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'I/A' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Draft COUNCIL DECISION concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> relating to the European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (<i>eu-LISA</i>) - Adoption

1. On 29 June 2017, the European Commission presented a proposal for a Regulation of the European Parliament and of the Council on the European *Union* Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (*eu-LISA*), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (hereinafter "the proposed Regulation").
2. According to the proposed Regulation, the above Agency will replace the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, established by Regulation (EU) No 1077/2011, and become its legal successor.

3. Under the regime currently in force, the question of the participation of the United Kingdom is regulated by Decision 2010/779/EU, by which the Council authorised the United Kingdom to take part in Regulation (EU) 1077/2011¹, to the extent that it relates to the operational management of the Visa Information System (VIS) and the parts of the second generation Schengen Information System (SIS II), in which the United Kingdom does not participate.
4. Given its participation in Eurodac, Dublinet and its partial participation in SIS II, the United Kingdom also has the right to participate in the activities of the Agency to be established by the proposed Regulation, to the extent that it will be responsible for the operational management of SIS II as governed by Council Decision 2007/533/JHA, Eurodac and Dublinet, and as is the case with regard to the current Agency.
5. By a letter dated 19 July 2018², the United Kingdom has indeed requested to take part in the proposed Regulation under Article 4 of the Schengen Protocol to the extent that its provisions refer to the responsibility of the Agency for the operational management of SIS II as governed by Regulation (EC) No 1987/2006, and of the VIS, the EES and ETIAS.
6. The Council recognizes the right of the United Kingdom to make a request for participation in the proposed Regulation in accordance with Article 4 of the Schengen Protocol. For that matter, delegations may refer in particular to the explanations contained in documents³ which preceded the adoption of Decision 2010/779/EU, with the necessary adaptations to reflect the text of the proposed Regulation.
7. On 10 September 2018, the group of JHA Counsellors (eu-LISA) examined the proposal and endorsed its text with some minor technical adaptations, as proposed by the Council Legal Service and the Commission.

¹ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

² 11389/18.

³ 12373/10, 14016/1/10 REV 1.

8. Based on the above, the Permanent Representatives Committee is invited to approve the draft Council Decision, as set out, following legal-linguistic revision, in 12040/18, and forward it to the Council for adoption as an A item on the agenda of one of its meetings.
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