

Bruxelles,
C/2011/

Dear Marshal,

The European Commission would like to thank the Sejm of the Republic of Poland for its opinion regarding the Commission's proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards marketing standards {COM(2010) 738}.

It has taken particular note of the Sejm's statement regarding non-compliance with the principle of subsidiarity, as well as of its comments concerning the procedures for delegated and implementing acts.

In reply to the concerns raised, the Commission would like to emphasise that the delegations envisaged in its proposal are intended to supplement or modify the future legislative act and do not call into question the competences of the Member States.

As correctly stated in the opinion of the Sejm, powers conferred on the Commission in accordance with Article 290 TFEU can relate only to non-essential elements of the legislative act, which it can nevertheless modify or supplement. The Commission, in its proposal, took into account the fact that the powers to adopt the measures in question are already entrusted to the Commission by the Council in the framework of the existing agricultural legislation.

The Commission considered it appropriate to respect the current situation set out in the European agricultural legislation, without changing the existing distribution of decision-making power between the European and national levels. On this point, the Commission considers that the delegation procedure will provide the necessary assurances on the matter.

Article 290 TFEU makes it possible for the Legislator to delegate to the Commission the power to supplement or amend certain non-essential elements of the legislative act. The Commission, in its proposal, took into account the fact that the possibility of adopting modifications, derogations and exceptions to Council Regulations exists in the present formulation of the single CMO. For that reason the Commission proposes to the Legislator to adopt a coherent approach across sectors, while keeping the necessary flexibility to treat specificities.

Moreover the Commission would like to draw your attention to the fact that the delegations proposed in the Commission proposal are strictly circumscribed. In addition, the Council and European Parliament retain control of the delegated power

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through the possibility to oppose a delegated act adopted by the Commission or even to revoke the delegation of powers to the Commission.

In addition, the Communication of the Commission to the European Parliament and the Council relating to the implementation of Article 290 TFUE provided for the systematic consultation of the experts of the national authorities of all the Member States which will be responsible for the implementation of the delegated acts once these are adopted. Such a consultation will take place in a timely manner, so as to allow the experts to provide the Commission with useful and effective input.

As regards the rules concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, I am pleased to confirm that Regulation No 182/2011 of the European Parliament and of the Council was adopted on 16.2.2011 and published in the Official Journal L55 of 28.2.2011. The new rules for implementing acts have entered into force on 1 March 2011.

I hope that this reply addresses the concerns and questions raised in the opinion of the Sejm and remain at your disposal for any further information or clarification, in particular on the issue of delegated and implementing acts.

Yours faithfully,