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NOTE

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

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Subject: Draft Regulation implementing enhanced cooperation on the establishment
of the European Public Prosecutor's Office
- Adoption

1. On 17 July 2013, the Commission presented the proposal for a Regulation on the establishment of the European Public Prosecutor's Office ¹, based on Article 86 of the Treaty on the Functioning of the European Union. The draft Regulation aims to set up a European Public Prosecutor's Office (EPPO) which will be responsible for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union.

¹ Document 12558/13.

2. Following the lack of unanimity registered in the Council of 7 February 2017 on the draft Regulation ², the referral of that draft Regulation to the European Council by a group of 17 Member States on 14 February 2017 and the discussion leading to a disagreement in the European Council of 9 March 2017, the European Parliament, the Council and the Commission were notified on 3 April 2017 of the wish of 16 Member States (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Germany, Greece, Lithuania, Luxemburg, Portugal, Romania, Slovakia, Slovenia and Spain) to establish enhanced cooperation on the establishment of the EPPO. In accordance with the third subparagraph of Article 86(1) TFEU, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) TEU and Article 329(1) TFEU was thereby deemed to be granted and the provisions on enhanced cooperation applied as from 3 April 2017. Later on, four additional Member States (Austria, Estonia, Italy and Latvia) have informed the three institutions that they wish to participate in the enhanced cooperation.
3. On 8 June 2017, the Council reached a general approach on the draft Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ³, the text of which was subsequently revised by the lawyer-linguists ⁴.
4. On 17 July 2017, the Council requested the consent of the European Parliament on the draft Regulation.
5. The European Parliament gave its consent on 5 October 2017.
6. In the light of the above, Council is invited to adopt the Regulation implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office, as set out in document 9941/17 EPPO 21 EUROJUST 86 CATS 62 FIN 349 COPEN 189 GAF 25 CSC 120 + REV 1 + COR 1 + COR 2 + COR 3.

² Document 5766/17.

³ Document 9545/2/17 REV 2.

⁴ Document 9941/17.