



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senát for its Opinion on the Commission's Communication "Better regulation for better results – An EU agenda", and on its proposal for an Interinstitutional Agreement on Better Regulation {COM(2015) 215 and 216 final}.

The Better Regulation package was presented by the Commission on 19 May 2015. It outlines the proposed measures to deliver better results for citizens and businesses through better EU rules. To this end, the package includes a proposal for the revision of the 2003 Interinstitutional Agreement on Better Law Making. It also explains how the Commission intends to further open up policy making and interact better with stakeholders. The measures proposed focus on greater transparency around decision-making, wider public consultation, improved impact assessments and a new approach to reviewing the existing stock of EU legislation.

As regards a new Interinstitutional Agreement on Better Law Making, the Commission is pleased to inform the Senát that the negotiators of the European Parliament, the Council and the Commission have in principle reached an agreement. However, any new agreement would need to be formally endorsed by each of the three institutions, and this is expected to happen in the first quarter of 2016.

The Commission welcomes the broad support of the Senát for the goals of better regulation and takes note of its concerns, in particular regarding the transparency of informal trilogues and delegated acts. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the concerns of the Senát.

The Senát takes the view that it is for the Commission to undertake a new impact assessment following amendments by the European Parliament and the Council on proposed legislation. The Commission would like to emphasise that it may decide to provide complementary analyses, on its own initiative or at the invitation by the European Parliament and/or the Council. However, the European Parliament and the Council have indicated that they wish to assess themselves, where appropriate, the impacts of the substantial amendments that they adopt. The Commission agrees that it is important for the European Parliament and the Council to do so, as better regulation is a shared responsibility. Better regulation can only

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deliver results if the European Parliament, the Council and the Commission work together to improve the quality of EU legislation.

With regard to the concerns of the Sénat about the frequent use of informal trilogues between representatives of the European Parliament, the Council and the Commission, the Commission would like to recall that trilogues do not replace the formal procedures between these institutions. Rather, they complement them and ensure swifter and smoother progress on legislative files. It is the responsibility of the institutions to define the mandates of their representatives at these trilogue meetings and to make sure that they report back in full transparency to their respective institutions. As part of the Interinstitutional agreement on Better Law Making, the three institutions foresee to improve transparency and the communication to the public during the whole legislative cycle including trilateral negotiations.

The Commission also notes the Sénat's concerns with regard to the use of delegated acts and implementing acts. Whilst the Commission agrees that, in accordance with the Treaties, acts adopted through a legislative procedure ensure the highest possible levels of democratic legitimacy; it is also true that delegated and implementing acts, if used properly, enable a simple, efficient and fast implementation of European legislation and thus constitute an integral part of the better regulation approach. Therefore, the Commission intends to continue its practice of proposing delegated or implementing acts when they specifically concern non-essential elements of legislation and are justified by the Treaty, namely when it is impossible or less efficient to include the relevant measures directly in the basic legislative act. Furthermore, in its Better Regulation package, the Commission committed itself to enhancing transparency by consulting the public before adopting delegated or implementing acts. With regard to the input from national experts, it is foreseen as part of the new Interinstitutional Agreement on Better Law Making that Member States' experts will always be consulted on a draft delegated act.

In reply to the Sénat's comments on subsidiarity and proportionality justifications in Commission proposals, the Commission would like to stress that providing clear and comprehensible reasoning on subsidiarity and proportionality is something to which this Commission attaches particular importance. The principles of subsidiarity and proportionality are at the heart of the Commission's better regulation agenda, and the Better Regulation package contains improved and more operational guidance for Commission services on how to prepare the subsidiarity reasoning in Commission impact assessments and in the explanatory memorandum accompanying its legislative proposals.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Sénat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*