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INFORMATION NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission – Outcome of the European Parliament's first reading (Strasbourg, 9 to 12 September 2013)

I. INTRODUCTION

The Committee on the Environment, Public Health and Food Safety tabled twelve amendments (amendments 1-12) to the Commission's proposal for a Regulation.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for a second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the Committee presented a further, compromise, amendment (amendment 13) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above. It was intended to replace - rather than complement - the twelve amendments already adopted by the Committee.

II. VOTE

When it voted on 11 September 2013, the plenary adopted the compromise amendment 13. No other amendments were adopted.

The adopted amendment corresponds to what was agreed between the three institutions and ought therefore to be acceptable to the Council.

The text of the Parliament's legislative resolution is annexed to this note. The legislative resolution does not set out the adopted amendment itself, but rather the Parliament's first-reading position - which is the text of the Commission's proposal as modified by the amendment ¹.

¹ Added wordings are highlighted in *bold and italics*, the symbol "■" indicates deleted text and the symbol "||" indicates changes of a linguistic or clerical nature.

Amendment of food safety directives as regards the powers to be conferred on the Commission *I**

European Parliament legislative resolution of 11 September 2013 on the proposal for a regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission (COM(2012)0150 – C7-0089/2012 – 2012/0075(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0150),
 - having regard to Article 294(2) and Articles 43(2) and 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0089/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 23 May 2012¹,
 - having regard to the undertaking given by the Council representative by letter of 28 May 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0045/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 229, 31.7.2012, p. 143.

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Position of the European Parliament adopted at first reading on 11 September 2013 with a view to the adoption of Regulation (EU) No/2013 amending Directives 1999/4/EC and 2000/36/EC of the European Parliament and of the Council and Council Directives 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2) and 114(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 229, 31.7.2012, p. 143.

² Position of the European Parliament of 11 September 2013.

Whereas:

- (1) Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts¹, Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption², Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption³, Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption⁴ and Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption⁵ confer powers on the Commission in order to implement some of *the provisions of those Directives. Those powers have been* exercised in accordance with the procedures laid down in Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁶. **It is appropriate**, following the entry into force of the *Treaty of Lisbon*, **to align that conferral of powers** to Article 290 of the Treaty on the Functioning of the European Union (TFEU).
- (2) *In particular, Directives 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC confer powers on the Commission to adopt measures necessary for the implementation of those Directives relating to adaptation to technical progress. Such measures are currently subject to the regulatory procedure with scrutiny in the case of Directive 2000/36/EC, and to the regulatory procedure in the case of Directives 2001/111/EC, 2001/113/EC and 2001/114/EC. It is appropriate, following the entry into force of the Treaty of Lisbon, to align that conferral of powers to Article 290 TFEU and the scope of those powers should be reviewed.*

¹ OJ L 66, 13.3.1999, p. 26.

² OJ L 197, 3.8.2000, p. 19.

³ OJ L 10, 12.1.2002, p. 53.

⁴ OJ L 10, 12.1.2002, p. 67.

⁵ OJ L 15, 17.1.2002, p. 19.

⁶ OJ L 184, 17.7.1999, p. 23.

- (3) ***The Annexes to Directives 2000/36/EC, 2001/111/EC and 2001/113/EC contain technical elements which might have to be adapted or updated in order to take account of developments in relevant international standards. However, Directives 2000/36/EC and 2001/111/EC do not confer on the Commission appropriate powers to promptly amend the Annexes thereto in order to take account of such developments. Therefore, in order to ensure the consistent implementation of Directives 2000/36/EC and 2001/111/EC, additional powers to amend sections C and D of Annex I to Directive 2000/36/EC and Part B of the Annex to Directive 2001/111/EC should be delegated to the Commission to take account of developments in relevant international standards. Furthermore, Directive 2001/113/EC confers on the Commission powers to bring that Directive into line with developments in relevant international standards in accordance with the regulatory procedure. It is appropriate, following the entry into force of the Treaty of Lisbon, to align that conferral of powers to Article 290 TFEU and the scope of those powers should be reviewed.***

- (4) Therefore, in order to take account of technical progress and developments in *relevant* international standards, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the following: ***amending Sections C and D of Annex I to Directive 2000/36/EC; amending Part B of the Annex to Directive 2001/111/EC; and amending Annex II and Part B of Annex III to Directive 2001/113/EC.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (5) Following the adoption of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety¹, which applies to all stages of production, processing and distribution of food and feed at Union and national level, general Union provisions on foodstuffs apply directly to the products covered by Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC. It is therefore no longer necessary for the Commission to have the powers to align the provisions of those Directives to the general Union provisions on foodstuffs. The provisions conferring such powers should therefore be deleted.

¹ OJ L 31, 1.2.2002, p. 1.

- (6) *This Regulation is limited to aligning the existing conferral of powers on the Commission under Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC to Article 290 TFEU and, where appropriate, to reviewing the scope of those powers. Since it remains the case that the objectives of those Directives cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objectives.*
- (7) Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC should therefore be amended accordingly.

- (8) Since the amendments made to Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC concern Commission powers only, they do not need to be transposed by the Member States,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Directive 1999/4/EC

Articles 4 and 5 of Directive 1999/4/EC are *deleted*.

Article 2

Amendments to Directive 2000/36/EC

Directive 2000/36/EC is hereby amended as follows:

(1) Article 5 *is* replaced by the following:

'Article 5

For the purposes of taking into account technical progress and developments in relevant international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 6 to amend sections C and D of Annex I. ';

(2) *Article 6 is replaced by the following:*

'Article 6

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5 shall be conferred on the Commission for *a* period of *five years* from ...⁺. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

⁺ *OJ: please insert the date of entry into force of this Regulation.*

3. The delegation of power referred to in Article 5 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication *of the decision* in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 5 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months from the date of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

Article 3

Amendments to Directive 2001/111/EC

Directive 2001/111/EC is hereby amended as follows:

(1) Article 4 is replaced by the following:

'Article 4

For the purposes of taking into account technical progress and developments in relevant international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 5 to amend Part B of the Annex. ';

(2) Article 5 is replaced by the following:

'Article 5

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4 shall be conferred on the Commission for *a* period of *five years* from ...⁺. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
3. The delegation of power referred to in Article 4 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication ***of the decision*** in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

⁺ ***OJ: please insert the date of entry into force of this Regulation.***

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months from the date of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

Article 4

Amendments to Directive 2001/113/EC

Directive 2001/113/EC is hereby amended as follows:

(1) Article 5 *is* replaced by the following:

'Article 5

For the purposes of taking into account technical progress and developments in relevant international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 6 to amend Annex II and Part B of Annex III.'

(2) *Article 6 is replaced by the following:*

'Article 6

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5 shall be conferred on the Commission for a period of *five years* from ...⁺ *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. The delegation of power referred to in Article 5 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication *of the decision* in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

⁺ *OJ: please insert the date of entry into force of this Regulation.*

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 5 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months from the date of notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

Article 5

Amendments to Directive 2001/114/EC

Articles 5 and 6 of Directive 2001/114/EC are *deleted*.

Article 6

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at,

For the European Parliament

For the Council

The President

The President