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AGRI 302  
SAN 167

**"I/A" ITEM NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	8814/15 DENLEG 70 AGRI 258 SAN 159 + ADD1
Subject:	COMMISSION REGULATION (EU) .../... 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 extracts of rosemary (E 392) – <i>Decision not to oppose adoption</i>

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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, food flavourings, nutrients and their conditions of use. That list may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008, either on the initiative of the Commission or following an application. According to Article 7(5) of Regulation (EC) No 1331/2008, the decision on the update is taken in accordance with the regulatory procedure with scrutiny for which the time-limits may be curtailed to two months on grounds of efficiency for the European Parliament and the Council to oppose.
2. According to the second subparagraph of Article 12 of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>, the effects of Article 5a of Council Decision 1999/468/EC<sup>2</sup> are maintained for the purposes of existing basic acts making reference thereto.

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<sup>1</sup> 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).

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 Plants, Animals, Food and Feed on 14 April 2015. The Committee voted by unanimity in favour of the draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 26 May 2015 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 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 28 May 2015 to indicate until 05 June 2015 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 8814/15 + ADD1.** Unless the European Parliament opposes the draft 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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<sup>2</sup> 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).