Council of the European Union

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Directive of the European Parliament and of the Council on railway safety (recast) (First reading) - Adoption a) of the Council's position b) of the statement of the Council's reasons = Statements

Statement by the Commission on explanatory documents

The Commission recalls that the European Parliament, the Council and the Commission acknowledged in their Joint Political Declaration of 27 October 2011 on explanatory documents that the information Member States supply to the Commission as regards the transposition of directives in national law 'must be clear and precise' in order to facilitate the achievement by the Commission of its task overseeing the application of Union law. In the present case, explanatory documents could have been useful to this end. The Commission regrets that the final text does not contain provisions to this effect.

Statement by the Commission on non-opinion clause

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5, paragraph 4, second subparagraph, point (b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.