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AGRI 416
SAN 245

"I/A" ITEM NOTE

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

No. Cion doc.: 10949/15 DENLEG 101 AGRI 401 SAN 234 + ADD1

Subject: COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EC) No 1881/2006 as regards maximum levels for polycyclic aromatic hydrocarbons in cocoa fibre, banana chips, food supplements, dried herbs and dried spices
– *Decision not to oppose adoption*

1. In accordance with Article 2(1) of Regulation (EEC) No 315/93¹, 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. Article 2(3) states that the Commission may, where necessary, establish the maximum tolerances for specific contaminants by measures adopted in accordance with the regulatory procedure with scrutiny.

Commission Regulation (EC) No 1881/2006² set maximum levels for contaminants in foods.

¹ Regulation (EEC) No 315/93 of the European Parliament and of the Council of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1).

² Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

2. In accordance with the second subparagraph of Article 12 of Regulation (EU) No 182/2011³, the effects of Article 5a of Council Decision 1999/468/EC⁴ are maintained for the purposes of existing basic acts making reference thereto.
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 23 June 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 15 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 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 16 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.

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).

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 10949/15 + ADD1.** Unless the European Parliament opposes the draft 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.
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