



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 5 June 2012**

**10880/12**

**DENLEG 57  
AGRI 382**

**“I/A” ITEM NOTE**

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from :	General Secretariat
to :	Permanent Representatives Committee/Council
No. Cion prop.:	9739/12 DENLEG 44 AGRI 291
Subject:	Draft COMMISSION REGULATION (EU) No .../.. of XXX on transitional measures concerning the Union list of flavourings and source materials set out in Annex I of Regulation (EC) No 1334/2008 – <i>Decision not to oppose adoption</i>

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1. Article 25(3) of Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods<sup>1</sup> provides for the Commission to adopt transitional measures designated to amend non-essential of the Regulation 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 354, 31.12.2008, p. 34.

<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 above mentioned measures 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 23 April 2012, which voted unanimously in favour of the above draft Regulation.
5. Consequently, the Commission submitted the above draft Regulation to the Council on 7 May 2012, 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 Commission Regulation on the grounds that the draft measures presented by the Commission:
  - 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 16 May 2012 to indicate until 31 May 2012 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 the Regulation within 3 months from its submission, the Commission may adopt it in accordance with the procedure under 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.