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**"I/A" ITEM NOTE**

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

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Subject: Draft Directive of the European Parliament and of the Council to approximate the laws of the Member States relating to trade marks (Recast) (first reading)  
- Adoption  
a) of the Council's position  
b) of the statement of the Council's reasons  
= Statements

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**Statement by the Netherlands delegation**

Although the Netherlands welcomes many elements of the proposed trademark reform package, which will make the new system more accessible, efficient and less costly, it wishes to express – again – our grave concerns regarding the proposed provisions on goods in transit (Article 10 paragraph 5 of the Directive and Article 9 paragraph 5 of the Regulation as well as their corresponding recitals).

These provisions will introduce the possibility to detain goods on account of possible infringement of a national or EU-trademark, where those goods are merely in transit through EU-territory.

The Netherlands believes that the proposed measure will put a disproportionate and unnecessary burden on holders of goods and an impediment to legitimate international trade, including for legitimate generic medicines. The Netherlands has had a negative experience in 2008 with detaining medicines in transit and does not want that to happen again.

Although the Netherlands supports the battle against counterfeiting as this undermines trade, IP-rights etc., the proposed measure for detaining goods in transit is unacceptable for The Netherlands. Against this background the Netherlands will abstain from voting on the trademark reform package.

#### **Statement by the Estonian delegation**

Estonia wishes to underline that it fully supports the trade mark reform and will not therefore oppose the adoption of the regulation and the directive.

However, Estonia wishes to express its concerns on the proposed administrative procedure for the revocation or declaration of invalidity of a trade mark. Estonia regrets that a satisfactory compromise was not found during the negotiations. We remain of the opinion that the proposed administrative procedure will not be efficient and will create additional administrative burden. Furthermore, it will completely change our current system, which has proved to be cost-efficient and effective, posing therefore systematic problems for our legal system.