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MI 231  
ENT 67  
CONSOM 84  
SAN 107  
ECO 14

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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No. Cion doc.: 12153/16 MI 568 ENT 167 CONSOM 211 SAN 321 ECO 53  
+ ADD 1, ADD 2, ADD 3

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Subject: Proposal for a Council Directive amending, for the purpose of adapting to technical progress, Annex II to Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, as regards lead  
– Adoption

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1. Article 46 (1) of Directive 2009/48/EC on the safety of toys of 18 June 2009<sup>1</sup> provides for a procedure to amend the Directive using the regulatory procedure with scrutiny.
2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC<sup>2</sup>, the Committee established under Article 47 of Directive 2009/48/EEC was consulted on 14 January 2015. At that meeting, the Committee did not adopt an opinion on the draft measure.
3. The Commission - in accordance with Article 5a(4) of Council Decision 1999/468/EC - consequently submitted a proposal for a Directive<sup>3</sup> to the Council on 9 September 2016.

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<sup>1</sup> OJ L 170, 30.6.2009

<sup>2</sup> 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 (JO L 200, 22.7.2006, p. 11).

<sup>3</sup> doc. 12153/16 +ADD1, ADD2, ADD3.

4. In the case of "no opinion" by the relevant Committee, the Council, acting by qualified majority, may oppose the draft measure within two months of submission of the draft measure, or it may adopt the measure . In the event of adopting the measure in a form different from that proposed by the Commission, however, unanimity would be needed if the Commission does not agree.
5. Delegations were consulted at a Working Party meeting (Technical Harmonisation) on 4 October 2016 to indicate their possible opposition to the draft measure. On that occasion, only one delegation raised grounds for opposition which does not constitute a qualified majority against the draft measure. The remaining delegations were content, and the measure was consequently submitted to a Council meeting.
6. The Council`s intention to adopt the measures was notified to the European Parliament on 17 October 2016 (see doc. 12981/16)<sup>4</sup>.
7. Given that according to Article 5a (4) (g) of Council Decision 1999/468/EC, the European Parliament did not object to the draft measure within the period set out in Article 5a (4) (e) of Council Decision 1999/468/EC, the Council may now adopt the measure.
8. The Permanent Representatives Committee is therefore invited to recommend to the Council to adopt, as an "A" item of its agenda, the draft measure in subject.

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<sup>4</sup> Due to a small clerical error in the title of the note, the Council`s intention to adopt the measures was inaccurately described as an "intention not to oppose the draft measures". However, the reality of the situation was clear from the content of the note itself.