



Brussels, 1 February 2016
(OR. en)

Interinstitutional File:
2014/0136 (COD)

5560/16
ADD 1

CODEC 75
ENT 17
MI 36
ECO 8
IND 13
CONSOM 13

"I/A" ITEM NOTE

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

Subject: Draft Regulation of the European Parliament and of the Council on
appliances burning gaseous fuels and repealing Directive 2009/142/EC
(first reading)
- Adoption of the legislative act **(LA + S)**

Statement by the Commission

With regard to recital 74 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.

The Commission regrets the adoption of Article 42(5) and recital 73 that creates confusion and legal uncertainty, and may compromise institutional balance. The role of the Comitology 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 Comitology Committees should not perform the functions which are those of the Commission's Groups of Experts. In addition, 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 exercises 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.
