Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 15/06/2011 - Legislative proposal

PURPOSE: amend certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the entry into force of the Treaty of Lisbon has led to significant changes both in the framework for the adoption of delegated and implementing acts and for the conduct of trade policy.

As regards the adoption of delegated and implementing acts the Treaty on the Functioning of the European Union clearly distinguishes between the two:

- the provisions of the Treaty on delegated acts, which are set out in Article 290 of the Treaty on the Functioning of the European Union, provide for the legislator to control the exercise of the Commission's powers by means of a right of revocation and/or a right of objection;
- the provisions of the Treaty on implementing acts, which are set out in Article 291, do not provide any role for the European Parliament and the Council to control the Commission's exercise of implementing powers. Such control can only be exercised by the Member States. A legal framework establishing the mechanisms of such control is set out in Regulation (EU) No 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

As regards trade policy, the Treaty of Lisbon provides that the ordinary legislative procedure applies, meaning that for the first time the European Parliament is fully associated in the conduct of trade policy.

In relation to the adoption of Regulation (EU) No 182/2011 the Commission stated that it will proceed to an examination of all legislative acts in force which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Lisbon Treaty, in order to assess if those instruments need to be adapted to the regime of delegated acts introduced by Article 290 of the TFEU. It will make the appropriate proposals as soon as possible.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 207 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the present proposal results from the Commission's examination of the legislative acts in the field of trade policy. Legislation in the field of trade policy has not been adapted in the past to the regulatory procedure with scrutiny.

This proposal accompanies a first proposal the Commission has made on trade policy, referred to as " Trade Omnibus I") amends certain regulations relating to the common commercial policy as regards procedures where the Council was involved in decision-making which were not based on Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

It proposes that such procedures be converted into either delegated acts pursuant to Article 290 of the Treaty or implementing acts pursuant to Article 291.

The current proposal examines all remaining decision-making procedures found in trade policy legislation in order to adapt them, where appropriate, to the regime for delegated acts set down in Article 290. In principle these are decision-making procedures based on Council Decision 1999/468/EC.

The proposal concerns **10 basic acts**. Where appropriate, the Commission proposes that certain procedures be converted into delegated acts as set down in Article 290.