



Council of the  
European Union

Brussels, 15 December 2015  
(OR. en)

15304/15

DENLEG 166  
AGRI 672  
SAN 440

## "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.: 14869/15 DENLEG 158 AGRI 632 SAN 417 + ADD1

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Subject: COMMISSION REGULATION (EU) .../... of XXX refusing to authorise a health claim made on foods and referring to the reduction of disease risk  
– *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, with standard time-limits (3 months) for the European Parliament and the Council to oppose.
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 4 November 2015. The Committee voted by unanimity<sup>4</sup> in favour the draft measure.
4. Consequently, the Commission submitted the above draft Regulation to the Council on 1 December 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 4 December 2015 to indicate until 14 December 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 14869/15 + 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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<sup>4</sup> 1 MS was not represented.