



EUROPEAN COMMISSION

Brussels, 28 SEP. 2011  
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*Dear President,*

*The Commission would like to thank you for transmitting the opinion of the Italian Senate on the Commission proposal for a Regulation of the European Parliament and of the Council, amending Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and repealing Council Regulation (EC) No 165/94 and Council Regulation (EC) No 78/2008 {COM (2010) 745}.*

*The Commission has taken note of the different comments made by the Senate in its opinion and in reply would like to provide the following clarification.*

*The aim of the alignment exercise is to adapt the Commission powers included in Council Regulation (EC) No 1290/2005 to the differentiation introduced by the Lisbon Treaty between delegated and implementing powers. In addition, the Commission powers included in Council Regulation (EC) No 1290/2005 that are subject to the proposed alignment require uniform application throughout the EU and can thus be better achieved at Union level than at Member State, regional or local level.*

*This division of existing Commission powers has been conducted on the basis of a thorough screening of the basic act and the relevant Commission implementing acts. Their delegated or implementing character has been determined using objective legal criteria on the basis of the definitions in Articles 290 and 291 of the TFEU.*

*Delegated acts have been provided in all cases of "quasi legislative acts" in the sense that they regulate non essential elements of the legislative act, are of general application and amend or complete the legislative act. Implementing acts have been provided for all acts of an "executive" nature in the sense that Member States are responsible for the implementation and there is a need for a uniform application.*

*The Commission would also like to emphasise that in the Commission Communication on Article 290 of the Treaty on the Functioning of the European Union (COM(2009) 673 final) the Commission committed to consulting, during the preparatory phase, experts from the Member States who will be responsible for implementing the delegated acts once adopted. As for the control of implementing acts, the new Comitology Regulation has entered in force on 1 March 2011.*

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*As regards the comments of the Senate related to the qualification of "non-essential elements", the Commission would like to emphasise that the confines of this concept have to be defined in each policy area by the legislator, which enjoys a wide margin of appreciation in this regard, and that the case law of the Court of Justice has defined the concept of 'essential elements' as "rules which (...) are essential to the subject-matter envisaged" and "which are intended to give concrete shape to the fundamental guidelines of Community policy".*

*Regarding the issue of the duration of the delegated powers and as highlighted by the Commission in previous replies to opinions adopted by the Italian Senate, it is a common understanding of the European Parliament, of the Council and of the Commission itself that the basic act may empower the Commission to adopt delegated acts for either an undetermined or a determined period of time. While acknowledging the concerns raised by the Italian Senate, the Commission believes that the objectives of efficiency and speed that justify the use of delegated acts in the first place should prevail.*

*I hope that these clarifications address the issues raised in the opinion of the Italian Senate, and I am looking forward to further deepen our political dialogue.*

*Maroš Šefčovič  
Vice-President*