



Council of the
European Union

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"I/A" ITEM NOTE

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

No. Cion doc.: 13611/15 DENLEG 138 AGRI 561 SAN 355+ ADD1

Subject: COMMISSION REGULATION (EU) .../... of XXX amending Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council as regards removal from the Union list of certain flavouring substances

– *Decision not to oppose adoption*

1. Annex I to Regulation (EC) No 1334/2008¹ lays down the Union list of flavourings and source materials approved for use in and on foods and their conditions of use. In accordance with Articles 11(3) thereof, that list may be updated in accordance with the common procedure referred to in Regulation (EC) No 1331/2008².

¹ Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13 (OJ L 354, 31.12.2008, p. 34).

² Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1).

In accordance with Article 7(4) of Regulation (EC) No 1331/2008, decisions relating to the removal of a substance from the Union list can be adopted by the regulatory procedure with scrutiny with standard limits of 3 months for the European Parliament and the Council to oppose such decision.

Furthermore, in accordance with Article 25(3) of Regulation (EC) No 1334/2008, transitional measures can also be adopted by the regulatory procedure with scrutiny.

2. According to the second subparagraph of Article 12 of Regulation (EU) No 182/2011³, the effects of Article 5a of 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 Decision 1999/468/EC, the Commission consulted the Standing Committee on Plants, Animals, Food and Feed on 23 September 2015. The Committee voted in favour of the draft Regulation mentioned in the subject of this note by unanimity (26 Member States representing 98,18% of the population, 2 Member States were not represented).
4. Consequently, the Commission submitted the above draft Regulation to the Council on 29 October 2015 in accordance with Article 5a(3)(a) of 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.

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).

6. The delegations were asked on 9 November 2015 to indicate until 16 November 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 13611/15 + 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 Decision 1999/468/EC.

