



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 October 2012

15116/12

**DENLEG 104
AGRI 683**

“I/A” ITEM NOTE

from : General Secretariat
to : Permanent Representatives Committee/Council

No. Cion prop.: 14269/12 DENLEG 93 AGRI 626

Subject: Draft COMMISSION REGULATION amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food
– *Decision not to oppose adoption*

1. Articles 5(1) points (a) and (e), Article 11(3) and Article 12(6) of Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC¹ provide for the Commission to adopt specific measures on the authorization of substances 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 Commission².

¹ OJ L 338, 13.11.2004, p. 4.

² 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 powers³, 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 13 September 2012, which voted by qualified majority in favour of the above draft Regulation.
5. Consequently, the Commission submitted the above draft Regulation to the Council on 18 September 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 10 October 2012 to indicate until 17 October 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 2 months⁴ from its submission, the Commission may adopt it in accordance with the procedure under Article 5a(3)(d) of Council Decision 1999/468/EC.**

³ OJ L 55, 28.2.2011, p. 13.

⁴ Article 23(4) of Regulation 1935/2004.