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**"I/A" ITEM NOTE**

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**From:** General Secretariat of the Council

**To:** Permanent Representatives Committee/Council

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**Subject:** Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy (**first reading**)

- Adoption of the legislative act (**LA + S**)

= Statements

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**Statement by Slovenia**

Slovenia has serious concerns about the date in Article 3(1a)(ii) of the compromise proposal for Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy, regarding establishment of the supplementary monitoring programme and a preliminary program of measures covering substances.

Slovenia recalls that time frame for monitoring does not coincide with the regular monitoring and programme measures under Water Framework Directive. It would therefore be too expensive and would impose too heavy administrative burden for Slovenia. Additionally, too short period of sampling would not provide representative data for adequate and cost effective measures.

To this end Slovenia highly regrets that the extension of date in Article 3(1a)(ii) has not been set to 22 December 2021.

### **Joint statement by Hungary, Latvia, Romania and Slovakia**

While understanding the need to address water pollution by setting environmental quality standards (EQS), Hungary, Latvia, Romania and Slovakia express their concerns about the major impact that this Directive could have in terms of administrative burdens, costs and tight deadlines for the implementation. We consider that the deadlines for the implementation of the new EQSs for the listed substances and their appropriate inclusion in the river basin management plans and programmes of measures are too short and difficult to follow, having in view the costs implications of the necessary measures, both in public and private sectors. Moreover, the obligation to establish and implement a supplementary monitoring programme and a preliminary programme of measures for the new substances represent an additional burden for Member States as compared to the provisions of the Water Framework Directive 2000/60/EC.

The monitoring costs of the priority substances and the substances in the watch list, including pharmaceuticals, are significant. Moreover, the lack of appropriate analytical methods for the majority of priority substances poses greater difficulties for Member States to fulfill their duties. In this respect, we welcome the inclusion of the provision to develop technical guidelines on monitoring strategies and analytical methods, under the Common Implementation Strategy of the Water Framework Directive 2000/60/EC. While recognizing the non-binding character of these guidelines, attention should be paid to art. 8 (3) of the Water Framework Directive 2000/60/EC on the obligation to develop technical specifications and standardised methods for analysis.

Therefore, Hungary, Latvia, Romania and Slovakia express their disappointment that the final compromise doesn't respond to their major concerns and do not support the final text of the directive.

### **Statement by the Commission**

The Commission can accept the proposed compromise especially in view of the fact that preliminary Programmes of Measures for the “new” priority substances will be established in 2018 and their implementation begin thereafter, and that, while placing the three pharmaceutical substances on the watch list, the need to address the risks from those substances is acknowledged. The preliminary Programmes of Measures should be informed by some prior monitoring, conducted at the latest during the course of 2018 before establishing the preliminary Programme of Measures.

The Commission underlines that the timely development of guidelines for adequate analytical methods by the end of 2014 is a task for both the Commission and Member States experts under the Common Implementation Strategy for the Water Framework Directive. However, the Commission stresses that it does not consider that it is legally appropriate to make legal deadlines dependent upon the provision of non-binding guidelines. It also stresses that the adoption of guidelines is not related to and may not interfere with "implementing" powers conferred on the Commission on the basis of Article 291 TFEU, and that under Article 292 TFEU it has the power to issue guidelines at any time, without reference to any obligation in a basic act.

The Commission reiterates, in relation to the 'no-opinion clause', that it is contrary to the letter and to the spirit of Regulation (EC) No 182/2011 to invoke Article 5(4), subparagraph 2, point b) in a systematic manner. Given that it is an exception to the general rule established by 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.

### **Statement by Germany**

We agree with the Presidency proposal on Article 3 (1a)(ii) in Document 8186/13. However, we would like to clarify our interpretation of this point once again.

Directive 2000/60/EC does not envisage notifying the Commission of the programmes of measures. The new requirement to submit the preliminary programmes of measures would constitute a special regulation for this substance group, which we reject in principle. In order to reach agreement in the first reading, we accept the submission of the preliminary programme, whereby our understanding is that this programme will be kept general (in particular not be detailed to the water body level), and that there is no obligation to submit the final programme of measures.

Furthermore, the basic principle taken up in Article 3 of requiring the prevention of deterioration is already anchored in Directive 2000/60/EC and therefore superfluous here.

Our agreement to Article 3 is made on the basis of the interpretation set out above.

### **Statement by Austria**

Austria has agreed to the Directive because we acknowledge the joint efforts of all actors involved to reach a compromise in a difficult matter. We ask the European Commission when carrying out the next reviews of the list of priority substances according to Article 16 of Directive 2000/60/EC to additionally assess the experience made with the presentation of the chemical status including the provision of additional maps for ubiquitous substances and – if appropriate – present a new proposal for the presentations.

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