agreement on the scope of provisional application of the Strategic Partnership Agreement reached in COREPER on 11 April 2018.

3. On 27 April 2018, the Commission submitted to the Council a proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part and, at annex, the final result of the negotiations in the form of a Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part (8459/18 + ADD1). Furthermore, the Commission submitted a draft Declaration by the European Union on Article 47(3) of the Agreement (8459/18 ADD2).
4. At its meeting on 4 May 2018, the Asia-Oceania Working Party examined the proposals and reached agreement in principle on the texts.
5. 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 signing, on behalf of the European Union, and provisional application of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part as set out after finalisation by the Legal/Linguistic experts in document 8461/18, and thereby authorise the signature and the provisional application of the Strategic Partnership Agreement as set out in document 8463/18;
  - agrees to insert in its minutes the Declaration on Article 47(2) of the Agreement set out in Annex 1;
  - agrees that the Council notifies the Japanese Party by diplomatic note of the detailed scope of the cooperation (as decided by in the Council decision) as set out in Annex 2.

**DECLARATION  
by the Council**

The Council declares that, for the purpose of Article 47(2) of the Strategic Partnership Agreement (SPA) with Japan, "application pending entry into force" means provisional application before entry into force as provided for in Article 25 of the Vienna Convention on the Law of Treaties.

The Council declares that the articles listed in Article 47(2) of the SPA shall be applied pending entry into force of the SPA between the Union and Japan, but only to the extent that they cover matters falling within the Union's competence, including matters falling within the Union's competence to define and implement a common foreign and security policy.

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**Draft Note Verbale from the General Secretariat of the Council to the Mission of Japan to the European Union on application pending entry into force of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part**

The General Secretariat of the Council presents its compliments to the Mission of Japan to the European Union and, on behalf of the President of the Council, has the honour to notify Japan of the completion by the European Union of the applicable legal procedures necessary for the application pending entry into force of certain parts of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part, signed at Brussels on [11 July 2018].

Therefore, pending the completion of the procedures necessary for its entry into force in accordance with its Article 47, the following parts of this Agreement shall be applied between the European Union and Japan from the first day of the second month following the date on which Japan notifies the General Secretariat of the Council of the completion of the ratification of the Agreement by Japan:

- Articles 11, 12, 14, 16, 18, 20, 25, 28, 40 and 41;
- Articles 13, 15 (with the exception of paragraph 2(b)), 17, 21, 22, 23, 24, 26, 27, 29, 30, 31, 37, 38(1) and 39, to the extent that they cover matters for which the Union has already exercised its competence internally;
- Articles 1, 2, 3, 4 and 5(1), to the extent that they cover matters falling within the Union's competence to define and implement a common foreign and security policy;
- Articles 42 (with the exception of paragraph 2c)), 43, 44, 45, 46, 47, 48(3), 49, 50, 51, to the extent that these provisions are limited to the purpose of ensuring the application pending entry into force of the Agreement.

Further, the General Secretariat of the Council attaches to this note the Declaration by the European Union on the interpretation of Article 47(3) of the Agreement.

The General Secretariat of the Council avails itself of this opportunity to renew to the Mission of Japan to the European Union the assurances of its highest consideration.

[Brussels], [Date]

Attachment:

Declaration by the European Union

The European Union declares that Article 47(3) of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part, is to be interpreted in a manner that is consistent with Article 25 of the Vienna Convention on the Law of Treaties.

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