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THE EUROPEAN UNION**

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PROPOSAL

from:	European Commission
dated:	21 December 2011
No Cion doc.:	COM(2011) 918 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 in the field of imports of olive oil and other agricultural products from Turkey as regards the implementing and delegating powers to be conferred on the Commission

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2011) 918 final



EUROPEAN COMMISSION

Brussels, 21.12.2011
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 in the field of imports of olive oil and other agricultural products from Turkey as regards the delegated and implementing powers to be conferred on the Commission

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)).

Under Article 291 of the TFEU, Member States adopt all measures of national law necessary to implement legally binding Union acts. Those acts 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 three Council Regulations in the field of imports of olive oil and other agricultural products from Turkey with those provisions of the TFEU.

It is proposed to delegate the Commission the power to adopt acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential elements of Regulation (EC) No 2008/97, which are determined by the Legislator, in particular as regards the amounts of duty reduction, or where a new agreement is concluded with Turkey.

Council Regulations (EC) No 2008/97 confers powers on the Commission allowing it to adopt measures necessary to implement the rules for the application of the special arrangements for imports of olive oil and other agricultural products originating in Turkey. It also confers powers on the Commission to adopt adjustments to this Regulation, should the detailed rules provided for in the relevant Association Agreement be amended.

Council Regulation (EC) No 779/98 of 7 April 1998 on the import into the Community of agricultural products originating in Turkey¹ confers powers on the Commission allowing it to adopt implementing measures for the application of the import regime for products listed in Annex I to the Treaty which originate in Turkey and which are allowed for importation into the Union under the conditions laid down in Decision No 1/98 of the EC-Turkey Association Council.

Council Regulation (EC) No 1506/98 of 13 July 1998 establishing a concession in the form of a Community tariff quota for Turkey in 1998 in respect of hazelnuts and suspending certain concessions² confers powers on the Commission allowing it to repeal the measures referred to in Article 2 of that Regulation, once the barriers to preferential exports from the Union to Turkey have been lifted.

As a consequence of the entry into force of the Lisbon Treaty, the powers conferred upon the Commission under those regulations need to be aligned. It is necessary to re-classify the

¹ OJ L 113, 15.4.1998, p. 1.

² OJ L 200, 16.7.1998, p. 1.

powers conferred upon the Commission into delegated and implementing powers and to amend the regulations above.

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 Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 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 Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 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 IMPLICATIONS

The proposal has no financial impact on budgetary expenditure and revenue.

5. OPTIONAL ELEMENTS

There are no optional elements.

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amending Council Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 in the field of imports of olive oil and other agricultural products from Turkey as regards the delegated and implementing powers to be conferred on the Commission

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 2008/97 of 9 October 1997 laying down certain rules for the application of the special arrangements for imports of olive oil and certain other agricultural products originating in Turkey³ confers powers on the Commission allowing it to adopt measures necessary to implement the rules for the application of the special arrangements for imports of olive oil and other agricultural products originating in Turkey. It also confers powers on the Commission to adopt adjustments to that Regulation, should the arrangements provided for in the relevant Association Agreement be amended.
- (2) Council Regulation (EC) No 779/98 of 7 April 1998 on the import into the Community of agricultural products originating in Turkey⁴ confers powers on the Commission allowing it to adopt implementing measures for the application of the import regime for products listed in Annex I to the Treaty on the Functioning of the European Union (the Treaty), which originate in Turkey and which are allowed for importation into the Union under the conditions laid down in Decision No 1/98 of the EC-Turkey Association Council.
- (3) Council Regulation (EC) No 1506/98 of 13 July 1998 establishing a concession in the form of a Community tariff quota for Turkey in 1998 in respect of hazelnuts and suspending certain concessions⁵ confers powers on the Commission allowing it to

³ OJ L 284, 16.10.1997, p. 17.

⁴ OJ L 113, 15.4.1998, p. 1.

⁵ OJ L 200, 16.7.1998, p. 1.

repeal the measures referred to in Article 2 of that Regulation, once the barriers to preferential exports from the Union to Turkey have been lifted.

- (4) As a consequence of the entry into force of the Lisbon Treaty, the powers conferred upon the Commission under Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 need to be aligned to Articles 290 and 291 of the Treaty.
- (5) In order to supplement or amend certain non-essential elements of Regulation (EC) No 2008/97, 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 the resulting adjustments necessary for that Regulation where the present conditions of the special arrangements provided for in the Association Agreement are amended, in particular as regards the amounts, or where a new agreement is concluded. 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.
- (6) In order to ensure uniform conditions for the implementation of Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98, 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 powers⁶.
- (7) Regulations (EC) No 2008/97, (EC) No 779/98 and (EC) No 1506/98 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2008/97 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 measures necessary to implement the rules for the application of the special import arrangements laid down in this Regulation. 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*]*.

⁶ OJ L 55, 28.2.2011, p. 13.

Article 8

The Commission shall be empowered to adopt delegated acts in accordance with Article 8a for the purpose of adopting the resulting adjustments necessary for this Regulation where the present conditions of the special arrangements provided for in the Association Agreement are amended, in particular as regards the amounts, or where a new agreement is concluded.

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

- (2) The following Article 8a is inserted:

"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

Article 1 of Regulation (EC) No 779/98 is replaced by the following:

"Article 1

The Commission shall, by means of implementing acts, adopt rules necessary for the application of the import regime for products listed in Annex I to the Treaty on the

Functioning on the European Union which originate in Turkey and which are imported into the Union under the conditions laid down in Decision No 1/98 of the EC-Turkey Association Council. 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*]*.

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

Article 3

Article 3 of Regulation (EC) No 1506/98 is replaced by the following:

"Article 3

The Commission shall, by means of an implementing act, confirm the termination of the suspension referred to in Article 2 once the barriers to the preferential exports from the Union to Turkey have been lifted. That implementing act 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*]*.

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

Article 4

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