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SAN 200

'I/A' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

No. Cion doc.: 8681/16 DENLEG 41 AGRI 240 SAN 173 + ADD 1

Subject: COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EU) No 432/2012 establishing a list of permitted health claims made on foods other than those referring to the reduction of disease risk and to children's development and health

– *Decision not to oppose adoption*

1. Article 13 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods¹ provides for the adoption of a Community list of permitted claims and of all of the necessary conditions of use of these claims 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.

Regulation (EU) No 432/2012² establishes a list of permitted health claims made on foods other than those referring to the reduction of disease risk and to children's development and health.

¹ OJ L 404, 30.12.2006, p. 9.

² Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health (OJ L 136, 25.5.2012, 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 12 April 2016, which voted by qualified majority⁵ in favour of the draft Regulation.
4. Consequently, the Commission submitted the draft Regulation to the Council on 4 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 11 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.

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 24 Member States representing 68,77% of EU population voted in favour, 2 Member States voted against and 2 Member States abstained.

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 8681/16 + 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.
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