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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 **(first reading)**
- Decision to use the written procedure for the adoption of the Council's position at first reading and of the statement of the Council's reasons
= Statements by the Council

Statement by the Council

The Council calls on the Commission to ensure the greatest involvement of the Council, during the negotiations of agreements associating third countries to Union programmes, including the EU Framework Programme for Research and Innovation, Horizon Europe, in accordance with Article 218 TFEU. To this end, a special committee may be designated by the Council in consultation with which the negotiations, including with regard to the design and content of such agreements, are conducted, in accordance with Article 218(4) TFEU.

In this regard, the Council recalls the principle of sincere cooperation among the EU institutions, laid down in art. 13(2) TEU, second sentence, and the relevant case-law of the EU Court of Justice on Article 218(4) TFEU, according to which the Commission must provide the special committee with all the information and documents necessary to monitor the progress of the negotiations, such as, in particular, the general aims announced and the positions taken by the other parties throughout the negotiations, in due time before the negotiating meetings, in order to allow the formulation of opinions and advice relating to the negotiations¹.

Where agreements associating third countries to Union programmes already exist and include a standing authorisation for the Commission to determine the specific terms and conditions applicable to each country concerning its participation in any given programme, and where the Commission is assisted in this task by a special committee, the Council recalls that the Commission must act in consultation with that special committee in a systematic manner during the negotiating process, for example by sharing draft texts ahead of meetings with the relevant third countries and by providing regular briefings and debriefings.

Where agreements associating third countries to Union programmes already exist but where no special committee is foreseen, the Council considers that the Commission should similarly engage with the Council and its preparatory bodies in a systematic manner during the negotiating process when determining the specific terms and conditions for the association to Horizon Europe.

Statement by the Council on Art. 5

The Council recalls that it follows from Articles 179(3) and 182(1) TFEU, read in combination, that the Union can adopt only one multiannual Framework Programme setting out all the Union research and technological development activities. The Council is therefore of the view that the European Defence Fund mentioned in Art. 1(2)(c) of the Regulation establishing the Union Research Framework Programme - Horizon Europe, covering both the research and technological development activities of this Fund, is a specific programme implementing the Framework Programme within the meaning of Art. 182(3) TFEU and falls within the scope of the Regulation establishing that Framework Programme.

¹ See judgment of 16 July 2015 in *Commission v Council*, C-425/13, EU:C:2015:483, paragraph 66.