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**Interinstitutional File:**  
**2014/0183 (NLE)**

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**CORDROGUE 75**  
**SAN 316**

**"I/A" ITEM NOTE**

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

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No. prev. doc.: 10011/15, 9661/15 + REV 1, 12272/14, 12156/14, 11068/14, 8963/14, 8962/14, 8961/14, 8960/14, 5207/14, 17928/13, 17927/13, 17926/13, 17925/13

No. Cion doc.: 11782/13

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Subject: Draft Council Implementing Decision on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe), 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (AH-7921), 3,4-methylenedioxypropylvalerone (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine)

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1. On 25 September 2014 the Council adopted the Council Implementing Decision 2014/688/EU on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe), 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (AH-7921), 3,4-methylenedioxypropylvalerone (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures in accordance with Article 8(3) of Council Decision 2005/387/JHA<sup>1</sup>.

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<sup>1</sup> OJ L 287, 1.10.2014, p. 22.

2. In its judgment of 16 April 2015 in Joined Cases C-317/13 and C-679/13<sup>2</sup>, the Court of Justice of the European Union held that prior to adopting an implementing decision on the basis of Article 8(3) of Decision 2005/387/JHA, the Council should consult the European Parliament. Council Implementing Decision 2014/688/EU was adopted without such prior consultation and consequently is vitiated by a procedural defect and should, therefore, be replaced.
3. Taking into consideration this ruling, a revised version of the proposal for a Council Implementing Decision on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe), 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (AH-7921), 3,4-methylenedioxypropylamphetamine (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures was prepared (doc. 9661/1/15 REV 1 CORDROGUE 41) and endorsed by the Horizontal Working Party on Drugs on 16 June 2015 through a written procedure.
4. The European Parliament was consulted on the proposal as verified by the jurist-linguists (doc. 10011/15 CORDROGUE 50).
5. As a consequence, COREPER is requested to invite the Council:
  - to adopt the proposal for a Council Implementing Decision on subjecting 4-iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe), 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (AH-7921), 3,4-methylenedioxypropylamphetamine (MDPV) and 2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone (methoxetamine) to control measures in conformity with Article 8(3) of Council Decision 2005/387/JHA, and
  - to order publication of the Decision in the Official Journal.

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<sup>2</sup> Judgment of the Court of Justice of 16 April 2015, Parliament v Council, Joined Cases C-317/13 and C-679/13, ECLI:EU:C:2015:223.