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CONSOM 6
SAN 9
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'I/A' ITEM NOTE

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

No. Cion doc.: 15374/16 MI 787 ENT 227 CONSOM 311 SAN 428 ECO 80

Subject: Commission Directive/EU of XXX amending, for the purpose of adopting specific limit values for chemicals used in toys, Appendix C to Annex II to Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, as regards phenol
– Decision not to oppose adoption

1. Article 46 (2) of Directive 2009/48/EC on the safety of toys of 18 June 2009¹ provides for a procedure to amend Appendix C of Annex II of that Directive using the regulatory procedure with scrutiny.
2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC², the Committee established under Article 47 of Directive 2009/48/EEC was consulted on 14 November 2016. It voted with 274 votes in favour and 56 votes against in favour of the draft Directive³.

¹ OJ L 170, 30.6.2009

² Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by Decision 2006/512/EC (JO L 200, 22.7.2006, p. 11).

³ Three Member States were not represented.

3. The Commission - in accordance with Article 5a(3) of Council Decision 1999/468/EC - consequently submitted a proposal for a Directive⁴ to the Council on 7 December 2016.
4. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of this measure on the grounds that the draft Directive presented by the Commission:
 - exceeds the implementing powers provided for in the basic instrument, or
 - is not compatible with the aim or the content of the basic instrument, or
 - does not respect the principles of subsidiarity or proportionality.
5. The delegations were asked on 8 December 2016 to indicate their possible opposition to the draft Directive before 9 January 2017. No delegation raised any of the above-mentioned grounds for opposition.
6. The Permanent Representatives Committee is therefore invited to recommend to the Council to confirm, as an "A" item of its agenda, that it is not opposed to the draft Directive in subject.

⁴ doc. 15374/16.