Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards marketing standards'

COM(2010) 738 final — 2010/0354 (COD)

(2011/C 218/23)

Rapporteur: **Mr POLICA**

On 27 January 2011 and 18 January respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 43(2) and, in respect of Title II, Article 118(1) of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards marketing standards

COM(2010) 738 final — 2010/0354 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 April 2011.

At its 471st plenary session, held on 4 and 5 May 2011 (meeting of 4 May), the European Economic and Social Committee adopted the following opinion by 152 votes to five with ten abstentions.

1. Summary of the EESC's comments and recommendations

1.1 The EESC welcomes the Commission's proposal, which is designed to put in place a coherent agricultural product quality policy aimed at assisting farmers to better communicate the qualities, characteristics and attributes of their products, and at ensuring appropriate consumer information. Furthermore, the Committee is convinced that the quality package could help to increase employment and business opportunities in rural areas, thus addressing depopulation and helping to preserve specific cultural characteristics, improve the relationship between people and the environment and achieve better national resource management.

1.2 The EESC welcomes the improvement of specific agri-food schemes – designations of origin, protected geographical indications, guaranteed traditional specialities – in order to simplify and streamline technical requirements and strengthen the model. The EESC calls, moreover, for greater protection of these schemes against unfair trading practices and believes that implementing marketing standards across the board can help achieve this improvement.

1.3 As has also been highlighted in previous opinions [1], the EESC believes that traceability, namely the means of tracking a product's progress through the production chain from production to sale, is an important tool that can ensure the effective application of all those requirements that will be adopted once specific marketing standards are introduced. It is not enough merely to provide information on labels, the information provided must be objectively comparable.

1.4 In addition to securing the accuracy of the information displayed by means of effective tracking tools, the effectiveness of this information also needs to be strengthened and guaranteed by ensuring that labels display clear, comprehensive and comprehensible information, striking the right balance between the consumer's right to full information and legibility (of the small print), thereby avoiding excessive complexity, technical information or wordiness that could confuse consumers or put them off reading the label.

1.5 To ensure that checks are appropriate and effective, it is recommended that invoices and all the documents accompanying the products in general carry basic information stipulated in the marketing standards for the particular sector or product. Particular attention must be given to products imported into the EU from third countries, in order to combat and discourage unfair commercial practices [2].

1.6 The network of control bodies needed to verify whether products conform to existing and future provisions and to apply administrative penalties as appropriate where marketing standards have been breached must go hand in hand with efforts and initiatives to make operators in the sector more accountable and foster an increasingly widespread culture of compliance with the rules.

[1] OJ C 18, 19.1.2011, pp. 5-10, *The Community agricultural model: production quality and communication with consumers as factors of competitiveness.*

[2] OJ C 100, 30.4.2009, pp. 60-64, *Health security of agricultural and food imports.*

1.7 The EESC acknowledges that provision for the use of delegated acts to regulate the marketing standards sector is in step with the move towards legislative simplification introduced by the Lisbon Treaty and complies with the provisions of Article 290 TFEU. It is also in line with the approach adopted thus far by the Commission and accepted by the Committee in similar instances ([3]). It would, however, recommend that the tool be used carefully, as if it is not used selectively and is applied wholesale it could disrupt the market in sectors already regulated by specific marketing standards, first and foremost the fresh fruit and vegetable sector ([4]).

1.8 As regards information that it is compulsory to display on labelling, the introduction of a legal requirement that 'place of farming' ([5]) to be indicated for all sectors, thus responding to consumers' expectations in terms of clarity and information and avoiding other references that might be misleading, is certainly positive. However, the provision for case by case determination of 'the appropriate geographical level' appears seems inconsistent. It would be preferable, as the Committee has already suggested in part ([6]), to include 'place of farming' on the label, meaning place of cultivation or rearing, namely the country where the agricultural product came from before processing or being used in the preparation of a foodstuff.

1.9 The European Parliament and the Council have clearly stated their intention to regulate and provide legal protection for basic products destined for food consumption by European citizens: the EU has already done a lot of work on this in the past and now has the greater technical and legal competences it needs to go further. In particular, the Committee is opposed to automatic adaptation to relevant marketing standards adopted by international organisations ([7]) without prior analysis and assessment to establish their effectiveness and consistency with the new legislative framework.

