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FACTSHEET

Entry into force of new comitology rules

Tomorrow, 1 March 2011, new "comitology" rules enter into force. They define how member states control the Commission's exercise of its implementing powers.¹

According to article 291 of the Treaty on the Functioning of the European Union (TFEU), EU legislation ("basic acts") can confer on the Commission the power to adopt **implementing acts** where uniform conditions for implementing legally binding EU acts by the member states are needed. The regulation that comes into force today puts this into practice and replaces a Council decision of 1999. The new procedures created by this regulation replace therefore the consultation, management and regulatory procedures introduced by the 1999 decision.

The new regulation establishes two procedures for controlling the Commission's exercise of implementing powers: an advisory and an examination procedure. Both involve committees composed of member state representatives and chaired by the Commission. The Commission must ensure the widest possible support within these committees.

¹ This follows the adoption of a new regulation ([64/10](#) + [5768/11 ADD 1](#)) by the Education, Youth, Culture and Sport Council on 14 February.

P R E S S

The **examination procedure** applies in particular to measures of general scope (such as technical details related to the online collection system of statements of support for the European citizens' initiative) and specific measures with a potentially important impact, for instance in the field of agriculture, fisheries, environment, health, trade and taxation (*see flow-chart in the annex*). It aims to ensure that Commission implementing acts are supported by a qualified majority of the committee. If the committee opposes the draft measures by qualified majority, the Commission must not adopt the draft implementing act; where an implementing act is deemed to be necessary, the Commission may either submit an amended version of the draft implementing act to the same committee within two months, or submit the draft implementing act within one month to the appeal committee for further deliberation. If the committee does not deliver an opinion, the Commission may adopt the draft act under certain conditions. Within this procedure, specific rules apply for trade policy.

The **advisory procedure** applies as a general rule to the adoption of implementing acts in other fields (such as individual measures in the field of culture). The Commission must take the utmost account of the committee's opinions, which are adopted by a simple majority.

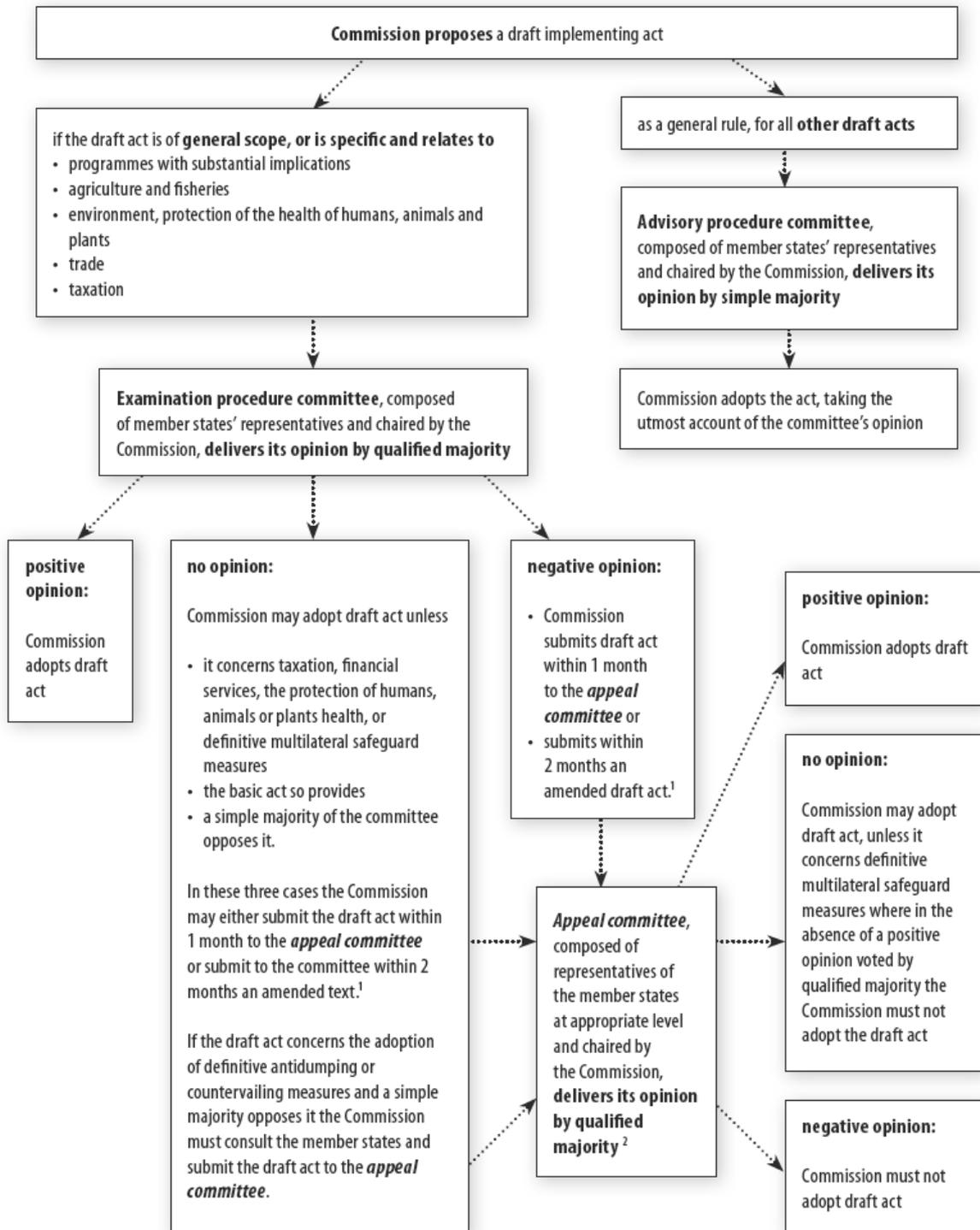
In both procedures, the European Parliament and the Council have a right of scrutiny. Where the basic act has been adopted under the co-decision procedure, the European Parliament or the Council may at any time inform the Commission that it considers the proposed implementing act to exceed the powers conferred on it. In such a case, the Commission must review the draft act and decide whether to maintain, amend or withdraw it.

Besides implementing acts, the TFEU provides in article 290 also the possibility for the EU co-legislators (i.e. the Council and the European Parliament) to delegate to the Commission the power to amend or supplement certain non-essential elements of the legislative acts. The so-called **delegated acts** cover almost the same type of measures as those adopted so far under the "regulatory procedure with scrutiny" (as introduced by the Council into the "comitology" decision in 2006).

Subject to the conditions of the delegation, the Council and the European Parliament may decide to revoke this delegation or object to a Commission delegated act. The specific objectives, content, scope and duration of a delegation must be defined in each basic act.

As article 290 applies since the entry into force of the Lisbon Treaty on 1 December 2009, the European Parliament and the Council may no longer provide for new "regulatory procedures with scrutiny" in new basic acts. For existing legislation, however, the "regulatory procedure with scrutiny" maintained.

New comitology rules (art. 291 TFEU)



¹ However, the Commission may adopt the proposed measures without delay where this is necessary to avoid a significant disruption of the markets in agriculture or a risk for the financial interest of the EU, and submit the act immediately to the appeal committee. If the appeal committee delivers a positive opinion or no opinion, these measures remain in force. If the appeal committee delivers a negative opinion, the Commission must repeal the act.

² For a period of 18 months after the entry into force of the new regulation, the appeal committee delivers its opinion on definitive draft anti-dumping or countervailing measures by a simple majority.