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20 DEC 2018

**Proposal for a Regulation on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 and Regulation (EU) n° 2016/1624 – a contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018 (12143/18)**

Thank you for your letter of 28 November 2018 following the European Union Committee's consideration of the above proposal on the same date.

As you have noted, discussion on this file is at an early stage but I have provided the latest updates that I can for each of your points.

Any clarity gained on future UK access to the FADO database

As you are aware, the Commission aims to move FADO into a regulation that the UK would be unable to opt into if we were remaining in the EU, as it builds on the Schengen borders acquis. This is also an issue for Ireland. We asked the Presidency how the Commission had envisaged the UK continuing to access the data on that legal basis, recognising the UK's significant role to date with the FADO database. We have since been advised that the Commission is working on a possible solution to suit all Member States. The Commission is also considering how the UK might continue to play a role in handling this data after leaving the European Union. We are awaiting the outcome of that and will update you.

Whether provisions in Subsection 2 of the proposed Regulation will facilitate the level of continued cooperation to strengthen the EU's external border that you hope to achieve in the future UK-EU relationship, after any transition period

This Sub Section (Articles 72-79) concerns cooperation between Member States and the Agency with third countries. We are still considering what form our support might take, as well as our options beyond a transition period and in the event of a no deal but we hope to continue our constructive working relationship with the European Border and Coast Guard.

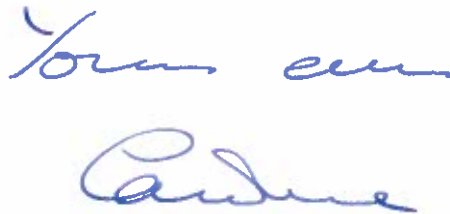
The expected timetable for taking negotiations on this file forward under the Romanian Presidency

A partial General Approach (on the returns and third country cooperation elements of the proposal) was agreed at the Justice and Home Affairs Council on 6 December under the Austrian Presidency.

There are ambitions to reach agreement on the whole regulation before the European Parliament elections in May, however, the remainder of the proposal is substantial.

In general, Member States are supportive of the proposal but there are still many aspects that require further consideration by all and therefore a number of scrutiny reservations have been lodged.

I am copying this letter to Sir William Cash MP, Chair of the Commons European Scrutiny Committee; Lynn Gardner, Clerk to the Commons European Scrutiny Committee; Chris Johnson, Clerk to the Lords Committee; Arnold Ridout, Legal Adviser to the Commons European Scrutiny Committee; Les Saunders, Department for Exiting the EU; and Alex Bernal, Departmental Scrutiny Co-ordinator for the Home Office.

A handwritten signature in blue ink, appearing to read 'Caroline Nokes', is centered on the page.

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