



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 20 February 2014
(OR. en)**

**Interinstitutional File:
2011/0356 (COD)**

**6393/14
ADD 1 REV 1**

**CODEC 377
ENT 44
MI 153
CONSUM 50
COMPET 99**

"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (recast) **(first reading)**

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

Statement by the Commission on the Competence of the Committee

The Commission regrets the adoption of Article 39(5) and the corresponding recital 45 that have the potential to create confusion and legal uncertainty. The role of the Committees which ensure control by Member States on the Commission's exercise of implementing powers is defined only by Regulation No (EU) 182/2011, adopted on the basis of Article 291, third paragraph, TFEU. Therefore, no other secondary legislative act can alter or would need to specify further this role. In particular, the rules of procedures of committees are adopted by the committees on the basis of Regulation No (EU) 182/2011. As such they are to be applied when the Committee exercise its role

defined by Regulation No (EU) 182/2011. Any reference to rules of procedures outside this context is superfluous and inappropriate. It also risks complicating the functioning of the committee.

Statement by the Commission on the recital referring to the possibility of the European Parliament to be invited to meetings of expert groups

With regard to the recital 46 and the possibility of the European Parliament to be invited to meetings of expert groups, the Commission will implement this recital in accordance with its practice in the implementation of point 15 of the Framework agreement on relations between the European Parliament and the European Commission. Meetings of the comitology committee are explicitly excluded under this arrangement. Concerning the reference to infringements in the same recital, the Commission considers this misleading as infringements proceeding are discussed with Member States in the context of the procedures set out under article 258 TFEU.

Statement by Austria and Germany

The German language versions of the directives contain translation errors which, among other things, reverse the meaning of the provisions, thereby undermining the legal position of the Council in the negotiations. Such errors have in any case been found in documents PE-CONS 53/13, 50/13 and 54/13.

Austria and Germany therefore request a prompt correction in the Official Journal and reserve the right to use the English-language versions for interpretation.