



Council of the
European Union

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(OR. en)

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AGRI 449
SAN 314

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. Cion doc.: 11675/16 DENLEG 70 AGRI 446 SAN 310 + ADD 1

Subject: COMMISSION DIRECTIVE (EU) .../... of XXX amending Directive 2009/32/EC of the European Parliament and of the Council on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients
– *Decision not to oppose adoption*

1. In accordance with point a) of the first sub-paragraph of Article 4 of Directive 2009/32/EC¹, amendments to Annex I thereto in the field of the use of solvents, their conditions of use and maximum residue limits, in the light of scientific and technical progress, should be adopted by the Commission in accordance with the regulatory procedure with scrutiny, with curtailed time-limits (2 months²) for the European Parliament and the Council to oppose such decision.

¹ Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients (OJ L 141, 6.6.2009, p. 3).

² See third sub-paragraph of Article 4 and Article 6(3) of Directive 2009/32/EC.

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 Directive 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 13 July 2016, which voted by unanimity⁵ in favour of the draft Regulation.
4. Consequently, the Commission submitted the draft Directive to the Council on 8 August 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 Directive 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 9 August 2016 to indicate until 8 September 2016 their possible opposition to the draft Directive. 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 Directive referred to in document 11675/16 + ADD 1.** Unless the European Parliament opposes the Directive within 2 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.

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 27 MS representing a population of 99,43% voted in favour, 1 MS was not represented.