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NOTE

From: General Secretariat of the Council
To: Permanent Representative Committee 2

Subject: Proposal for a Regulation of the European Parliament and of the Council on the harmonisation of gross national income at market prices (GNI Regulation) repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003
- State of play and guidance for further work

I. INTRODUCTION

1. On 23 June 2017, the Commission presented its proposal for a Regulation of the European Parliament and of the Council on the harmonisation of gross national income at market prices (GNI Regulation) repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 ("GNI Regulation")¹.
2. To a large extent the calculation of Member States' contributions to the EU's own funds are based on GNI data. It is therefore essential to establish – through the GNI Regulation – a sound legal basis for the production of harmonised GNI data.
3. On 6 September 2017, the Commission presented its proposal to the Working Party on Statistics and justified the absence of an impact assessment to the proposal. The delegations did not object to the explanation provided.

¹ Doc. 10569/17.

II. STATE OF PLAY

4. On 6 September and 12 October 2017 the Council Working Party on Statistics discussed the abovementioned proposal. Coreper agreed on a negotiating mandate in its meeting on 8 November 2017². The European Parliament adopted its report in a Plenary meeting on 30 January 2018. On that basis, the Bulgarian Presidency conducted negotiations with the European Parliament and the Commission with a view to a first reading agreement.
5. On 10 April 2018, a preliminary agreement was reached between the Bulgarian Presidency and the European Parliament which resulted in a compromise text as set out in the Annex to this note.
6. On 19 April 2018, the Bulgarian Presidency presented the outcome of the political trilogue to Member States in the Working Party on Statistics. The Presidency explained that the result was balanced in substance and addressed the main concerns expressed by Member States, in particular on implementing acts in Article 3(1) on the detailed structure and content of the inventory, as well as the timetable for its updating. In order to achieve a compromise with the Parliament, the Bulgarian Presidency agreed to the use of delegated acts in Article 5(2), albeit limited to setting out measures ensuring the reliability, exhaustiveness and the highest degree of comparability of GNI data in line with ESA 2010. A number of Member States echoed their dissatisfaction with this latter point in the compromise.
7. Two further debriefings and discussions on the way forward followed under the Bulgarian Presidency on 29 May and 14 June. To accommodate the views of some Member States, both the Bulgarian Presidency and the Austrian Presidency contacted the European Parliament to see whether there was any leeway for further modifying the compromise reached on April 10 as regards Article 5(2). Both Presidencies could confirm that the Parliament revalidated the April compromise in its entirety as balanced and fair and a re-opening of discussions was not considered viable.

² Doc. 13698/17.

8. The Austrian Presidency is of the opinion that the current compromise reflects the best achievable balance between the institutions, while being aware that a number of delegations hold reservations on Article 5(2), which provides for the use of delegated acts. The delegations concerned consider that the measures covered by the empowerment are of a pure technical nature, and therefore find the instrument of an implementing act to be more appropriate in this Article.
 9. In the light of the above, the Permanent Representatives Committee is invited to take note of and discuss the state of play on the compromise text regarding the Regulation of the European Parliament and of the Council on the harmonisation of gross national income at market prices (GNI Regulation) repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003, as set out in the Annex to this note.
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REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

on the harmonisation of gross national income at market prices (GNI Regulation)

repealing Council Directive 89/130/EEC, Euratom and

Council Regulation (EC, Euratom) No 1287/2003

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 338(1) 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) ***Gross national income at market prices ('GNI') constitutes the basis for calculating the largest share of own resources in the budget of the Union. This*** makes it necessary to further reinforce the comparability, reliability and exhaustiveness of this aggregate.
- (2) Statistical integrity through respect of the principles of the European Statistics Code of Practice, as reviewed and updated by the European Statistical System Committee on ***16 November 2017*** and of Regulation (EC) No 223/2009 of the European Parliament and of the Council³, is of particular importance where statistics are being used directly for administrative purposes ***and policymaking at Union and national levels.***
- (3) ***Those data are*** also an important analytical tool for the coordination of national economic policies and for various Union policies, ***as well as for research activities.***

³ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- (4) In accordance with Article 2 (7) of Council Decision 2014/335/EU, Euratom, for own resources purposes, GNI *means* an annual GNI at market price, as provided by Annex A of Regulation (EU) No 549/2013 ('ESA 2010'). -In accordance with Article 10(1) of Council Decision 2014/335/EU, Euratom⁴, and subject to Article 10(2) thereof, Council Decision 2007/436/EC, Euratom⁵ was repealed.
- (5) It is essential that GNI data *be* comparable *across Member States* and therefore the relevant definitions and accounting rules of ESA 2010 should be complied with. For that purpose, the assessment procedures and the basic data actually used should permit the correct application of the definitions and accounting rules of ESA 2010.
- (6) It is essential that the sources and methods used to compile GNI are reliable. This means that sound techniques should be applied to robust, suitable and up-to-date basic statistics as much as possible.

