



EUROPEAN COMMISSION

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2011/0445 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) distinguish two different types of Commission acts:

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 290(3)).

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" (Article 291(4)).

The objective of the present proposal consists in aligning Council Regulation (EC) No. 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues to Articles 290 and 291 of the Treaty.

Regulation (EC) No 774/94 confers powers on the Commission allowing it to adopt the necessary implementing measures. It also confers powers on the Commission to adopt adjustments to that Regulation, should the volumes and other conditions of quota arrangements be adjusted, in particular by a decision to approve an agreement with one or more third countries.

As a consequence of the entry into force of the Lisbon Treaty, the powers conferred upon the Commission under Regulation (EC) No 774/94 need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union.

In order to ensure uniform conditions for the implementation of Regulation (EC) No 774/94, the relevant implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

There was no need for consultation of interested parties or for an impact analysis since the proposal to align Council Regulation (EC) 774/94 with the TFEU is an inter-institutional matter that will concern all Council Regulations.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- Summary of the Proposal

Alignment of Regulation (EC) No 774/94 with the new provisions foreseen under Articles 290 and 291 of the Treaty, following the entry into force of the Lisbon Treaty.

- Legal basis

Article 207 of the Treaty on the Functioning of the European Union.

### **4. BUDGETARY IMPLICATION**

The proposal has no budgetary impact.

### **5. OPTIONAL ELEMENTS**

There are no optional elements.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 774/94<sup>1</sup> confers powers on the Commission in order to implement some of the provisions of that Regulation.
- (2) As a consequence of the entry into force of the Lisbon Treaty, the powers conferred upon the Commission under Regulation (EC) No 774/94 need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union.
- (3) In order to supplement or amend certain non-essential elements of Regulation (EC) No 774/94, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the adoption of adjustments to that Regulation, should the volumes and other conditions of quota arrangements be adjusted, in particular by a decision to approve an agreement with one or more third countries. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (4) In order to ensure uniform conditions for the implementation of Regulation (EC) No 774/94, implementing powers should be conferred on the Commission in respect of the adoption of rules necessary for the administration of the quota arrangements referred to in that Regulation. Those powers should be exercised in accordance with

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<sup>1</sup> OJ L 91, 8.4.1994, p. 1.

Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>2</sup>.

(5) Regulation (EC) No 774/94 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 774/94 is amended as follows:

(1) Articles 7 and 8 are replaced by the following:

*"Article 7*

The Commission shall, by means of implementing acts, adopt rules necessary for the administration of the quota arrangements referred to in this Regulation and, as appropriate:

- (a) the provisions guaranteeing the nature, provenance and origin of the product;
- (b) the provision relating to the recognition of the document allowing the guarantees referred to in point (a) to be verified, and
- (c) the issue of import licences and their term of validity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [323(2)] of Regulation (EU) No [xxxx/yyyy] of the European Parliament and of the Council [*aligned Single CMO Regulation*]\*.

*Article 8*

The Commission shall be empowered to adopt delegated acts in accordance with Article 8a for the purpose of adopting the resulting adjustments to this Regulation, should the volumes and other conditions of the quota arrangements referred to in this Regulation be adjusted, in particular by a decision to approve an agreement with one or more third countries.

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\* OJ L ..., ..., p. "

(2) The following Article 8a is inserted:

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<sup>2</sup> OJ L 55, 28.2.2011, p. 13.

*"Article 8a*

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 8 shall be conferred on the Commission for an indeterminate period of time from [*insert date of entry into force of this amending Regulation*].
3. The delegation of powers referred to in Article 8 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 8 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council."

*Article 2*

This Regulation shall enter into force on the X day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*