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DENLEG 29
AGRI 58
SAN 45

"I/A" ITEM NOTE

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

No. Cion doc.: 5746/15 DENLEG 24 AGRI 42 SAN 31 + ADD1
5747/15 DENLEG 25 AGRI 43 SAN 32 + ADD1

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Annex III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of silicon dioxide (E 551) in polyvinyl alcohol-polyethylene glycol-graft-co-polymer (E 1209)
COMMISSION REGULATION (EU) No .../.. of XXX laying down methods of sampling and performance criteria for the methods of analysis for the official control of the levels of erucic acid in foodstuffs and repealing Commission Directive 80/891/EEC
- *Decisions not to oppose adoption*

1. Annex III to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in food additives, food enzymes, flavourings, nutrients and their conditions of use, which may be updated in accordance with the common procedure laid down in Regulation (EC) No 1331/2008. The procedure shall end by the adoption by the Commission of a regulation implementing the update in accordance with in accordance with the regulatory procedure with scrutiny. In accordance with Article 7(5) of Regulation (EC) No 1331/2008, when the measures designed to amend each sectoral food law are adopted on grounds of efficiency, the European Parliament and the Council may oppose to the adoption within two months.

2. According to Article 11(4) of Regulation (EC) No 882/2004, the Commission may adopt methods of sampling and analysis as well as performance criteria for those methods in accordance with the regulatory procedure with scrutiny with standard time-limits (3 months) for the European Parliament and the Council to oppose such decision.
3. According to the second subparagraph of Article 12 of Regulation (EU) No 182/2011 of the European Parliament and of the Council¹, the effects of Article 5a of Council Decision 1999/468/EC² are maintained for the purposes of existing basic acts making reference thereto.
4. Before adopting the draft Regulations 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 Plants, Animals, Food and Feed on 28 November 2014. The Committee voted by unanimity in favour of both draft Regulations.
5. Consequently, the Commission submitted the above draft Regulations to the Council on 29 January 2015, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC.
6. Under the regulatory procedure with scrutiny, the Council, acting by qualified majority, may oppose the Commission's adoption of the draft 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.
7. The delegations were asked on 5 February 2015 to indicate until 13 February 2015 their possible opposition to the draft Regulations. The delegations did not raise any of the above-mentioned grounds for opposition.

¹ 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).

² 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).

8. **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 Regulations referred to in documents 5746/15+ADD1 and 5747/15+ADD1.** Unless the European Parliament opposes the draft Regulations within 2 or 3 months respectively from their submission, the Commission may adopt them in accordance with the procedure under Article 5a(3)(d) of Council Decision 1999/468/EC.
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