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'I/A' ITEM NOTE

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

No. prev. doc.: 12585/21
No. Cion doc.: 11525/21 - C(2021) 6295 final

Subject: COMMISSION DELEGATED DECISION of 31.8.2021 supplementing Directive 2008/98/EC of the European Parliament and of the Council with regard to rules for the calculation and verification of the weight of materials or substances which are removed after a sorting operation and which are not subsequently recycled, based on average loss rates for sorted waste
- Decision to raise objection to a delegated act

1. On 31 August 2021, the Commission notified the above-mentioned delegated act¹ to the Council, in accordance with the procedure set out in Article 290 of the Treaty on the Functioning of the European Union and Articles 11a(10) and 38a(6) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.²

¹ 11525/21.

² OJ L 312, 22.11.2008, p.3.

2. In accordance with Article 38a(6) of Directive 2008/98/EC, the European Parliament or the Council may object to a delegated act within a period of two months from the date of notification, i.e. 29 October 2021. If, on expiry of this period, neither the European Parliament nor the Council objects to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein. The European Parliament or the Council may extend the period for raising objections by two months.
3. On 15 October 2021, the Council decided to extend by two months the period for raising objections to this delegated act and informed the Commission and the European Parliament of that decision.³
4. The Working Party on the Environment held an exchange of views at its informal videoconference on 12 November 2021. Delegations expressed the intention to object to the delegated act. Among other reasons, concerns were expressed that the scope of the delegated act exceeded the mandate given to the Commission, in particular in relation to its Article 4.1.
5. A written consultation, concluded on 23 November 2021, confirmed that the required qualified majority to object to the delegated act had been reached. Croatia and Greece indicated that they would abstain at the meeting of the Committee of Permanent Representatives held on 8 December 2021.
6. In view of the above, the Committee of Permanent Representatives is invited to recommend that the Council, as an A item at one of its forthcoming meetings, decides to object to the Commission's delegated decision on sorted waste and informs the Commission and the European Parliament of that decision.

³ 12585/21.