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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on European Statistics

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **General context**

Official statistics play a fundamental role in today's society. Institutions, policy makers, economic operators, markets and individuals rely heavily on high quality statistics to describe as accurately as possible the developments in the economic, social, environmental and cultural spheres. The pace of these developments has an impact both on (i) the users of statistics, in that their information needs evolve rapidly, which means they require easy and timely access to statistical information, and on (ii) the statistical authorities, in that they need to adapt the statistical information produced to users' requirements. The availability of impartial and objective statistical information is essential for all decision-makers: for policy-makers to take well informed decisions, for business operators to run their business or simply for citizens in their daily life. Statistical information underpins transparency and openness of policy decisions, and official statistics therefore represent a public good providing a basis for the smooth functioning of democracy. Essential elements for producing such statistical information are clear structures for the functioning of statistical authorities, combined with arrangements for international cooperation, dissemination of statistical information and communication with users.

At European level, European Statistics are increasingly important for the development, implementation, monitoring and evaluation of European Union policies. The importance of European Statistics will increase even further in the future as EU policies themselves are developed. For example, reliable information to assess macroeconomic developments such as inflation, economic growth and the business cycle in general constitutes an absolute necessity in order to enable the coordination and deepened economic policy coordination among Member States. Furthermore, in order to achieve the strategic objectives of keeping Europe on the path to long-term prosperity, notably through the revised Lisbon Agenda and the integrated guidelines on growth and employment, or of reinforcing our commitment to solidarity and social justice, Europe needs a plethora of statistical data which meet the highest possible standards in terms of quality.

European Statistics thus constitute an essential contribution to building the information capacity required to sustain EU strategic objectives and the underlying policies and supporting instruments.

- **Grounds for and objectives of the proposal**

The objective of this proposal is to revise the existing basic legal framework governing the production of statistics at European level. In essence, this revision is led by changes in society and the need to more clearly define the role of the European Statistical System (ESS).

The production and dissemination of European Statistics are achieved through the ESS, which is the operational partnership comprising the Statistical Office of the European Communities (Eurostat), the National Statistical Institutes (NSIs) and other national or regional authorities responsible in each Member State for producing and disseminating European Statistics. European Statistics are provided also by the European Central Bank (ECB) and by the European System of Central Banks (ESCB), although it is under a separate statistical governance structure and different rules¹. However, in order to enhance efficiency, reduce the statistical burden and improve quality, the close cooperation between the ESS and the ESCB must be strengthened while fully respecting their respective competences.

As noted on many occasions by both the Council and the Commission, the ESS operates efficiently and satisfies the requirements of independence, integrity and accountability. In addition to the quality of the ESS outputs, its governance has also been improved in recent years, in particular through the adoption and subsequent implementation of the European Statistics Code of Practice². The proposals to set up a European Statistical Governance Advisory Board³ and a European Statistical Advisory Committee⁴ are also steps towards enhancing and complementing the existing governance of the ESS.

However, even if these recent developments give proof of a dynamic reality with tangible achievements, they also make even more clear the need to consolidate in Community law the institutional structure of the ESS, to re-define clearly its responsibilities and principles as well as to simplify its underpinning structures in order to enable it to better respond to the many challenges that lie ahead. In particular, the coordination and professional leadership functions of the NSIs at national level, and of Eurostat at Commission level, should be reinforced. Common answers are needed to address the increasing demands for European Statistics and to set priorities in a context where resources are becoming more and more limited.

At the same time, the role and responsibilities of Eurostat towards its national partners requires re-confirmation in order to increase the efficiency of the ESS on a basis of mutual understanding and trust. Eurostat has a primary role as the vehicle for transmitting the statistical needs of Europe's policy-makers to the statistical partners in the Member States whilst at the same time bridging the divide between what is demanded and what is feasible and realistic.

The proposal for a "European Approach to Statistics" will enable Eurostat to respond to the challenge of ever-increasing demands for statistics. This approach whereby the production and dissemination of European Totals does not need to rely entirely on

¹ Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8).

² Communication of 25 May 2005 to the European Parliament and to the Council on the independence, integrity and accountability of the national and Community statistical authorities and Recommendation of the Commission on the independence, integrity and accountability of the national and Community statistical authorities (COM(2005)217).

³ Proposal for a Decision of the European Parliament and of the Council establishing the European Statistical Governance Advisory Board (COM(2006)599).

⁴ Proposal for a Decision of the European Parliament and of the Council setting up a European Advisory Committee on Community Statistical Information Policy (COM(2006)653).

national data produced and disseminated by all NSIs represents a significant change in the structure of data collection.

