



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 7 April 2014
(OR. en)**

8634/14

**DENLEG 79
AGRI 292**

“I/A” ITEM NOTE

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

No. Cion prop.: 7579/14 DENLEG 64 AGRI 193

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Regulations (EC) No 983/2009 and (EU) No 384/2010 as regards the conditions of use of certain health claims related to the lowering effect of plant sterols and plant stanols on blood LDL-cholesterol
– *Decision not to oppose adoption*

1. In accordance to Article 17(3) 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 the Commission should amend the decisions authorising certain health claims made on foods and referring to the reduction of disease risk and to children's development and health in accordance with the regulatory procedure with scrutiny.

The conditions of use of certain health claims authorised by Regulations (EC) No 983/2009 and (EU) No 384/2010 should be amended in order to ensure that the health claims do not confuse or mislead the consumer.

¹ OJ L 404, 30.12.2006, p. 9.

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 powers², 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 Commission³ 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 10 February 2014, which voted by unanimity in favour of the above draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 10 March 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 17 March 2014 to indicate until 24 March 2014 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.

² OJ L 55, 28.2.2011, p. 13.

³ OJ L 184, 17.7.1999, p 23.

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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