



10.3.2011

NOTICE TO MEMBERS

(27/2011)

Subject: Reasoned opinion by the Senate of the Republic of Poland on the proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM(2010)0799 – C7-0008/2011 – 2010/0385(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the Senate of the Republic of Poland on the above-mentioned proposal.

OPINION**OF THE SENATE OF THE REPUBLIC OF POLAND****of 3 March 2011****on the incompatibility with the principle of subsidiarity of the proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM (2010) 799)**

Having examined the proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM (2010) 799), the Senate finds that this proposal is not compatible with the principle of subsidiarity as laid down in Art. 5(3) of the Treaty on European Union.

The proposal for a Regulation does not comply with the principle of subsidiarity because of the provisions of the proposed Regulation listed below. These provisions confer on the European Commission (EC) excessive powers to adopt delegated acts, which must be deemed unjustified in view of Art. 290 of the Treaty on the Functioning of the European Union:

1. Art. 4 – the definitions used in the Regulation to define agricultural products covered by the scope of the Regulation are an essential part of the Regulation. The way in which particular terms are defined is of key importance to the functioning of a given aid instrument;
2. Art. 18 – the definition by the Commission of ‘the method for calculating the overall allocation of resources including the distribution of intervention products and financial means for the purchase of food products on the market’ and the definition of ‘the accounting value of products released from intervention stocks as well as the method to be used for any reallocation of resources among Member States as a result of a

three-year plan revision'. All these elements constitute the foundation for the functioning of aid;

3. Art. 31(1) – the requirements and conditions to be met by products to be bought in under public intervention. It is these factors that determine the effectiveness of the intervention. Therefore, they are an essential element of the functioning of this aid instrument and, consequently, also an essential element of the Single CMO;
4. Art. 31(2) – price changes as regards buying-in and sales of cereals and paddy rice are an essential element of intervention, even if dictated solely by quality considerations.
5. Art. 31(5) – reducing the amount of aid to be paid and conditions relating to the granting of an advance payment and the requirements to be fulfilled are essential elements of market intervention;
6. Art. 31(7) – provisions relating to the establishment of operators and their registration for VAT introduced with a view to safeguarding the rights and obligations of operators participating in public intervention or private storage measures are likewise essential elements of intervention;
7. Art. 35 – how average EU prices are calculated is an essential issue as regards the aid to be granted to agricultural producers;
8. Art. 42 – adjusting the minimum price of sugar beet to its quality is an essential element of the functioning of the Community sugar sector;
9. Art. 47 – measures to facilitate the adjustment of supply to market requirements, which may relate to the live plants, beef and veal, pigmeat, sheepmeat and goatmeat, eggs and poultrymeat sectors. The introduction of such instruments is an essential element of the functioning of the CMO;
10. Art. 55(2) – the list of products for the production of which industrial sugar, industrial isoglucose and industrial inulin syrup may be used is an essential element of the functioning of aid in the sugar sector;
11. Art. 78(2) – definitions relating to the production of sugar, isoglucose and inulin syrup, as well as the production of an undertaking, are essential definitions in the functioning of the sugar sector;
12. Art. 101(1) – the conditions and standards for skimmed milk and skimmed milk powder, on which the aid to be granted for feedingstuffs depends, are an essential element of the functioning of aid in the milk sector;

