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SAN 123
ENV 211
COMPET 180

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	ST 5225/23 + ADD 1 - D 084711/2
Subject:	Commission Regulation (EU) .../... of XXX amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards carcinogenic, mutagenic or reproductive toxicant substances (CMR) subject to restrictions - Decision not to oppose adoption

1. On 10 January 2023, the Commission submitted the above draft Regulation to the Council, which amends Annex XVII of Regulation (EC) 1907/2006¹ (REACH), in accordance with its Articles 68(2) and 133 (1).

¹ Regulation (EC) 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94, as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1) (consolidated version:17/12/2022);

2. Substances classified as CMR are listed in Part 3 of Annex VI to Regulation (EC) No 1272/2008² (CLP Regulation). Entries 28, 29, and 30 of Annex XVII of REACH prohibit the placing on the market and use, for supply to the general public, of substances that are classified as CMR. Therefore, Appendices 2 and 6 to Annex XVII of REACH should be amended in order to reflect the new classification of substances as CMR in the CLP Regulation, as amended by Commission Delegated Regulation (EU) 2022/692³.
3. On 13 December 2022, in accordance with Article 5a(2) of Council Decision 1999/468/EC, the Committee voted unanimously in favour of the measure.
4. On 11 January 2023, delegations were asked by 28 February 2023 to indicate their possible opposition to the draft Regulation. No delegation raised grounds for opposition.
5. Pursuant to the procedure in Article 5a of Council Decision 1999/468/EC⁴, before being formally adopted by the Commission, such draft measures are submitted for scrutiny to the European Parliament and the Council. If neither the European Parliament nor the Council had opposed the draft measures, the draft Regulation shall be adopted by the Commission by 9 April 2023.
6. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm its non-opposition to the draft Regulation, as set out in document ST 5225/23 + ADD 1 as an item without discussion at one of its forthcoming meetings.

² Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1) (consolidated version: 17/12/2022);

³ Commission Delegated Regulation (EU) 2022/692 of 16 February 2022 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 129, 3.5.2022, p. 1);

⁴ 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); Current consolidated version is of 23/07/2006.