



Council of the
European Union

Brussels, 12 January 2015
(OR. en)

5171/15

DENLEG 5
AGRI 8
SAN 5

"I/A" ITEM NOTE

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

No. Cion doc.: 15794/14 DENLEG 176 AGRI 720 SAN 444 + ADD1
15795/15 DENLEG 177 AGRI 721 SAN 445 + ADD1

Subject: COMMISSION REGULATION (EU) No .../.. of XXX refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health
COMMISSION REGULATION (EU) No .../.. of XXX refusing to authorise certain health claims made on foods and referring to children's development and health
- *Decisions not to oppose adoption*

1. According to Article 17(3) of Regulation (EC) No 1924/2006 of the European Parliament and of the Council¹ a decision on an application for authorization of nutrition and health claims made on foods, should be adopted in accordance with the regulatory procedure with scrutiny.
2. Article 18(5) 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 foods² states that, "*where the (European Food Safety) Authority issues an opinion that does not support the inclusion of the claim in the list referred to in paragraph 4, a decision on the application (...) shall be taken in accordance with the regulatory procedure with scrutiny*".

¹ Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ L 404, 30.12.2006, p. 9).

² OJ L 404, 30.12.2006, p. 9.

3. The European Parliament and the Council may oppose of such measures within the time-limit of 3 months.
4. 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.
5. Before adopting the draft Regulations referred to in subject and in accordance with Article 5a(2) of Council Decision 1999/468/EC, the Commission consulted the Standing Committee on Plants, Animals, Food and Feed on 17/10/2014, which voted by unanimity in favour of both draft Regulations mentioned in the subject of this note.
6. Consequently, the Commission submitted the above draft Regulations to the Council on 19 November 2014, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
7. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of the draft Commission Regulations 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.
8. The delegations were asked on 18 December 2014 to indicate until 5 January 2015 their possible opposition to the draft Regulations. The delegations did not raise any of the above-mentioned grounds for opposition.

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).

9. **The Permanent Representatives Committee is therefore invited to recommend to the Council to confirm, as "A" items of its agenda, that it is not opposed to both the draft Regulations referred to in documents 15794/14 + ADD 1 and 15795/14 + ADD 1.** Unless the European Parliament opposes the Regulations within 3 months from their submission, the Commission may adopt them in accordance with the procedure under Article 5a(3)(d) of Council Decision 1999/468/EC.
-