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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	13869/16 SAN 371 DENLEG 77 AGRI 581 + ADD 1
Subject:	COMMISSION REGULATION (EU) .../... of XXX refusing to authorise a health claim made on foods and referring to the reduction of disease risk – <i>Decision not to oppose adoption</i>

1. In accordance with Article 17(3) of Regulation (EC) No 1924/2006¹, a decision on an application on a health claim made on foods shall 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.
2. In accordance with the second subparagraph of Article 12 of Regulation (EU) No 182/2011², the effects of Article 5a of Council Decision 1999/468/EC³ are maintained for the purposes of existing basic acts making reference thereto.

¹ Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ L 404, 30.12.2006, p. 9).

² 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).

³ 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).

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 10 October 2016, which voted by unanimity in favour of the draft Regulation.
4. Consequently, the Commission submitted the draft Regulation to the Council on 27 October 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 7 November 2016 to indicate until 18 November 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 13869/16 + 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.