Furthermore, there is a strong request from the research community to enjoy a wider access to statistical information for analysis in the interest of scientific progress in Europe. This calls for a certain degree of flexibility in the statistical confidentiality regime to allow controlled access to detailed statistical data without compromising the high level of protection that confidential statistical data require. The exchange of confidential data within the ESS and the rules for access to such data for research purposes are essential elements in this regard and require modernisation of the current legal requirements.

Finally, the revision of the basic legal framework will give a new impetus to the established cooperation between the NSIs and Eurostat in the common interest of all the ESS actors and the users of European Statistics, and to laying down the foundation to address the statistical challenges of the future.

- **Existing provisions in the area of the proposal**

The basic legal framework for the production and dissemination of statistics at European level is currently composed of the following legislative acts:

- Council Decision (EEC, Euratom) No 89/382 of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities⁵;
- Council Regulation (EEC, Euratom) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities⁶;
- Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics⁷;
- Decision No 2367/2002/EC of the European Parliament and of the Council of 16 December 2002 on the Community statistical programme 2003 to 2007⁸.

The above-mentioned legislation provides an overall framework which is supplemented by sectoral legislation in specific statistical domains.

2. CONSULTATION OF INTERESTED PARTIES AND ANALYSIS OF CONSEQUENCES

- **Consultation of interested parties**

The proposal is based on extensive preparatory work carried out over recent years. In particular, the building blocks and draft texts were thoroughly discussed and

⁵ OJ L 181, 28.6.1989, p. 47.

⁶ OJ L 151, 15.6.1990, p. 1.

⁷ OJ L 52, 22.2.1997, p. 1.

⁸ OJ L 358, 31.12.2002, p. 1.

reviewed with the most directly concerned parties i.e. the National Statistical Institutes and the other partners in the ESS, including the ECB.

The proposal largely builds on the results of several Task Forces set up since 2003 by the Statistical Programme Committee (SPC) to reflect on the various aspects of the subject. Member States systematically participated in the work of these Task Forces, the SPC was regularly kept informed about the progress made and a wide consultation of all Member States was systematically undertaken. This proposal reflects to a very large extent all these consultations. The Statistical Programme Committee was formally consulted on a draft text of this proposal.

- **Analysis of consequences**

In considering the possible options, the following alternatives seemed clear:

- keeping the legal framework as it is at the moment:
 - This solution would certainly not undermine the current production of European Statistics as the existing legislation does provide a framework of reference. However, this option would probably have meant an increasing gap between the existing general rules and diverging arrangements in specific cases. In the long term, this situation could even adversely affect the general trust of the public in statistics and put in question the very *raison d'être* of an overall framework. Additionally, opportunities would have been missed to enhance the functioning of the ESS as explained above.
- proposing a revision that would meet the concerns expressed and realise the existing potential for a clear and more efficient operation of the ESS along the lines described in the preceding paragraphs:
 - It is evident that this proposal would achieve its objectives only if it is not substantially modified in the process.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed act**

The proposal aims to revise the existing basic legal framework for European Statistics with a view to adapting it to the current reality and also to improving it to meet future developments and challenges.

It is proposed among other things, to improve statistical governance by adapting the relevant definitions to the requirements of the Treaty, to consolidate the activities and the ESS itself in Community Law, to further clarify the role of the NSIs and of Eurostat, to strengthen the reference to the existing European Statistics Code of Practice, to formally recognise the European Approach to Statistics and to reinforce the quality aspects related to European Statistics.

The proposal also addresses the operation of the ESS notably through the establishment of the ESS Committee and of the ESS Partnership Group and an enhanced cooperation with other bodies of the ESS as well as with the ESCB.

The planning and implementation of the multi-annual programmes are also revised. In particular, it is proposed that individual statistical actions be carried out by the Commission under less restrictive conditions.

Finally, it is proposed to introduce more flexibility in the current rules on statistical confidentiality whilst preserving a high level of data protection.

- **Legal basis**

Article 285 of the Treaty establishing the European Community provides the legal basis for Community statistics. The Council, acting in accordance with the co-decision procedure, is to adopt measures for the production of statistics where necessary for the performance of the activities of the Community. This Article sets out requirements relating to the production of Community statistics and requires conformity to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

- **Subsidiarity principle**

The proposal fully complies with the subsidiarity principle to the extent that the revision of the existing legal framework for the development, production and dissemination of European Statistics is by its very nature an action that can only be achieved at Community level.

The subsidiarity principle is also at the basis of the definition of the responsibilities to be shared between the national and the Community level as far as the development, production and dissemination of European Statistics are concerned.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal constitutes a simplification from a legal, institutional and operational viewpoint.

First, the proposal aims to simplify the existing legal framework for the production and dissemination of statistics at European level, in particular through consolidating into one single instrument a number of separate texts of Community statistical legislation.

