



Council of the
European Union

Brussels, 30 May 2016
(OR. en)

9058/16

DENLEG 53
AGRI 273
SAN 197

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	8801/16 DENLEG 44 AGRI 255 SAN 179 + ADD 1
Subject:	COMMISSION REGULATION (EU) .../... of XXX amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food – <i>Decision not to oppose adoption</i>

1. In accordance with Articles 5(1), 11(3) and 12(6) of Regulation (EC) No 1935/2004¹, specific measures on the authorization of substances intended to come into contact with food or on the modification, suspension or revocation of such an authorisation, should be adopted by the Commission in accordance with the regulatory procedure with scrutiny, with standard time-limits (3 months) for the European Parliament and the Council to oppose such decision.

Commission Regulation (EU) No 10/2011² is a specific measure within the meaning of Article 5 of Regulation (EC) No 1935/2004.

¹ 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/EEC (OJ L 338, 13.11.2004, p. 4).

² Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ L 12, 15.1.2011, p. 1).

2. In accordance with the second subparagraph of Article 12 of Regulation (EU) No 182/2011³, the effects of Article 5a of Council Decision 1999/468/EC⁴ are maintained for the purposes of existing basic acts making reference thereto.
3. Before adopting the draft Regulation referred to in subject and in accordance with Article 5a(2) of Council Decision 1999/468/EC, the Commission consulted the Standing Committee on Plants, Animals, Food and Feed on 19 April 2016, which voted by unanimity⁵ in favour of the draft Regulation.
4. Consequently, the Commission submitted the draft Regulation to the Council on 10 May 2016, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
5. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the adoption of the draft 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.
6. The delegations were asked on 17 May 2016 to indicate until 27 May 2016 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.
7. **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 referred to in document 8801/16 + ADD 1.** Unless the European Parliament opposes the Regulation within 3 months from their submission, the Commission may adopt it in accordance with the procedure under Article 5a(3)(d) of Council Decision 1999/468/EC.

³ 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 (OJ L 55, 28.2.2011, p. 13).

⁴ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

⁵ 23 MS representing a population of 78,15% voted in favour, 3 MS representing a population of 21,28% abstained, 2 MS were not represented).