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Subject: Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast)

- General approach
- = Statements

Delegations will find in the Annex a statement from Estonia and Latvia, and a statement from the Commission regarding the general approach agreed by the Council (Environment) on 5 March 2019. The statements will be entered into the minutes of that Council meeting.

ESTONIA AND LATVIA

We fully endorse the objectives of the Directive and in particular consider the updating of the monitoring parameters and the proposed risk-based approach an important step forward.

However, we wish to reiterate our concern on the proposed compromise text relating to the minimum hygiene requirements for materials that come into contact with water intended for human consumption.

In principle, we align ourselves with the general aim to ensure the safety and quality of the materials used in products intended for water supply systems and improve the functioning of the internal market in this field. However, we are not certain that the Presidency's text will ultimately bring us to achieving these goals without introducing undue administrative burden and legal uncertainty.

We consider that the Presidency compromise text on Article 10a and Annex VII of the proposal essentially aims at harmonising the rules on materials and products that come into contact with water intended for human consumption. We emphasise that such a harmonisation legislation should respect the requirements set out in the Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC. Therefore, we are of the view that the objective to harmonise the minimum requirements for materials that come into contact with water intended for human consumption, is best achieved through a separate product legislation or the existing construction product legislation.

Though, as it is decided that the minimum requirements will be regulated in this directive, we find it necessary to clarify the provisions vis-à-vis the product legislation and to allow more time for setting up and implementing the new system. The current proposal should not lead to banning substances that are not on the positive list and it should make clear that it is possible for economic operators to certify the compliance of materials to the minimum requirements also based on harmonised standards and through the conformity assessment procedures, in line with the general EU conformity assessment framework.

Furthermore, we consider that the establishment of a new quality marking would be unreasonable and confusing to the consumers and contradict the existing Construction Production Regulation, which requires that the CE marking should be the only marking of conformity of the construction product.

We also express our concern about the fact that in the Council major policy changes are introduced without any impact assessment at EU level. Without a proper analysis, it is very difficult to assess the impact of these substantial changes on the availability and free movement of the products and the potential effects this could have on the price of drinking water. We are also worried about the costs and administrative burden that the management and updating of the EU positive lists and the authorisation procedure for materials will bring to the competent authorities and to the economic operators. As a result, this kind of a policy measure should not be adopted in a hurry without any further impact analysis.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the Directive, Estonia and Latvia will abstain regarding the current legislative proposal.

EUROPEAN COMMISSION

The Commission reserves its position at this stage, pending the adoption of the European Parliament position.

In relation to draft Article 10(a), the Commission supports the objective of ensuring that the materials in contact with water are of a high quality that protects the health of consumers. It recalls its proposal to tackle hygiene and safety requirements for materials in contact with drinking water under the Construction Products Regulation (EU No 305/2011).

The Commission takes note that a majority of Member States want to introduce a system of establishing minimum requirements for substances and materials in contact with drinking water in the present draft Directive. However, the proposed approach raises several concerns in terms of: legal coherence and certainty; the practicalities of its implementation and its impact on the internal market as well as on the Member States and EU financial resources.

The Commission recalls that under the environmental legal basis Member States may adopt more stringent measures, which will lead to an incomplete harmonisation of materials and substances from which products in contact with water will be manufactured, creating barriers to the internal market. Legally the text raises issues of its soundness and compatibility with Regulation 305/2011. The feasibility of meeting the deadlines set for the adoption of the first lists is questionable, whilst the resource implications are unknown. The absence of clear and long-enough transitional periods for the adoption of the positive lists could have significant negative impacts on the market.

The Commission recalls that in line with the principles of Better Regulation, the effects these changes are likely to bring at the levels of the EU, several Member States and economic operators should be properly assessed.

Whilst recalling the provisions of the Inter-institutional Better Law-making as concerns impact assessments by the Parliament and the Council of substantive amendments they introduce to Commission proposals, the Commission intends to further analyse and assess the concerns set out in this declaration. It will make its results known to the co-legislators so that they can take them fully into account in the next steps of the negotiations.