



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 13 November 2013
(OR. en)**

16141/13

**DENLEG 126
SAN 444
AGRI 739**

"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
No. Cion doc.: 15294/13 DENLEG 121 SAN 412 AGRI 691

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Directive 2002/46/EC of the European Parliament and of the Council and Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards chromium enriched yeast used for the manufacture of food supplements and chromium(III) lactate tri-hydrate added to foods
– *Decision not to oppose adoption*

1. According to Article 4(5) of Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements¹, modifications to the lists of minerals and vitamins annexed to the Directive shall be adopted in accordance with the regulatory procedure with scrutiny.

¹ OJ L 183, 12.7.2002, p. 51.

According to Article 3(3) of Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods², modifications to the lists of minerals and vitamins annexed to the Regulation shall be adopted in accordance with the regulatory procedure with scrutiny.

2. The regulatory procedure with scrutiny was regulated by Article 5a of the Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission³.
3. 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 powers⁴, the effects of Article 5a of Decision 1999/468/EC are maintained for the purposes of existing basic acts making reference thereto.
4. Before adopting the above mentioned measures and in accordance with Article 5a(2) of Council Decision 1999/468/EC⁵, the Commission consulted the Standing Committee on the Food Chain and Animal Health on 4 October 2013, which voted by qualified majority in favour of the above draft Regulation.
5. Consequently, the Commission submitted the above draft Regulation to the Council on 23 October 2013, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.

² OJ L 404, 30.12.2006, p. 26.

³ OJ L 184, 17.7.1999, p. 23.

⁴ OJ L 55, 28.2.2011, p. 13.

⁵ 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), as amended by Decision 2006/512/EC (JO L 200, 22.7.2006, p. 11).

6. 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.
7. The delegations were asked on 28 October 2013 to indicate until 8 November 2013 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.
8. **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.**