1.10 The Committee agrees with the proportionality principle referred to in the legal elements of the proposal, but is concerned that implementing it, in the context of optional quality indications, could result in less binding checks, leading to a lower level of compliance with the standards themselves. The aim should be to simplify and cut red tape, while also maintaining an appropriate system of consumer protection controls.

1.11 The measures laid down in the proposal would be more effective if they were widely published, targeting consumers directly and through their trade associations. The mass media are widely used to stimulate sales but are not used enough to keep EU citizens better informed about the standards protecting them and make them more aware of their options when buying a product.

2. **Introduction – the Commission document**

2.1 The aim of the Quality Package is to improve EU legislation in the field of agricultural product quality, as well as in the operation of national and private certification schemes, in order to make them simpler, more transparent and easier to understand, adaptable to innovation, and less burdensome for producers and administrations.

2.1.1 The quality package is in harmony with other EU policies. The recent Communication from the Commission on policy in the period post-2013 has identified, *inter alia,* the need to maintain the diversity of agricultural activities in rural areas and enhance competitiveness. The Communication on *Europe 2020: a strategy for smart, sustainable and inclusive growth* also, in setting out the EU's priorities, emphasises the strategic objective of promoting a more competitive economy, given that quality policy is one of the pillars of EU agriculture's competitiveness.

2.2 In 2009 the Commission published Communication COM(2009) 234 on agricultural product quality policy, containing the following strategic orientations:

— to improve communication between farmers, buyers and consumers about agricultural product qualities,

— to increase the coherence of EU agricultural product quality policy instruments, and

— to reduce complexity to make it easier for farmers, producers and consumers to use and understand the various schemes and labelling terms.

2.3 The quality package includes:

2.3.1 a proposal for a regulation simplifying administration of quality schemes, bringing them into a single legislative instrument. This regulation ensures coherence between the instruments and makes the schemes more readily understandable for stakeholders;

2.3.2 a proposal for a regulation on marketing standards increasing transparency and simplifying the relevant procedures;

2.3.3 guidelines setting out best practice for the development and operation of certification schemes relating to agricultural products and foodstuffs;

2.3.4 guidelines on the labelling of foodstuffs using Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI) as ingredients.

([3]) OJ C 107, 6.4.2011, pp. 30-32, *Support for rural development by the EAFRD – Direct support schemes under the CAP.*
([4]) Regulation (EC) No 1580/07 as modified by Commission Regulation (EC) No 1221/08.
([5]) COM(2010) 738 final, Article 112e (3)c.
([6]) OJ C 77, 31.3.2009, p. 81, point 1.3 and OJ C 354, 28.12.2010, p. 35, point 5.5.18.
([7]) COM(2010) 738 final — Article 112b (3) and Annex XIIb.

2.4 Designation of origin and geographical indication:

the proposal maintains and reinforces the quality scheme for agricultural products and foodstuffs, without prejudice to the geographical indication schemes for wines, for aromatised wines, or for spirits. The current registration process shortens time delays; minimum common rules on official controls are laid down, and the scope of the regulation is maintained (products for human consumption and other products).

2.5 Traditional specialities guaranteed:

the proposal maintains the scheme for reservation of names but discontinues the option of registering names without reservation. The registration process is simplified, the criterion of tradition is extended to 50 years and the scheme is restricted to prepared meals and processed products.

2.6 Optional quality terms:

it is proposed to bring these terms into the present regulation in order to highlight value-adding attributes and support specific marketing standards (free range poultry meat, honey of floral origin, olive oil from first cold pressing), adapted to the legislative framework of the Treaty on the Functioning of the European Union.

2.7 Marketing standards:

the proposal establishes that the Commission is, as a general rule, to adopt marketing standards by means of delegated acts. A legal basis is introduced for all sectors, with mandatory labelling of place of farming in accordance with each sector's specificity. Each case will be examined individually, starting with the dairy sector.

