



Council of the  
European Union

Brussels, 4 July 2014  
(OR. en)

11357/14

DENLEG 115  
AGRI 461  
SAN 261

## "I/A" ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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No. prev. doc.: 11275/14 DENLEG 112 + ADD1

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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 the removal of montan acid esters (E 912)  
- *Decision not to oppose adoption*

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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 additives<sup>1</sup>, 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 flavourings<sup>2</sup>, 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 and III to Regulation (EC) No 1333/2008<sup>3</sup>.

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<sup>1</sup> OJ L 354, 31.12.2008, p.16.

<sup>2</sup> OJ L 354, 31.12.2008, p.1.

<sup>3</sup> OJ L 83, 22.3.2012, 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 powers<sup>4</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>5</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 26 May 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 20 June 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 25 June 2014 to indicate until 3 July 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>4</sup> OJ L 55, 28.2.2011, p. 13.

<sup>5</sup> 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 **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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