



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 January 2014

5074/14

**DENLEG 2
SAN 6
AGRI 2**

“I/A” ITEM NOTE

from : General Secretariat
to : Permanent Representatives Committee/Council

No. Cion prop.: 17953/13 DENLEG 156 SAN 538 AGRI 862 + ADD1

Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food
– *Decision not to oppose adoption*

1. In accordance with Articles 5(1), 11(3) and 12(6) of Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC¹, specific measures on the authorization of substances may be adopted or amended by the Commission in accordance with the regulatory procedure with scrutiny referred to in Article 23(4).
2. Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food² is a specific measure within the meaning of Article 5 of Regulation (EC) No 1935/2004.

¹ OJ L 338, 13.11.2004, p. 4.

² OJ L 12, 15.1.2011, p. 1.

3. 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 powers³, 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.
4. Before adopting the above mentioned measures 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 29 November 2013, which voted by unanimity in favour of the above draft Regulation.
5. Consequently, the Commission submitted the above draft Regulation to the Council on 13 December 2012, 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 Commission 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.
7. The delegations were asked on 19 December 2013 to indicate until 3 January 2014 their possible opposition to the draft Regulation. The delegations did not raise any of the above-mentioned grounds for opposition.
8. **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 in subject.** Unless the European Parliament opposes the Regulation within 2 months⁴ from its submission, the Commission may adopt it in accordance with the procedure under Article 5a(3)(d) of Council Decision 1999/468/EC.

³ OJ L 55, 28.2.2011, p. 13.

⁴ Article 23(4) of Regulation 1935/2004.