



Brussels, 31 July 2015  
(OR. en)

11058/15

DENLEG 107  
AGRI 412  
SAN 241

**"I/A" ITEM NOTE**

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

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No. Cion doc.: 10815/15 DENLEG 97 AGRI 395 SAN 217 + ADD1

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Subject: COMMISSION REGULATION (EU) .../... of XXX refusing to authorise certain health claims made on foods and referring to children's development and health  
– *Decision not to oppose adoption*

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1. In accordance with Article 17(3) of Regulation (EC) No 1924/2006<sup>1</sup>, a decision on an application on a health claim made on foods shall be adopted by the Commission in accordance with the regulatory procedure with scrutiny.
2. In accordance with the second subparagraph of Article 12 of Regulation (EU) No 182/2011<sup>2</sup>, the effects of Article 5a of Council Decision 1999/468/EC<sup>3</sup> are maintained for the purposes of existing basic acts making reference thereto.

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<sup>1</sup> 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).  
<sup>2</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).  
<sup>3</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).

3. 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 9 June 2015. The Committee voted by unanimity in favour the draft measure.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 10 July 2015, 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 within 3 months 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.
6. The delegations were asked on 14 July 2015 to indicate until 30 July 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 10815/15 + ADD1.** Unless the European Parliament opposes the draft Regulation within 3 months from their 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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