13. Art. 102(1) – the conditions and standards for the production of skimmed milk processed into casein and caseinates are an essential element of the functioning of aid for skimmed milk processed into casein and caseinates;
14. Art. 103 – products that may benefit from those aids and conditions and standards relating to the use of the products and the approval, and withdrawal of approval, of undertakings using the products for the purpose of claiming the aid for skimmed milk processed into casein and caseinates and aid for skimmed milk and skimmed milk powder intended for use as feedingstuffs;
15. Art. 118 – the way in which support for producer groups functions. Member States have hitherto defined the detailed provisions to be applied in this regard, based only on the minimum requirements set by the European Commission;
16. Art. 126 – operational funds, national financial assistance, crisis prevention and management measures. All issues relating to various forms of aid are essential elements of the functioning of aid granted to agriculture and determine its scope and nature. The form of aid instruments should be defined solely at national level or with the participation of Member States, since national knowledge and competence is required in this regard;
17. Art. 129 – the School Fruit Scheme. The indicative allocation of aid between Member States, the method for reallocating aid between Member States based on applications received, any reductions to be applied as a consequence of non-compliance as well as all other issues listed in this article are of key significance to the functioning of aid offered under this scheme.
18. Art. 153 – in relation to beekeeping schemes, determination of the conditions for the allocation of the Union’s financial contribution to each participating Member State. The conditions for the allocation of aid to the beekeeping sector are a key element in the functioning of aid to beekeepers and have a significant impact on the situation in this production sector;
19. Art. 156 – aid granted to silkworm rearers. The minimum quantity of eggs and other conditions regarding successful rearing and the conditions to be met by the approved bodies which supply rearers with boxes of eggs and collect the cocoons from them are essential elements of the aid granted to this sector;

20. Art. 160 – requirements relating to the general marketing standard and derogations from those requirements. This is an essential element in the marketing of agricultural food products;
21. Art. 162 – marketing standards. This is an essential element in the marketing of agricultural food products;
22. Art. 169 – provisions related to imported and exported products. This is an essential element in the marketing of agricultural food products;
23. Art. 193 – wine sector. All the issues referred to in this article, in particular the measures related to national procedures applicable to trans-border applications, are essential elements of the Regulation since they determine the conditions for competing on this market.
24. Art. 207 – wine sector. Definitions, provisions and restrictions concerning labelling and presentation in the wine sector constitute an important determinant of the ability to compete on this market.
25. Art. 230(1) – producer organisations. All the issues referred to in this paragraph are of essential importance to the functioning of producer organisations and, therefore, to the functioning of agricultural markets;
26. Art. 249 – imports of certain agricultural products. All import-related issues referred to in this article, such as minimum quality requirements necessary to benefit from a reduction in the rate of the import duty, are essential elements that impact on the functioning of EU agricultural markets;
27. Art. 253 – import tariff quotas. The conditions and eligibility requirements that an operator has to fulfil to lodge an application within the import tariff quota as well as all the other issues mentioned in this article are significant determinants of the ability of operators to benefit from tariff arrangements;
28. Art. 261 – imports of sugar intended for refining. The conditions and eligibility requirements that an operator must fulfil to lodge an application for an import licence, including the lodging of a security, as well as the other issues mentioned in this article, are an essential element of the regulation of sugar imports and, consequently, in the functioning of the sugar market;

29. Art. 264(3) – imports of hops. The conditions under which obligations related to an attestation of equivalence and the labelling of packaging do not apply determine the ability to import hops and, consequently, influence developments on this market;
30. Art. 268 – exports of certain agricultural products. The list of the products of the sectors subject to the presentation of an export licence as well as all the other issues referred to in this article are essential elements of the functioning of Community agricultural markets and may affect the competitiveness of EU agriculture on the global market;
31. Art. 271(3) – provisions related to the eligibility of products and operators to export refunds for certain spirit drinks obtained from cereals, in particular the definition and characteristics of the products, and the establishment of coefficients for the purposes of calculating export refunds taking account of the ageing process of the products concerned. All the listed elements are of essential importance to the functioning of export refunds in this sector;
32. Art. 274 – granting of export refund. All the listed issues related to export refunds, including the *ex post* granting of licences for the export of eggs for hatching and day-old chicks, are essential elements of the functioning of this form of aid to EU agriculture, i.e., export refunds, and in certain periods may be of key importance to the condition of a given agricultural market;
33. Art. 277 – export refunds and export licences. The specific requirements and conditions that operators and products must meet to be eligible for an export refund are essential elements determining the ability to benefit from refunds, which constitute one of the instruments of support for Community agriculture, whereas export conditions significantly impact on the competitiveness of EU agricultural products on global markets.

SPEAKER OF THE SENATE

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Bogdan Borusewicz