



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 9 March 2010**

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**ADDENDUM TO "I/A" ITEM NOTE**

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from: General Secretariat of the Council

to: COREPER/COUNCIL

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Subject : Proposal for a Regulation of the European Parliament and of the Council on novel foods, amending Regulation (EC) No 1331/2008 and repealing Regulation (EC) No 258/97 and Commission Regulation (EC) No 1852/2001  
**(first reading) (LA + S)**  
– Adoption  
(a) of the position of the Council  
(b) of the statement of the Council's reasons  
- Statement by the Commission

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**Statement by the Commission**

The Council's political agreement of June 2009 considered that the adaptation of the definition of engineered nanomaterials to the scientific and technical progress and to the definitions subsequently agreed at international level should be made in accordance to the regulatory procedure with scrutiny. In the current Council's position at first reading the adaptation of this definition is limited to the adoption of further criteria to clarify it.

First, this modification implies that any adaptation of the definition itself would only be possible through the ordinary legislative procedure. The Commission opposes to this limitation as it would prevent this definition to reflect the best state of science and would have negative consequences for the innovation in the food industry.

In addition, the Commission opposes the adoption of further criteria to clarify definitions through implementing acts pursuant to Article 291 TFEU. The Commission considers that the adoption of these criteria implies supplementing non essential elements of the Regulation and thus they should be adopted through delegated acts pursuant to Article 290 TFEU. This applies to definitions laid down in Article 3(2)(a)(i) to (iv) on sub-categories of novel foods, to Article 3(2)(c) on engineered nanomaterials, and to Article 3(2)(d) and (e) related to traditional foods from third countries.

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