



**COUNCIL OF
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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: COREPER/Council

Subject: Proposal for a Council Regulation on the establishment of an evaluation mechanism to verify the application of the Schengen acquis
- Statement by the Commission on Article 21 - Committee procedure

STATEMENT BY THE COMMISSION ON ARTICLE 21 - COMMITTEE PROCEDURE

The Commission underlines that it is contrary to the letter and to the spirit of Regulation (EU) No 182/2011 (OJ L 55, 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.