"I/A" ITEM NOTE
From : General Secretariat of the Council
to : Permanent Representatives Committee/Council
No. prev. doc. : 7260/08 COMPET 90 ENV 145 CHIMIE 11

1. Article 13(3) of Regulation (EC) No 1907/2006\(^1\) of 18 December 2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) provides that tests that are required to generate information on intrinsic properties of substances shall be conducted in accordance with test methods laid down in a Commission Regulation. It further provides that that Commission Regulation shall be adopted in accordance with the Regulatory Procedure with scrutiny laid down in Article 5a of Council Decision 1999/468/EC as amended by Council Decision 2006/512/EC\(^2\) ("the Comitology Decision").

\(^1\) OJ L 136, 29.5.2007 p. 3.
\(^2\) OJ L 200, 22.7.2006 p.11
2. The corresponding test methods now in force are laid down in Annex V to Council Directive 67/548/EEC. Directive 2006/121/EC\(^3\) provides that the draft Commission Regulation shall replace that annex on 1 June 2008, the day from which the REACH provisions on registration, *inter alia* Article 13, apply.

3. In the framework of the Comitology procedure, the REACH Committee\(^4\) on 31 October 2007 voted on the draft Commission Regulation. The draft Commission Regulation was in accordance with the opinion of the REACH Committee, since only the representatives of two Member States voted against. The procedure for scrutiny by the European Parliament and the Council (Article 5a(3) of the Comitology Decision) could therefore be launched.

4. On 28 February 2008, the Commission submitted to the European Parliament and to the Council its draft Regulation laying down test methods pursuant to REACH\(^5\).

5. In accordance with the Regulatory procedure with scrutiny, the Council, acting by a qualified majority, may oppose the adoption of the said draft by the Commission, justifying its opposition by indicating:
   - that the draft measures proposed by the Commission exceed the implementing powers provided for in the basic instrument, in this case Article 13(3) of REACH, or
   - that the draft Regulation is not compatible with the aim or the content of the basic instrument, or
   - that the draft Regulation does not respect the principles of subsidiarity or proportionality.

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\(^3\) OJ L 136, 29.5.2007 p. 282.
\(^4\) The Committee assisting the Commission set up under Article 133 of REACH.
\(^5\) Document 7260/08 COMPET 90 ENV 145 CHIMIE 11
6. If, on expiry of the period of three months following the receipt of the draft Commission Regulation, neither the Council nor the European Parliament has opposed it, the draft Commission Regulation shall be adopted.

7. The draft Commission Regulation was briefly presented to the Working Party on Technical Harmonisation (Dangerous substances) at its meeting on 26 March 2008 and the procedure for scrutiny was explained. It was also pointed out that if the draft Commission Regulation cannot be adopted before 1 June 2008, there will be no Community rules on test methods in force. Neither at this meeting nor at the following meeting on 10 April 2008 did any delegation oppose the adoption.

8. The Permanent Representatives Committee is therefore invited to recommend that the Council confirm, at its earliest convenience before the end of May 2008, that it is not opposed to the draft Commission Regulation.