COUNCIL OF
THE EUROPEAN UNION

**Brussels, 10 September 2012**

**13404/12**

**ENV 674**
**ENT 200**

**"I/A" ITEM NOTE**

| from: | General Secretariat |
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| to: | Coreper/Council |
| Subject: | Commission Decision of XXX concerning the non-inclusion of bifenthrin for product type 18 in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market |
| | - Decision not to oppose adoption |

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

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[1]   12947/12 - D020512/02

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

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[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.