



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 5 September 2013

13209/13

ENV	792
ENER	392
IND	238
COMPET	616
MI	715
ECOFIN	760
TRANS	451
AVIATION	140

“I/A” ITEM NOTE

from: General Secretariat of the Council
to: Coreper/Council

No. Cion prop.: 12795/13 ENV 756 ENER 379 IND 228 COMPET 601 MI 685 ECOFIN 728
TRANS 423 AVIATION 126

Subject: Commission Decision of XXX amending Decisions 2010/2/EU and 2011/278/EU as regards the sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage
- Decision not to oppose adoption

1. Since the measures envisaged are in accordance with the opinion of the relevant committee, the Commission has submitted the abovementioned draft measures¹ to the Council for scrutiny in accordance with the procedure laid down in Article 5a(3)(a) of Council Decision 1999/468/EC.²

¹ 12795/13 - D027961/02

² Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. The Working Party on the Environment has examined the draft measures through an informal written procedure and agreed that there are no grounds for the Council to oppose their adoption.¹

3. The General Secretariat therefore suggests that Coreper recommend that the Council confirm that there are no grounds for opposing the draft measures. This implies that, unless the European Parliament opposes them, the Commission may adopt the proposed measures in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.

¹ Article 5a(3)(b) provides that the Council may, acting by qualified majority, oppose the adoption of such measures on the grounds that they exceed the implementing powers provided for in the basic instrument, are not compatible with the aim or the content of the basic instrument or do not comply with the principles of subsidiarity or proportionality.