2.8 The proposal provides for checks on all schemes to be under the responsibility of national competent authorities. Supervision of Member State control activities must be undertaken at the highest possible level – at EU level – in order to maintain credibility in the food law schemes across the European Union, in line with the principles laid down in the above-mentioned regulation.

3. **General comments**

3.1 The Commission proposal, designed to provide producers with the right tools to inform consumers about product characteristics and farming attributes in order to protect them against unfair trading practices, is a key step in a series of decisions on quality.

3.2 Traceability is an important tool enabling a product to be tracked throughout the production chain and helps, along with the information provided on the label, to provide consumers with clear, full and comprehensible information on the marketed product. The traceability instrument will therefore comprise all the certifications, registrations and commercial documents providing evidence of processes and transfers kept by all those involved in the production chain, to be shown on request to control bodies.

3.3 The proposal requires Member States to perform checks, based on a risk analysis, in order to verify whether products conform to existing and future provisions and to apply administrative penalties as appropriate. The EESC recommends that an effective network of control bodies be maintained by increasing and enforcing the powers of the respective national control authorities which are currently concerned with respect for marketing standards in the sectors where these exist.

3.4 It is recommended that the system of supervisory checks, based, *inter alia*, on impact analyses, go hand in hand with steps to make operators in the sector more accountable and foster an increasingly widespread culture of compliance with the rules.

3.5 As regards the references to 'place of farming', to be made compulsory on labels, the proposal is excessively vague, providing for an 'appropriate geographical level' to be determined on a case by case basis. Should such a general parameter be kept, the extreme case of a foodstuff bearing a label stating merely that it was 'produced in the EU' would be possible, which would exclude the possibility of the place of origin being a third country, but would certainly not be in line with the laudable effort in favour of clarity for consumers represented by the newly-framed marketing standards.

3.6 The use of delegated acts across the board, as included in the proposal to amend/supplement existing and future marketing standards, does not allow for the moment for a sufficiently in-depth evaluation of regulations in their entirety. It is certainly encouraging that the general content of future marketing standards has been defined with precision, with a framework of dates, information and exhaustive indications for all the handling and other processes and transport undergone by the product on sale. However, despite a doubtless positive evaluation of their applicability, backed up by the impact assessments carried out, it will not yet be possible to assess their actual implementation and, in particular, their effectiveness for each category and product. This assessment can only be undertaken after the standards have been implemented in practice.

3.7 The proposals included within the quality package together form a single integral quality project. This means that the various instruments must be seen as complementary and should work together in full synergy. Care must thus be taken that any change made to one of these instruments does not have adverse or undesirable effects on the others.

4. **Specific comments**

4.1 The provision made in Article 112b (3), according to which a product shall be considered as conforming to the general marketing standard where the product intended to be marketed is in conformity with an applicable standard adopted by any of the international organisations listed in Annex XIIb, appears inconsistent. The Committee is therefore against this provision as it does not allow for any proper examination of substantive conformity with general and specific marketing standards, considered essential for the protection of European citizens and of competition.

4.2 The exceptions provided for in Article 112k are not supported by sufficient explanation of why national authorities may provide for exemption or maintain national rules, particularly regarding spreadable fats and oenological practices. However, if the reason is to formalise an existing practice in order to prevent mushrooming of additional systems exempted from new marketing standards, the EESC agrees with the decision but asks for this to be detailed in the text of the proposal for the sake of clarity and in order to confirm this interpretation.

4.3 A provision included in the proposed Parliament and Council Regulation amending Regulation (EC) No 1234/2007 enables the Commission to adopt specific marketing standards for all products listed in Annex I to the proposal, as well as for agricultural ethyl alcohol, using 'delegated acts' as the legislative instrument. Due care is recommended in using these instruments, as if they are used wholesale rather than in specific cases they could disrupt the market in sectors already regulated by specific marketing standards, first and foremost the fresh fruit and vegetable sector.

4.4 Lastly, given the complexity of the deletions and insertions to be made in the original Regulation (EC) No 1234/2007, these should be indicated particularly clearly, thus making them easier to read for end users, principally producers and consumers, and easier to implement properly and uniformly.

Brussels, 4 May 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON