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'I/A' ITEM NOTE

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

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Subject: Commission Directive .../EU of XXX amending, for the purpose of adaptation to technical and scientific developments, point 13 of part III of Annex II to Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys, as regards chromium VI
- Decision not to oppose adoption

1. Article 46 (1) of Directive 2009/48/EC on the safety of toys of 18 June 2009¹ provides for a procedure to amend points 11 and 13 of part III of Annex II of that Directive using the regulatory procedure with scrutiny.
2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC², the Committee established under Article 47 of Directive 2009/48/EEC was consulted on 20 December 2017. It voted with 26 delegations in favour of the draft Directive³.

¹ OJ L 170, 30.6.2009

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).

³ Two Member States were not represented.

3. The Commission - in accordance with Article 5a(3) of Council Decision 1999/468/EC - consequently submitted a proposal for a Directive⁴ to the Council on 8 January 2018.
4. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of this measure on the grounds that the draft Directive presented by the Commission:
 - exceeds the implementing powers provided for in the basic instrument, or
 - is not compatible with the aim or the content of the basic instrument, or
 - does not respect the principles of subsidiarity or proportionality.
5. The delegations were asked on 10 January 2018 to indicate their possible opposition to the draft Directive before 9 February 2018. 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 Directive in subject.

⁴ doc. 5139/18.