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COMMUNICATION TO THE COMMISSION

on the endorsement by the Commission of the result of the discussions with the United Kingdom on Interpretative Declarations related to the Agreement on the withdrawal of the United Kingdom from the European Union and Euratom, and on their transmission to the European Council

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The United Kingdom has decided to leave the European Union, following a referendum on 23 June 2016, in which a majority of participants voted to leave the European Union.

On 29 March 2017, the United Kingdom notified the European Council, in accordance with Article 50 of the Treaty on European Union, of its intention to withdraw¹ from the European Union and Euratom, thereby triggering a two year period during which the Union and Euratom are to negotiate, and conclude, an agreement with the United Kingdom setting out the arrangements for its withdrawal (the “Withdrawal Agreement”).

On 29 April 2017, the European Council (Article 50) adopted Guidelines for such negotiations. On 22 May 2017, the Council adopted a decision authorising the opening of negotiations with the United Kingdom on a Withdrawal Agreement, including the Negotiating Directives, and appointing the Commission as negotiator.

On 14 November, an agreement was reached, at technical level, on the text of the Withdrawal Agreement (TF50(2018)55). This text fully reflected the European Council Guidelines and the Council Negotiating Directives. On 22 November 2018, the Commission approved the Withdrawal Agreement.²

On 25 November 2018, the European Council (Article 50) and the United Kingdom endorsed the Withdrawal Agreement and approved the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

On 5 December 2018, the Commission adopted a proposal for a Council Decision on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (COM(2018) 833), and for a proposal for a Council Decision on the conclusion of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (COM(2018) 834).

On 11 January 2019, the Council authorised the signature of the Withdrawal Agreement³ and transmitted the draft Council Decision on the conclusion of the Withdrawal Agreement to the European Parliament for its consent.

If the Withdrawal Agreement is not ratified, the United Kingdom will withdraw from the European Union in a disorderly fashion. While this is not a desirable outcome, the European Union has nevertheless been preparing for a no-deal scenario since December 2017. The Commission has taken all the measures required to protect the Union’s interests and mitigate

¹ Before 29 May 2019, the United Kingdom may revoke unilaterally, in an “unequivocal and unconditional manner”, the notification of its intention to withdraw from the EU, Case C-621/18 Wightman and Others v Secretary of State for Exiting the European Union.

² Communication to the Commission, endorsed on 22 November 2018, C(2018)9001.

³ Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 471 , 19.2.2019, p. 1).

the most disruptive consequences of such a scenario.⁴ To date, the Commission has tabled 19 legislative proposals of which 11 have been adopted or agreed by the European Parliament and the Council and 8 are advancing well. In addition to this, the Commission has adopted 19 non-legislative acts.

Additional reassurances for the United Kingdom Parliament were provided in an exchange of letters between Presidents Tusk and Juncker and Prime Minister May on 14 January 2019. They underline in particular that the Union does not wish the backstop solution to become applicable and confirm the intention of both parties to embark on negotiations on the future partnership immediately after the signature of the Withdrawal Agreement. Subsequently, President Juncker and Prime Minister May met in Brussels on 7 February⁵ and on 20 February⁶ and in Sharm El Sheikh on 25 February 2019.

Following the meeting between President Juncker and Prime Minister May of 20 February 2019, discussions resumed and intensified on three strands: possible guarantees with regard to the backstop that underline once again its temporary nature and give the appropriate legal assurance to both sides; the process for the European Commission and the United Kingdom will follow when working in detail on the role alternative arrangements could play in replacing the backstop in future; and whether additions or changes to the Political Declaration could be made.

Discussions between the Commission and United Kingdom negotiators continued between 21 February and 10 March 2019. They resulted in an agreement, at technical level, on an Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as well as on a Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The Commission, as negotiator for the Union, should endorse the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The Commission should also authorise President Juncker to transmit the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland, with the recommendation that the European Council (Article 50) endorse

⁴ See in particular, and for an overview of measures taken: Commission Brexit Preparedness and Contingency Communications of 19 July (COM(2018)556), 13 November (COM(2018)880) and 19 December 2019 (COM(2018)890).

⁵ Joint statement on behalf of President Juncker and Prime Minister May, http://europa.eu/rapid/press-release_STATEMENT-19-903_en.htm.

⁶ Joint statement on behalf of President Juncker and Prime Minister May, http://europa.eu/rapid/press-release_STATEMENT-19-1335_en.htm

these documents subject to a prior positive vote in the House of Commons on the Withdrawal Agreement.

The Commission is therefore invited to:

- endorse the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (TF50(2019)XX) and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland (TF50(2019)XX).
- authorise the President to transmit the two abovementioned documents to the European Council (Article 50), with the letter enclosed.

Encl : draft letter from President Juncker to President Tusk.