⁴ Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

⁵ Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ L 163, 23.6.2007, p. 17).

- (7) It is essential that GNI data *are* exhaustive. *Therefore, it* should *also* take *into* account *informal, unregistered and other* activities *and transactions* that are not reported in statistical surveys or to fiscal, social and other administrative authorities. Improved GNI coverage presupposes developing suitable statistical bases and assessment procedures *-to produce reliable statistics and, where applicable, to make necessary* adjustments, *avoiding gaps and double counting*.
- (8) *In order to ensure the reliability, exhaustiveness, and highest possible degree of comparability of GNI data, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of measures ensuring these objectives of reliability, exhaustiveness and comparability of GNI data, in line with ESA 2010. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

⁶ *OJ L 123, 12.5.2016, p. 1.*

- (9) In order to ensure uniform conditions for the implementation of this Regulation by providing GNI data for own resources purposes, implementing powers should be conferred on the Commission to ***establish the structure and detailed arrangements of*** the inventory of the sources and methods used to ***produce GNI data*** and its components, ***in accordance with Annex A of Regulation (EU) 549/2013, as well as the timetable for its updating and transmission.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷.
- (10) Council Regulation (EU, Euratom) No 608/2014⁸ provides for inspections visits in Member States for the purpose of verifying own resources. ***For GNI purposes***, the Commission should be entitled to carry out GNI information visits in order ***to verify the quality of GNI aggregates and their components and compliance with ESA 2010 as well as*** to ensure that GNI data is comparable, reliable and exhaustive. The ***Commission should respect rules on statistical confidentiality.*** The participation of representatives of national statistical authorities in GNI information visits to other Member States ***is essential in order to increase*** the transparency ***and quality*** of the process of GNI verification.

⁷ 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁸ Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 29).

- (11) In accordance with Article 7 of Regulation (EC) No 223/2009 the European Statistical System Committee (ESSC) has been asked to provide its professional guidance.
- (12) The GNI Committee referred to in Article 4 of Council Regulation (EC, Euratom) No 1287/2003⁹ has issued opinions, provided advice to, and assisted the Commission in the exercise of its implementing powers. Under the strategy for a new European Statistical System structure to improve coordination and partnership in a clear pyramid structure within the System, the European Statistical System Committee, established by Regulation (EC) No 223/2009, should have an advisory role and assist the Commission in exercising its implementing powers. To that effect, the GNI Committee should be replaced by the ESSC for the purpose of assisting the Commission in the exercise of its implementing powers under the current Regulation. Nevertheless, for the purposes of other functions previously undertaken by the GNI Committee under Regulation (EC, Euratom) No 1287/2003, and not relating to assistance in the exercise of the implementing powers of the Commission, the Commission should establish a formal expert group to assist it for such other purposes.

⁹ Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).

- (13) Council Directive 89/130/EEC, Euratom¹⁰ and Regulation (EC, Euratom) No 1287/2003 have set up a procedure to verify and assess the comparability, reliability and exhaustiveness of GNP and GNI within the GNP and GNI Committees in which Member States and the Commission cooperate closely. This procedure should be adjusted to take account of the use of GNI according to ESA 2010 for the purposes of own resources, the revised timetable for making available own resources and recent developments within the European Statistical System. Those acts should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

¹⁰ Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonisation of the compilation of gross national product at market prices (OJ L 49, 21.2.1989, p. 26).

Chapter I

Definition and calculation of gross national income at market prices

Article 1

1. Gross national income at market prices (GNI) and gross domestic product at market prices (GDP) shall be defined in accordance with the European system of national and regional accounts (ESA 2010), set up by Regulation (EU) No 549/2013.
2. In accordance with point 8.89 of Annex A to Regulation (EU) No 549/2013, GDP means the final result of the production activity of resident producer units. It can be defined in three ways:
 - (a) production approach: GDP is the sum of gross value added of the various institutional sectors or the various industries plus taxes and less subsidies on products (which are not allocated to sectors and industries). It is also the balancing item in the total economy production account;
 - (b) expenditure approach: GDP is the sum of final uses of goods and services by resident institutional units (final consumption and gross capital formation) plus exports and minus imports of goods and services;

- (c) income approach: GDP is the sum of uses in the total economy generation of income account (compensation of employees, taxes on production and imports less subsidies, gross operating surplus and mixed income of the total economy).
3. In accordance with point 8.94 of Annex A to Regulation (EU) No 549/2013, GNI means the total primary income receivable by resident institutional units: compensation of employees, taxes on production and imports less subsidies, property income (receivable less payable), gross operating surplus and gross mixed income. GNI equals GDP minus primary income payable by resident institutional units to non-resident institutional units plus primary income receivable by resident institutional units from the rest of the world.

