



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 February 2014**

**6675/14**

**DENLEG 38  
SAN 80  
AGRI 120**

**“I/A” ITEM NOTE**

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from : General Secretariat of the Council  
to : Permanent Representatives Committee/Council

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No. Cion prop.: 5675/14 DENLEG 18 SAN 38 AGRI 38 + ADD 1

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Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Regulation (EC) No 1881/2006 as regards maximum levels of cadmium in foodstuffs  
– *Decision not to oppose adoption*

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1. According to Article 2(1) of Regulation (EEC) No 315/93 laying down Community procedures for contaminants in food<sup>1</sup>, food containing a contaminant in an amount which is unacceptable from the public health viewpoint and in particular at a toxicological level should not be placed on the market. According to Article 2(3), the Commission may, where necessary, establish the maximum tolerances for specific contaminants by measures adopted in accordance with the regulatory procedure with scrutiny.

Commission Regulation (EC) No 1881/2006<sup>2</sup> set maximum levels for cadmium in a range of foods.

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<sup>1</sup> OJ L 37, 13.2.1993, p. 1.

<sup>2</sup> OJ L 364, 20.12.2006, p. 5.

2. 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 powers<sup>3</sup>, the effects of Article 5a of Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>4</sup> are maintained for the purposes of existing basic acts making reference thereto.
3. Before adopting the above mentioned measure 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 29 November 2013, which voted by unanimity<sup>5</sup> in favour of the above draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 22 January 2014, 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 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.
6. The delegations were asked on 3 February 2014 to indicate until 10 February 2014 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.

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<sup>3</sup> OJ L 55, 28.2.2011, p. 13.

<sup>4</sup> OJ L 184, 17.7.1999, p 23.

<sup>5</sup> 29 abstentions.

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 in subject.** Unless the European Parliament opposes the Regulation within **3 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.
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