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#### 'I/A' ITEM NOTE

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

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No. Cion doc.: ST 5627/21 + ADD 1 - D071191

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Subject: Commission Regulation (EU) .../...of XXX amending and correcting Annex II and amending Annexes III, IV and VI to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products  
- Decision not to oppose adoption

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1. On 25 January 2021, the Commission submitted the above draft Regulation to the Council which amends certain Annexes in Regulation (EC) No 1223/2009<sup>1</sup>. In accordance with its Articles 15(1) and (2), and 31(1), the use in cosmetic products of substances classified as CMR (cancerogenic) under Part 3 of Annex VI to Regulation (EC) No 1272/2008<sup>2</sup> shall be prohibited, but allowed in cosmetic products by way of exception.

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<sup>1</sup> Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59); Current consolidated version is of 03/12/2020;

<sup>2</sup> 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. 1–1355) (current consolidated version is of 14/11/2020);

The Commission shall adopt the necessary measures in accordance with the regulatory procedure with scrutiny referred to in Article 32(3) of Regulation(EC) No 1223/2009.

2. Under the procedure in Articles 5 and 5a of Council Decision 1999/468/EC , such draft measures, before being formally adopted by the Commission, are submitted for scrutiny to the European Parliament and the Council. If neither the European Parliament nor the Council oppose the measures envisaged by the Commission, the Commission shall adopt the draft Regulation.
3. On 21 January 2021, the Committee established under the REACH Regulation<sup>3</sup>, voted in favour of the draft measures in accordance with Article 5a(2) of the above Council Decision.
4. On 25 January 2021, delegations were asked by 26 February 2021 to indicate their possible opposition to the draft Regulation. No delegation raised any grounds for opposition.
5. 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 5627/21 + ADD 1 as an item without discussion at one of its forthcoming meetings.

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<sup>3</sup> Regulation (EC) No 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);