Chapter II

Transmission of GNI data and additional information

Article 2

1. Member States shall *calculate* GNI *as defined* in Article 1 in the context of national accounts compilation.

2. Before the end of September of each year, Member States shall provide the Commission (Eurostat), in the context of national accounting procedures, with figures for aggregate GNI and its components, in accordance with the definitions referred to in Article 1. Totals for GDP and its components *shall* be presented in accordance with the three approaches referred to in Article 1(2). *Data shall be transmitted for* the preceding year and any changes made to the *data* for previous years *shall be communicated at the same time*.
3. *The transmission of* data referred to in paragraph 2 shall *be accompanied by* a report on the quality of GNI data. *That* report shall *detail the methodology used to produce the data*, and in particular describe any significant changes in the sources and methods used and explain the revisions made to *GNI aggregates and their components compared to the previous periods*.

Article 3

1. Member States shall provide the Commission (Eurostat) with an inventory of the sources and methods used to *produce* GNI *data* and its components according to ESA 2010.
2. The Commission shall establish, by means of implementing acts, the structure and *detailed arrangements* of the inventory referred to in paragraph 1, *in accordance with Annex A of Regulation (EU) 549/2013*, as well as the timetable for its updating *and transmission*. *In exercising its power, the Commission shall ensure that such implementing acts do not impose significant additional costs which result in a disproportionate and unjustified burden on the Member States*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(2). *The inventory shall be coherent with the ESA 2010 legislation and avoid duplications and overloadings*.
3. To facilitate comparable analyses of compliance, the Commission shall draw up an inventory guide in close co-operation with the expert group referred to in Article 4.

Chapter III

Procedures and checks on the calculation of GNI

Article 4

The Commission shall establish a formal expert group, composed of representatives of **all** the Member States and chaired by a representative of the Commission, to advise the Commission on and to express its views **regarding** the comparability, reliability and exhaustiveness of GNI calculations, to examine **issues** of implementation of this Regulation and to issue annual opinions on the appropriateness of the GNI data submitted by the Member States for own resources purposes.

Article 5

1. The Commission shall verify the sources, **their uses** and **the** methods in the inventory referred to in Article 3(1). A verification model, drawn up by the Commission in close cooperation with the expert group referred to in Article 4, shall be used **to that effect**. The model shall be based on the principles of peer review and cost-effectiveness **and shall take into account the delegated acts referred to in the second subparagraph of paragraph 2**.

2. ***GNI data shall be reliable, exhaustive and comparable.***

The Commission shall adopt delegated acts in accordance with Article 7 supplementing the provisions laid down in the first subparagraph by setting out measures ensuring the reliability, exhaustiveness, as well as the highest possible degree of comparability, of GNI data, in line with ESA 2010.

Article 6

1. Without prejudice to the inspections provided for in Article 2 of Regulation (EU, Euratom) No 608/2014, GNI information visits may, where deemed appropriate, be carried out in Member States by the Commission (Eurostat).
2. ***The purposes of information visits shall be the verification of the quality of GNI aggregates and their components and compliance with ESA 2010. In exercising the information visits, the Commission (Eurostat) shall respect rules on statistical confidentiality as laid down in Chapter V of Regulation (EC) No. 223/2009.***

3. When carrying out information visits in Member States, the Commission (Eurostat) may ***and is encouraged to*** request the assistance of national accounts experts representing national statistical authorities ***of other Member States***.

The national accounts experts shall be registered on a list constituted on the basis of voluntary proposals sent to the Commission (Eurostat) by the national authorities responsible for the reporting of national accounts.

The participation of ***national accounts experts of other*** Member States in those visits is voluntary.

Article 7

1. ***The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***

2. *The power to adopt delegated acts referred to in the second subparagraph of Article 5(2) shall be conferred on the Commission for a period of five years from ... [date of entry into force of this Regulation]¹¹. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. *The delegation of power referred to in the second subparagraph of Article 5(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.*

¹¹ *Publication Office, please insert the correct date.*

5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
6. *A delegated act adopted pursuant to the second subparagraph of Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.*

Article 8

1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Chapter IV

Final provisions

Article 9

By 31 December 2022 at the latest, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation.

Article 10

Directive 89/130/EEC, Euratom and Regulation (EC, Euratom) No 1287/2003 are repealed.

References to the repealed acts shall be construed references to this Regulation and read in accordance with the correlation tables set out in the Annex to this Regulation.

Article 11

This Regulation shall enter into force on the twentieth 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

For the Council

The President

The President

ANNEX

Council Directive 89/130/EEC, Euratom	This Regulation
Article 1	Article 1 (1) (3)
Article 2	Article 1 (2)
Article 3	Article 2 (1) (2)
-	Article 4
Article 4	Article 3
Article 5	Article 2 (3)
-	Article 5
-	Article 6
-	Article 7
Article 6	Article 8
Article 7	-
Article 8	-
Article 9	-
Article 10	Article 9
-	Article 10
Article 11	-
-	Article 11

Regulation (EC, Euratom) No 1287/2003	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
-	Article 4
Article 4	Article 8
Article 5(1)	Article 5
Article 5(2)	-
Article 5(3)	-
Article 6	Article 6
-	Article 7
Article 7	Article 9
-	Article 10
Article 8	Article 11