



Council of the
European Union

Brussels, 18 September 2017
(OR. en)

11148/17

COMPET 540
ENV 677
CHIMIE 68
MI 556
ENT 170
SAN 294
CONSOM 282

'I/A' ITEM NOTE

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

No. Cion doc.: 11064/17 COMPET 535 ENV 672 CHIMIE 67 MI 550 ENT 168 SAN 288
CONSOM 278 + ADD 1

Subject: COMMISSION REGULATION (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards octamethylcyclotetrasiloxane ('D4') and decamethylcyclopentasiloxane ('D5')
– Decision not to oppose adoption

1. Article 68(2) of Regulation (EC) No 1907/2006¹ provides that if a Member State considers that the manufacture, placing on the market or use of a substance on its own, in a preparation or in an article poses a risk to human health or the environment that is not adequately controlled and needs to be addressed it shall notify the Agency that it proposes to prepare a dossier which conforms to the requirements of the relevant sections of Annex XV.

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards skin corrosion/irritation, serious eye damage/eye irritation and acute toxicity (OJ L 396, 30.12.2006, p. 1).

If the substance is not on the list maintained by the Agency referred to in paragraph 5 of this Article, the Member State shall prepare a dossier which conforms to the requirements of Annex XV within 12 months of the notification to the Agency. If this dossier demonstrates that action on a Community-wide basis is necessary, beyond any measures already in place, the Member State shall submit it to the Agency in the format outlined in Annex XV, in order to initiate the restrictions process. Annex XV should be amended in accordance with the procedure referred to in Article 133(4).

2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC², the Committee established under Regulation (EC) No 1907/2006 was consulted on 10 May 2017. It voted in favour of the above draft Regulation (one Member State abstaining).
3. Consequently, the Commission submitted the above draft Regulation to the Council on 6 July 2017, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
4. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of the draft Commission Regulations on the grounds that the draft measures presented by the Commission:
 - exceed the implementing powers provided for in the basic instrument, or
 - are not compatible with the aim or the content of the basic instrument, or
 - do not respect the principles of subsidiarity or proportionality.
5. The delegations were asked on 7 July 2017 to indicate their possible opposition to the draft Regulation before 31 August 2017. No delegation raised any of the above-mentioned grounds for opposition.
6. The Permanent Representatives Committee is therefore invited to recommend to the Council to confirm, as an "A" item of its agenda, that it is not opposed to the draft Regulation in subject.

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 (JO L 200, 22.7.2006, p. 11).