



Council of the
European Union

Brussels, 23 September 2022
(OR. en)

12560/22

SAN 519
MI 670
COMPET 715
FISC 184
DELECT 168
UD 184

'I/A' ITEM NOTE

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

No. Cion doc.: 10815/22 - C(2022) 4367 final

Subject: Commission delegated directive (EU) of 29.6.2022 amending Directive 2014/40/EU of the European Parliament and of the Council as regards the withdrawal of certain exemptions in respect of heated tobacco products
- Intention not to raise objections

1. The Commission notified on 29 June 2022 the above delegated directive to the Council in accordance with the procedure set out in Article 290 TFEU, and with Article 7(12) and Article 11(6) in conjunction with Article 27 of Directive 2014/40/EU¹.
2. In accordance with Article 27(5) of Directive 2014/40/EU, the Council has two months to object to it, i.e. until 30 August 2022.

¹ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1.).

3. At the Working Party on Public Health on 8 July 2022, several delegations indicated that in light of the holiday period they would need additional time in order to assess the proposed delegated directive and requested an extension of the deadline to raise objections.
4. On 18 July 2022, the Council decided to prolong the period for expressing an objection by two months until 29 October 2022.
5. During the ensuing consultation, two delegations expressed objections against the delegated act and one delegation introduced a comment². As a consequence, the Presidency put this item on the agenda of the meeting of the Working Party on Public Health on 21 September 2022. At that meeting the Presidency noted that there was no qualified majority in favour of objecting to the act. However, four delegations indicated that they would submit a joint statement on the topic. This statement is available in document ST 12560/22 ADD1.
6. It is therefore suggested that Coreper recommend that the Council confirms, as an ‘A’ item on the agenda of one of its forthcoming meetings that it has no intention to object to the delegated act and that the Commission and the European Parliament are to be informed thereof.
7. This implies that, unless the European Parliament objects to it, the delegated act will be published and enter into force in accordance with Article 27 of Directive 2014/40/EU.

² WK 11847/2022