

Brussels, 26 JUL. 2011
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Dear President,

The Commission would like to thank the Senate of the Republic of Poland for its opinion concerning the 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}.

The Commission takes note of the comments raised therein, and in particular of the conclusion that the proposal would not comply with the principle of subsidiarity.

As regards the Senate's remarks on subsidiarity, which the Commission examined with the greatest care, I would like to emphasise that the delegations envisaged in the Commission proposal do not aim to call into question competences of the Member States but to supplement or amend non-essential elements of the future legislative act, as provided in Article 290 TFEU.

Therefore, in its proposal for delegation, the Commission took into account the fact that the power to adopt the measures in question is already entrusted to the Commission by the Council, in the framework of existing agricultural legislation.

The Commission paid particular attention to respecting the existing situation within the framework of agricultural legislation without touching upon the existing distribution of powers between the European level and the national level of decision. On this point, the Commission considers that the procedure of delegation will offer the necessary assurance on the matter.

Concerning the Senate's observation on nonconformity with the provisions of article 290 TFEU, in particular your remarks on Article 112 c, 112f, 112g and 112l, the Commission confirms that these articles are inspired by the content of existing legislation in the field.

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 modification of the technical elements of the legislation on marketing standards is a competence which was already entrusted to the Commission by the Council in the framework of existing agricultural legislation.

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The possibility of adopting modifications, derogations and exceptions to Council Regulations already exists in the single CMO. In particular article 121 of Regulation (EC) n° 1234/2007 gives the Commission the power to adopt rules on: additional marketing standards; derogations or exemptions from the application of the standards; indication of particulars required by the standards as well as on marketing and labelling; the application of the standards to products imported into, or exported from, the Community. Hence, in the current draft 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 also like to draw the Senate's attention to the fact that the delegations proposed in the Commission proposal are accompanied by a number of guarantees for the European Parliament and the Council. In addition, the two Institutions retain control of the delegated power through the possibility to oppose a delegated act adopted by the Commission or to revoke the delegation of powers to the Commission.

The Commission hopes that these explanations address the concerns raised in the opinion of the Polish Senate and looks forward to continuing the constructive dialogue with national Parliaments.

Yours faithfully,