Council of the European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (**first reading**) - Adoption of the legislative act (**LA+S**) = statements

Declaration by the Commission on the procedure of adoption of implementing acts

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§4, subparagraph 2, 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 in Article 5§4, recourse to subparagraph 2, 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.

Joint statement by Hungary, Poland and Romania

Hungary, Poland and Romania support the aim to improve air quality thus protecting both human health and the environment. However we wish to express our concerns regarding both the method used for sharing the burden among Member States on the targets under this Directive and the procedure for reaching the agreement in the Council and with the European Parliament. We regret that the distribution of targets among Member States with a comparable situation was set arbitrarily relative to one-another, in a non-transparent and disproportionate manner. We express our dissatisfaction that the method through which the respective reduction targets were established was not presented or explained sufficiently to Member States at the time the decision was taken or since.

We consider that setting the targets under this Directive could have been done without disregarding basic principles of the cooperation in the EU: proportionality, loyal cooperation and equal treatment of Member States. We are convinced that the solidarity among the Member States in the Council is a crucial building block during the whole decision making process. It is particularly important that the qualified majority vote is not, in particular in case of country specific obligations, used in a way that puts unjustified and unacceptable burden on some Member States that are not part of a qualified majority.

We express once again our concern that this mode of negotiation can create a negative precedent for future negotiations in the Council. We are deeply convinced that all negotiations should be fully transparent and result in an outcome which is proportionate and fair for all Member States. In the future the legal acts with country-specific obligations should not be adopted without submitting adequate and timely explanation and without substantive discussions with all Member States.

In view of the above, Hungary, Poland and Romania express their major disappointment on the final compromise on NEC Directive regarding the targets for emissions reduction and will vote against its adoption.