Council of the European Union

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From:	General Secretariat
To:	Council
No. prev. doc.:	12917/2/16 REV 2, 12918/2/16 REV 2
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1920/2006 as regards information exchange, early warning system and risk assessment procedure on new psychoactive substances and Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug = Adoption of a general approach

Delegations will find in Annex a declaration of Austria concerning the Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug.

ANNEX

Austria cannot support that the offences provided for in Framework Decision 2004/757/JHA apply to New Psychoactive Substances without any limits. We refer to our proposal to allow Member States to punish the relevant conduct, committed in respect of New Psychoactive Substances, only if the conduct is aimed at making an unlawful gain. We think that the Presidency text goes beyond the limits foreseen in Art. 83 para. 1 TFEU ("particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis").