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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/1628 as regards the extension of the empowerment of the Commission to adopt delegated acts - Outcome of the European Parliament's first reading (Brussels, 18 to 19 May 2022)

I. INTRODUCTION

On 11 May 2022, the Permanent Representatives Committee confirmed that, should the European Parliament approve the abovementioned Commission's proposal without amendments, the Council would approve the European Parliament's position.

In this context, after the plenary approved the request of the Committee on the Environment, Public Health and Food Safety to proceed according to the Rule 163 (urgent procedure) on 18 May 2022, this Committee tabled the Commission's proposal for a Regulation. No amendments were presented.

II. VOTE

The Parliament adopted its first-reading position on 19 May 2022 by taking over the Commission proposal. This position is contained in its legislative resolution.

The Council should therefore be in a position to approve the European Parliament's position as set out in the Annex hereto, thus bringing to a close the first reading for both Institutions.

The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

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Regulation (EU) 2016/1628: Extension of the empowerment to adopt delegated acts *I**

European Parliament legislative resolution of 19 May 2022 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1628 as regards the extension of the empowerment of the Commission to adopt delegated acts (COM(2022)0113 – C9-0119/2022 – 2022/0080(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0113),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0119/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 18 May 2022¹,
 - having regard to the undertaking given by the Council representative by letter of 11 May 2022 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

Position of the European Parliament adopted at first reading on 19 May 2022 with a view to the adoption of Regulation (EU) 2022/... of the European Parliament and of the Council amending Regulation (EU) 2016/1628 as regards the extension of the empowerment of the Commission to adopt delegated acts

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

² Opinion of 18 May 2022 (not yet published in the Official Journal).

³ Position of the European Parliament of 19 May 2022.

Whereas:

- (1) Regulation (EU) 2016/1628 of the European Parliament and of the Council⁴ lays down essential provisions on the emission of gaseous and particulate pollutants and type-approval for internal combustion engines for non-road mobile machinery, and empowers the Commission to lay down certain detailed technical specifications in delegated acts. Article 55(2) of that Regulation conferred that power on the Commission for a limited period of five years. That period expired on 6 October 2021. There is a need to update some of those delegated acts to take account of technical progress and to introduce other amendments in accordance with the empowerment, including in relation to a delegated act that lays down requirements concerning in-service monitoring for internal combustion engines installed in non-road mobile machinery. It should also be possible to adopt new delegated acts in accordance with the empowerment. Therefore, the empowerment of the Commission to adopt delegated acts should be extended and provision should be made for the possibility of further extensions.

⁴ Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (OJ L 252, 16.9.2016, p. 53).

- (2) Regulation (EU) 2016/1628 should therefore be amended accordingly.
- (3) Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 55 of Regulation (EU) 2016/1628, paragraph 2 is replaced by the following:

- ‘2. The power to adopt delegated acts referred to in Article 19(2), Article 24(11), Article 25(4), Article 26(6), Article 34(9), Article 42(4), Article 43(5) and Article 48 shall be conferred on the Commission for a period of ten years from 6 October 2016. The Commission shall draw up a report in respect of the delegation of power not later than 6 January 2026 and nine months before the end of each following five-year period. The delegation of power shall be tacitly extended for periods of five years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.’

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., ...

For the European Parliament
The President

For the Council
The President
