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DECLASSIFICATION¹

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dated: 27 June 2014

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Subject: Draft Council Decision authorising the Commission to open negotiations with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding an Agreement between the European Union and those countries on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014-20

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

¹ Document declassified by the European Commission on [...].



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 June 2014

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NOTE

from: General Secretariat of the Council

to: Permanent Representatives Committee/Council

Subject: Draft Council Decision authorising the Commission to open negotiations with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding an Agreement between the European Union and those countries on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014-20

Delegations will find attached the above-mentioned draft Council Decision.

Draft

COUNCIL DECISION

of

authorising the Commission to open negotiations with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding an Agreement between the European Union and those countries on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014-20

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

Negotiations should be opened with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding an Agreement on supplementary rules concerning the implementation in those countries of Regulation (EU) No 515/2014 of 16 April 2014 of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC²,

² OJ L 150, 20.5.2014, p. 143.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the European Union and its Member States, with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding an Agreement between the European Union and those countries on supplementary rules concerning the implementation in those countries of Regulation (EU) No 515/2014.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the relevant bodies of the Council.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President

NEGOTIATING DIRECTIVES

The Commission shall, in the course of negotiations, aim to achieve the specific objectives which are set out in detail below.

1. GENERAL OBJECTIVE

Adoption of an Agreement with Norway, Iceland, Switzerland and Liechtenstein on supplementary rules concerning the implementation in those countries of the Regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa for the period 2014-20.

2. START OF THE NEGOTIATIONS

The negotiations should start as soon as possible.

3. CONTENT OF THE AGREEMENT TO BE CONCLUDED

The Agreement should provide:

- that Norway, Iceland, Switzerland and Liechtenstein will take all the necessary measures to ensure compliance with the relevant provisions on financial management and control in the Treaty on the Functioning of the European Union (TFEU) and in secondary Union law, in particular Article 60 (indirect management with third countries) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council³;

³ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- for an enumeration and description of the obligations concerning the application of Articles 287, 299, 317 and 325 of the TFEU;
- for respect for the principles applying to conflict of interests as defined in Article 57 of Regulation (EU, Euratom) No 966/2012;
- for the right of access for officials and authorised representatives of the Court of Auditors, the European Anti-Fraud Office (OLAF) and the Commission to the offices in Norway, Iceland, Switzerland and Liechtenstein of the authorities responsible for the management and control of the Union contribution granted to those countries under Regulation (EU) No 515/2014, as well as access to all requisite information regarding the functioning of the instrument in those countries. These rights of access will be the same as those enjoyed by those officials and authorised representatives in the Member States;
- for the right of OLAF to carry out on-the-spot checks and inspections on the territory of Norway, Iceland, Switzerland and Liechtenstein in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96⁴ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵;
- for the amounts to be contributed to the budget of the ISF-Borders and Visa by Norway, Iceland, Switzerland and Liechtenstein. For the period 2014-20 as a whole, the amounts contributed by them will be calculated on the basis of their GDP as a percentage of the GDP of all participating States, without prejudice to the possibility of using annual fixed amounts for one or several year(s);

⁴ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁵ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

- for a reference to the applicable rules on public procurement: Iceland, Norway and Liechtenstein will each apply the provisions of their law on public procurement in accordance with Annex XVI to the EEA Agreement and Switzerland will apply its national law on public procurement in accordance with the provisions of the World Trade Organisation Agreement on Government Procurement;
- that the Agreement will terminate with respect to Norway, Iceland, Switzerland and Liechtenstein, respectively, as and when their agreements on the implementation, application and development of the Schengen *acquis* cease to apply.

4. RATIFICATION AND ENTRY INTO FORCE

Negotiations should be concluded as soon as possible in order that Regulation (EU) No 515/2014 can be implemented in Norway, Iceland, Switzerland and Liechtenstein from the earliest date possible.

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