# Agricultural products: information and promotion on the internal market and in third countries; delegated and implementing powers of the Commission

2011/0290(COD) - 21/10/2011 - Legislative proposal

PURPOSE: to align Council Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and third countries with Article 290 (delegated acts) and Article 291 (implementing acts) of the Treaty on the Functioning of the European Union.

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

BACKGROUND: Council Regulation (EC) No 3/2008 confers competence on the Commission to adopt detailed rules for the application of that Regulation. As a consequence of the entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 3/2008 upon the Commission need to be aligned with Articles 290 and 291 of the Treaty on the Functioning of the European Union (the Treaty).

**Article 290** of the TFEU allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "delegated acts".

**Article 291** of the TFEU allows Member States to adopt all measures of national law necessary to implement legally binding Union acts. Those acts can confer implementing powers on the Commission where uniform conditions for implementing them are needed. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as "implementing acts".

IMPACT ASSESSMENT: there was no need for an impact assessment since the proposal to align Council Regulation (EC) No 3/2008 with the TFEU is an inter-institutional matter that will concern all Council Regulations.

LEGAL BASIS: Articles 42 and 43 of the Treaty on the Functioning of the EU (TFEU).

CONTENT: this proposal aims to:

- identify the delegated and implementing powers of the Commission in Council Regulation (EC) No 3/2008 and establish the corresponding procedure for the adoption of these acts;
- incorporate in Regulation (EC) No 3/2008 some of the powers that have so far been exercised by the Commission.

**Delegated acts**: it is proposed that the Commission should be empowered to adopt certain acts in accordance with Article 290 of the Treaty with regard to:

- determining what is meant by an information and promotion programme;
- determining the characteristics with which information and promotion messages for programmes must comply;
- drawing up lists of the themes, products and third countries that may be covered by these measures;

- adopting rules for information and promotion programmes;
- adopting detailed rules regarding programmes to be implemented in third countries in collaboration with international organisations in order to ensure their smooth running;
- defining further priorities for the selection of programmes in addition to those already laid down in Regulation No (EC) 3/2008.

**Implementing acts**: the Legislator should grant the Commission the power to adopt implementing acts with regard to the following matters:

- the uniform conditions for the pre-selection of programmes by the Member States and their selection by the Commission;
- the procedure in case of an absence of programmes;
- the approval of implementing bodies;
- the use of material and the monitoring of programmes;
- the financing modalities of the programmes;
- the conclusion of contracts for the implementation of the programmes;
- the provision of securities;
- the payment modalities and the recovery of undue payments;
- the modalities of checks and penalties.

**Powers incorporated in the Regulation**: some of the powers that have so far been exercised by the Commission under the powers conferred on it by Regulation (EC) No 3/2008 have been considered of such importance that they should be incorporated into that Regulation. This regards:

- the exclusion from support under Regulation (EC) No 3/2008 of information and promotion measures on the internal market receiving support under Council Regulation (EC) No 1698/2005 on support for rural development in order to eliminate the risk of double financing;
- the principle that, in order to ensure the sound management of the Union's budget, proposing organisations should lodge securities in guarantee of a proper implementation of the programmes;
- the principle that they are liable to penalties if they fail to fulfil their obligations.