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CLIMA 35
ENV 83
ENER 45
TRANS 88
IND 38
COMPET 111
MI 95
ECOFIN 149
DELA CT 35

NOTE

From: Permanent Representatives Committee (Part 1)
To: Council

No. prev. doc.: 6083/21
No. Cion doc.: 12920/20 + ADD 1

Subject: Commission Delegated Regulation (EU) .../... of 6.11.2020 amending Delegated Regulation (EU) 2019/1122 as regards the functioning of the Union Registry under Regulation (EU) 2018/841 of the European Parliament and of the Council
- Decision to raise objection to a delegated act

1. The Commission notified the above-mentioned delegated Regulation¹ to amend the Commission's Registry Regulation as regards the functioning of the Union Registry under the LULUCF Regulation² on 6 November 2020 to the Council in accordance with the procedure set out in Article 290 TFEU. In accordance with Article 16 of the LULUCF Regulation, the period within which the Council and the European Parliament could express an objection originally ran until 6 January 2021.

¹ 12920/20 + ADD 1.

² Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 151, 19.6.2018, p. 1).

2. Following a consultation launched by the General Secretariat of the Council, one delegation announced that it intended to object to the delegated Regulation and that delegation, together with another delegation, requested an extension of the period of objection.
3. Subsequently, at the Working Party on Environment on 7 December 2020, the delegation intending to object to the delegated Regulation presented its position, arguing that the Commission's delegated Regulation was not in line with what had been decided in the LULUCF Regulation and that the Commission had therefore exceeded its delegated powers conferred to it by the LULUCF Regulation. The Working Party held a brief initial exchange of views during which the assessment of the Council's Legal Service (CLS) was requested. It was decided that more discussions were needed.
4. On 17 December 2020, the Council decided to extend the period of objection with two months, so that the Council now has until (and including) 6 March 2021 to raise an objection.
5. On 25 January 2021, the CLS orally presented its assessment on the issue in the Working Party followed by a brief exchange where a number of delegations spoke out in support of an objection or expressed scrutiny reservations while being positively inclined towards the concerns of the delegation raising the objection. Most delegations, however, did not state any position. The CLS was requested to issue a written opinion. The Presidency concluded that the issue should be submitted to the Permanent Representatives Committee in view of deciding on the way forward. The CLS issued its written opinion on 5 February 2021³.
6. On 17 February 2021, the Permanent Representatives Committee examined the issue. The Chair noted that there was unanimous support to object to the delegated Regulation and that the Committee had agreed to recommend that the Council object to the delegated Regulation.
7. A number of delegations intend to make the statement set out in the Addendum to this note.

³ 5942/21.

8. Consequently, the Council is invited to:

- decide to object to the delegated Regulation as set out in document 12920/20 + ADD 1 and that the Commission and the European Parliament are to be informed thereof;
- enter into the minutes of the Council meeting the statement set out in the Addendum to this note.
