



Council of the  
European Union

Brussels, 9 January 2019  
(OR. en)

5102/19

MI 8  
COMPET 14  
POLARM 1  
CFSP/PESC 8  
COARM 2

**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 1)/Council

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No. Cion doc.: 15016/18 MI 916 COMPET 836 POLARM 6 CFSP/PESC 1138 COARM 330

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Subject: COMMISSION DIRECTIVE (EU) .../... of XXX amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products  
*- Decision not to oppose the adoption (regulatory procedure with scrutiny)*

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1. The Commission submitted the above draft Directive to the Council for scrutiny in accordance with the procedure set out in Article 5a(3)(a) of Council Decision 1999/468/EC<sup>1</sup>. The Commission having presented the draft measure on 20 November 2018, the Council may decide to oppose its adoption until 20 February 2018.

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<sup>1</sup> 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 (OJ L 200, 22.7.2006, p. 11).

2. The Working Party on Competitiveness and Growth has examined the draft Directive by an electronic information procedure initiated on 29 November 2018. Delegations have been given a deadline until 4 January 2019 to indicate, whether they see any grounds for the Council to oppose.<sup>2</sup> By end of this deadline, no delegation raised any such reasons.
  
3. It is therefore suggested that the Permanent Representatives Committee recommends to the Council to confirm that there are no grounds for opposing this draft measure. This implies that, unless the European Parliament opposes it, the Commission may adopt the proposed measure in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.

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<sup>2</sup> Article 5a(3)(b) provides that the Council may, acting by qualified majority, oppose the adoption of such measures on the grounds that they exceed the implementing powers provided for in the basic instrument, are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality.