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ENV 591
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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	11541/18 + 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 bis(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP) and diisobutyl phthalate (DIBP) – decision not to oppose adoption

1. Regulation (EC) No 1907/2006 restricts the placing on the market of articles containing the four phthalates (DEHP, DBP, BBP and DIBP) in a concentration equal to or greater than 0.1 % by weight individually or in any combination in such plasticised materials. This concentration limit would effectively discourage the use of the four phthalates in articles within the scope of the restriction.
2. Based on the opinions of RAC and SEAC¹, the Commission concluded that the four phthalates pose an unacceptable risk to human health and that the risk needs to be addressed on a Union-wide basis.

¹ <https://echa.europa.eu/documents/10162/a265bf86-5fbd-496b-87b4-63ff238de2f7>

3. 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 11 July 2018. It voted in favour of the above draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 25 July 2018, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
5. 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.
6. The delegations were asked on 3 August 2018 to indicate their possible opposition to the draft Regulation before 7 September 2018. No delegation raised any of the above-mentioned grounds for opposition.
7. 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).