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AGRI 554
SAN 322

"I/A" ITEM NOTE

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

No. Cion doc.: 12340/14 DENLEG 143 AGRI 528 SAN 311 + ADD1

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of sweeteners in certain fruit or vegetable spreads
- Decisions not to oppose adoption

1. Article 10(3) of Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives¹ provides for the Commission to amend its Annex II in accordance with the 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. According to Article 7(5) of the later, the amendment can be adopted on the grounds of efficiency by the regulatory procedure with scrutiny with curtailed time-limits (2 months) for the European Parliament and the Council to oppose such amendment.

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 Council³, the effects of Article 5a of Council Decision 1999/468/EC⁴ are maintained for the purposes of existing basic acts making reference thereto.
3. Before adopting the draft Regulation referred to in the subject 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 1 July 2014, which voted by unanimity in favour of the draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 30 July 2014, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
5. Under the regulatory procedure with scrutiny with curtailed time-limits for efficiency measure, the Council, acting by qualified majority, may oppose within 2 months the Commission's adoption of the draft Regulation on the grounds that the draft measure 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 31 July 2014 to indicate until 5 September 2014 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.
7. **The Permanent Representatives Committee is therefore invited to recommend to the Council to confirm, as "A" item of its agenda, that it is not opposed to the draft Regulation referred to in document 12340/14 + ADD1.** 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.

³ 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 (OJ L 55, 28.2.2011, p. 13).

⁴ 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).