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MI 614  
ENT 196  
CONSOM 238  
SAN 371  
ECO 95

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

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Subject: COMMISSION DIRECTIVE (EU) .../... of XXX amending Appendix C to Annex II to Directive 2009/48/EC of the European Parliament and of the Council for the purpose of adopting specific limit values for chemicals used in certain toys, as regards formaldehyde  
- Decision not to oppose adoption

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1. Article 46 (2) of Directive 2009/48/EC on the safety of toys of 18 June 2009<sup>1</sup> provides for a procedure to amend Appendix C to Annex II of that Directive using the regulatory procedure with scrutiny.
2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC<sup>2</sup>, the Committee established under Article 47 of Directive 2009/48/EEC was consulted on 4 July 2019. It voted in favour of the draft Directive.<sup>3</sup>

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<sup>1</sup> OJ L 170, 30.6.2009

<sup>2</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 (JO L 200, 22.7.2006, p. 11).

<sup>3</sup> Two delegations abstained in the Committee vote on 4 July.

3. The Commission - in accordance with Article 5a(3) of Council Decision 1999/468/EC - consequently submitted a proposal for a Directive<sup>4</sup> to the Council on 23 July 2019.
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 24 July 2019 to indicate their possible opposition to the draft Directive before 26 August 2019. 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.

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<sup>4</sup> doc. 11481/19.