



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 April 2014

9029/14

**DENLEG 86
AGRI 325
SAN 182**

“I/A” ITEM NOTE

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

No. Cion prop.: 8753/14 DENLEG 82 AGRI 304 SAN 164 + ADD 1

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council and the Annex to Commission Regulation (EU) No 231/2012 as regards polyvinyl alcohol-polyethylene glycol-graft-co-polymer in solid food supplements
– *Decision not to oppose adoption*

1. According to Articles 10(3) and 14 of Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives¹, the Commission may update Annex II thereto in accordance with the common authorisation procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings², by measures adopted in accordance to the regulatory procedure with scrutiny, Article 7(5) of Regulation (EC) No 1331/2008 being applicable.

Commission Regulation (EU) No 231/2012 lays down specifications for food additives listed in Annex II to Regulation (EC) No 1333/2008.

¹ OJ L 354, 31.12.2008, p. 16.

² OJ L 354, 31.12.2008, p. 1

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 powers³, 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 Commission⁴ 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 March 2014, which voted by unanimity⁵ in favour of the above draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 4 April 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 15 April 2014 to indicate until 23 April 2014 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.

³ OJ L 55, 28.2.2011, p. 13.

⁴ OJ L 184, 17.7.1999, p 23.

⁵ 12 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 **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.
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