



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 May 2013**

**9292/13**

**DENLEG 39  
AGRI 285**

**“I/A” ITEM NOTE**

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from :	General Secretariat
to :	Permanent Representatives Committee/Council

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No. Cion prop.:	8481/13 DENLEG 34 AGRI 240
Subject:	COMMISSION REGULATION (EU) No .../. of XXX amending Regulation (EC) No 608/2004 concerning the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters – <i>Decision not to oppose adoption</i>

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1. According to Article 4(3) of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to labelling, presentation and advertising of foodstuffs<sup>1</sup>, Union's provisions applicable to specific foodstuffs and not to foodstuffs in general may provide that other particulars in addition to those listed in Article 3 of the Directive must appear on the labelling. Those Union's provision shall be adopted in accordance with the regulatory procedure with scrutiny.
2. The regulatory procedure with scrutiny was regulated by Article 5a of the Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>2</sup>.

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<sup>1</sup> OJ L 109, 6.5.2000, p. 29.

<sup>2</sup> OJ L 184, 17.7.1999, p. 23.

3. According to the second subparagraph of Article 12 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>3</sup>, the effects of Article 5a of Decision 1999/468/EC are maintained for the purposes of existing basic acts making reference thereto.
4. Before adopting the draft Regulation in the subject and in accordance with Article 5a(2) of Council Decision 1999/468/EC, the Commission consulted the Standing Committee on the Food Chain and Animal Health on 11 March 2013, which voted by 279 votes in favour, 37 votes against and 29 abstentions in favour of the above Regulation.
5. Consequently, the Commission submitted the draft Regulation to the Council on 11 April 2013, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
6. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of the draft Regulation on the grounds that this draft measure:
  - exceed the implementing powers provided for in the basic instrument, or
  - are not compatible with the aim or the content of the basic instrument, or
  - do not respect the principles of subsidiarity or proportionality.
7. The delegations were asked on 18 April 2013 to indicate until 29 April 2013 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.
8. **The Permanent Representatives Committee is therefore invited to recommend to the Council to confirm, as an "A" item of its agenda, that it is not opposed to the draft Regulation in subject. Unless the European Parliament opposes draft Regulation within 3 months from its submission, the Commission shall adopt it in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.**

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<sup>3</sup> OJ L 55, 28.2.2011, p. 13.