



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 1 October 2013
(OR. en)**

**14057/13
ADD 2**

**Interinstitutional File:
2011/0242 (COD)**

**CODEC 2124
SCHENGEN 33
SCH-EVAL 114
FRONT 132
COMIX 517**

"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (**first reading**)

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

STATEMENT BY THE COMMISSION ON ARTICLE 33A - COMMITTEE PROCEDURE

"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 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."