



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 December 2013

17827/13

**DENLEG 155
SAN 527
AGRI 858**

“I/A” ITEM NOTE

from : General Secretariat of the Council
to : Permanent Representatives Committee/Council

No. Cion prop.: 16792/13 DENLEG 136

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Regulation (EC) No 1881/2006 as regards maximum levels of the contaminant citrinin in food supplements based on rice fermented with red yeast *Monascus purpureus* – *Decision not to oppose adoption*

1. According to Article 2(1) of Regulation (EEC) No 315/93 laying down Community procedures for contaminants in food¹, food containing a contaminant in an amount which is unacceptable from the public health viewpoint and in particular at a toxicological level should not be placed on the market. According to Article 2(3), the Commission may, where necessary, establish the maximum tolerances for specific contaminants by measures adopted in accordance with the regulatory procedure with scrutiny.
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 powers², the effects of Article 5a of Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission are maintained for the purposes of existing basic acts making reference thereto.

¹ OJ L 37, 13.2.1993, p. 1.

² OJ L 55, 28.2.2011, p. 13.

3. Before adopting the draft Regulation referred to in 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 21/10/2013, which voted by unanimity in favour of the above draft Regulation.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 21 November 2013, 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 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.
6. The delegations were asked on 6 December 2013 to indicate until 12 December 2013 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 an "A" item of its agenda, that it is not opposed to the draft Regulation.** Unless the European Parliament opposes the Regulation within 3 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.