



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 December 2013  
(OR. en)**

---

---

**Interinstitutional File:  
2011/0281 (COD)**

---

---

**16967/13  
ADD 1 REV 1**

**CODEC 2751  
AGRI 793  
AGRIFIN 200  
AGRIORG 172**

**"I/A" ITEM NOTE**

---

**From:** General Secretariat of the Council  
**To:** SCA/Council

---

**Subject:** Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 **(first reading)**  
- Adoption of the legislative act (LA + S)  
= Statements

---

**Joint statement from the European Parliament, the Council and the Commission on Article 43(3) of the Treaty on the Functioning of the European Union (TFEU)**

The outcome of negotiations as concerns recourse to Article 43(3) of the Treaty on the Functioning of the European Union forms part of the overall compromise on the current CAP reform and is without prejudice to each institution's position on the scope of this provision and to any future developments on this question, in particular any new case law from the Court of Justice of the European Union.

**Statement by the Council on Article 43(3) of the Treaty on the Functioning of the European Union (TFEU)**

With respect to the outcome of CAP negotiations in the June 2013 trilogue, the Council confirms that its decision to have matters falling under Article 43(3) TFEU covered by the Single CMO Regulation was only meant, in the exceptional circumstances of that trilogue, to allow a compromise to take place. That will accordingly not affect the position that the Council will continue to take in the future in defence of the prerogatives which were conferred upon it by the Lisbon Treaty.

**Statement by the Commission on marketing standards (linked to Article 75(1))**

The Commission is keenly aware of the sensitivity of extending marketing standards to sectors or products which currently are not subject to these rules under the sCMO Regulation. Marketing standards should only apply to sectors where there are clear expectations of the consumers and when there is a need to improve the economic conditions for the production and marketing of specific products as well as to their quality, or to take into account technical progress or need for product innovation. They should also avoid administrative burden, be simply understandable for the consumers and help producers to easily communicate the characteristics and attributes of their products.

The Commission will take into account any duly justified request from Institutions or representative organisation, as well as the recommendations of International Bodies, but before using its power to include new products or sectors in paragraph 2 of Article 75 will be required to carefully assess the specificity of that sector and present a report to the European Parliament and the Council evaluating, in particular, the need of the consumer, the costs and administrative burdens for operators including the impact on the internal market and on international trade, as well as the benefits offered to producers and to the end consumer.

### **Statement by the Commission on sugar**

In order to aim for a balanced market and a fluid supply of sugar to the Union market during the remaining period of sugar quotas, the Commission will have regard to the interests of both Union sugar beet growers and raw cane refiners in applying the temporary market management mechanism laid down in Article 131 of the sCMO Regulation.

### **Statement by the Commission on the European Price Monitoring Tool**

The Commission recognises the importance of collecting and disseminating available data on price developments in the different steps of the food chain. To this end, the Commission has developed a Food Prices Monitoring Tool for Food Products, which draws from the combined food related price index data collected by National Statistical Offices. This tool aims at bringing together and making available price development along the food chain, and allows comparison of price developments for relevant agricultural products, for food industries and the relevant consumer products. This tool is under constant improvement and will aim to expand the range of food chain products it covers and in general to meet farmers' and consumers' need for more transparency and food price building. The Commission shall report regularly to the European Parliament and to the Council on the activities of the European Price Monitoring Tool and the results of the latter's studies.

### **Statement by the Commission on the non-opinion clause**

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5(4), subparagraph 2, point b), in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

**Statement by the Council on Article 5(4), subparagraph 2, point b) of Regulation (EU) No 182/2011 on Committee Procedure**

The Council, having regard to the Commission statement on the so called *non-opinion* clause, reiterates that Article 5(4), subparagraph 2, point b) of Regulation 182/2011 on Committee Procedure is not, and was not meant to be, an exception to a general rule.

It is up to the legislature to determine, in the basic act and in the light of the specific features of each case, whether or not to avail itself of the option made available by point (b) of the second subparagraph of Article 5(4), thus preventing the Commission from adopting a draft implementing act in the absence of an opinion from the committee. No legal considerations limit the use of this option. Unlike other provisions of the Regulation on Committee Procedure, Article 5(4) requires no specific justification for this choice.

**Statements by Italy**

Italy deems that the text stated in Article 113 (e) par. 2 of Regulation on CMO allows that the consultation for the agreement between the parties could be concluded with representatives of pig producers also.

Italy deems that the provisions set out in Article 45(1)(a) of the Single CMO Regulation do not exclude wine producers from the provisions set out in Regulation (EC) No 3/2008.

**Statement by Greece on planting rights**

Following the discussions in the Council on the EU vineyards plantation scheme, Greece considers that Member States may include into the annual planting authorisations according to Articles 62, 63 and 64, at regional level, vineyards already planted with double or triple purpose vine varieties which are not included, so far, in the production potential of vitivincultural sector.

**Statement by Poland on equal possibilities for hops sector support under common organization of markets in agricultural products**

In the framework of discussion in the Council for Agriculture and Fisheries, Poland has pointed out to a necessity for equal conditions for supporting hops sector under measures provided for in the draft regulation on common organization of markets in agricultural products. Poland does not accept those provisions which can be applied only in one Member State, creating this way unequal conditions of competition. Poland considers that provided solution should enable to support under this provision Polish hops producers as well.

**Statement by Germany**

Germany welcomes in many respects the results obtained on the direction of the Common Agricultural Policy after 2013. The European Union is thus responding to the challenges to be faced by the European agricultural sector in the years to come.

Germany cannot, for the following reasons, support some of the proposed regulations on the future Common Market Organisation:

= Under the Treaty on the Functioning of the European Union (Art. 43 (3) TFEU), the Council, on a proposal from the European Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations. It is therefore exclusively the responsibility of the Council to lay down such rules.

= Germany considers a deviation from this clear contractual attribution of responsibilities between the EU institutions as not acceptable.

= For general reasons concerning Community law, too, we cannot endorse such a violation of primary law because that would set a precedent for deviations from divisions of power in other policy areas.

Germany therefore rejects the submitted Regulation on the future Common Market Organisation.