Secondly, institutional simplification will also be achieved by merging the Statistical Programme Committee and the Committee on Statistical Confidentiality into a single Committee.

Thirdly, simplification within the ESS will also result, in operational terms, from the recognition and more extensive use of new simplification tools such as the promotion

of European aggregates on the basis of the European Approach to Statistics as described in Article 17 of the proposal or of the improved planning process leading to the definition of the annual statistical programmes. These instruments have already been identified as a means for simplification in the Communication of the Commission on reduction of the response burden, simplification and priority-setting in the field of Community statistics⁹. In this context, it should also be recalled that European Statistics is one of the priority areas for the Commission's measurement of administrative burdens deriving from information obligations¹⁰.

Finally, this initiative is not new in that the possible revision of the 'Statistical Law', i.e. Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics, was initially contemplated in the first report on the implementation of the framework action "Updating and simplifying the Community *acquis*", adopted by the Commission in 2003¹¹.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

⁹ Communication from the Commission to the European Parliament and the Council of 14 November 2006 on reduction of the response burden, simplification and priority-setting in the field of Community statistic (COM(2006)693).

¹⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 24 January 2007 - Action Programme for Reducing Administrative Burdens in the European Union (COM(2007)23).

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 24 October 2003 - First report on the implementation of the framework action "Updating and simplifying the Community *acquis*". (COM(2003) 623).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on European Statistics

(Text with EEA relevance)

(Text with relevance for the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission¹,

After consulting the European Data Protection Supervisor,

Acting in accordance with the procedure laid down in Article 251 of the Treaty²,

Whereas:

- (1) To ensure the coherence and comparability of European Statistics, produced in accordance with the principles laid down in Article 285(2) of the Treaty, cooperation and coordination should be reinforced between the authorities that contribute to the development, production and dissemination of European Statistics.
- (2) To that effect, the cooperation and coordination of those authorities should be developed in a more systematic and organised manner with full respect to the national and Community powers and institutional arrangements and taking into account the need to revise the existing basic legal framework in order to adapt it to the current reality and to better respond to future challenges.
- (3) It is therefore necessary to consolidate the activities of the European Statistical System (ESS) and to improve its governance, in particular with a view to further clarifying the respective roles of the National Statistical Institutes (NSIs) and of the Commission (Eurostat).
- (4) Considering the specificity of the NSIs and the other national authorities responsible in each Member State for developing, producing and disseminating European Statistics,

¹ OJ C , , p. .

² OJ C , , p. .

it should be laid down that they may receive grants without a call for proposals in accordance with Article 168(1)(d) of Regulation (EC, Euratom) N° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) N°1605/2002 on the Financial Regulation applicable to the general budget of the European Communities³.

- (5) The statistical authorities of the European Free Trade Association Member States of the European Economic Area and of Switzerland should, as provided respectively for in the Agreement on the European Economic Area, in particular Article 76 thereof and Protocol 30 to this Agreement, and in the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, and in particular Article 2 thereof, be closely associated with the reinforced cooperation and coordination.
- (6) Furthermore, it is important to ensure close cooperation and appropriate coordination between the ESS and the European System of Central Banks, notably to foster exchange of confidential data between the two systems for statistical purposes, in the light of Article 5 of the Protocol (No 18) on the Statute of the European System of Central Banks (ESCB) and the European Central Bank (ECB) annexed to the Treaty.
- (7) European Statistics will thus be developed, produced and disseminated by both the ESS and the ESCB but under separate legal frameworks reflecting their respective governance structures. This Regulation should therefore apply without prejudice to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank⁴.
- (8) Consequently, and although the European Central Bank (ECB) and the national central banks do not participate in the production of European Statistics pursuant to this Regulation, following an agreement between a national central bank and the Community authority within their respective spheres of competence and without prejudice to national arrangements between the national central bank and the national authority, data produced by the central bank may, however, be used, directly or indirectly, by national authorities and the Community authority for the production of European Statistics. Similarly, the ECB and national central banks may within the sphere of their competences use, directly or indirectly, data produced by the ESS.
- (9) In the general context of the relations between the ESS and the ESCB, the Committee on monetary, financial and balance of payments statistics established by Council Decision 2006/856/EC⁵ plays an important role, in particular through the assistance provided to the Commission in drawing up and implementing work programmes concerning monetary, financial and balance of payments statistics.
- (10) It is important to ensure close cooperation and appropriate coordination between the ESS and other actors of the international statistical system.

³ OJ L 357, 31.12.2002, p.1. Regulation as last amended by Commission Regulation (CE, Euratom) N° 478/2007 of 23 April 2007.

⁴ OJ L 318, 27.11.1998, p.8.

⁵ OJ L 332, 30.11.2006, p.21.

- (11) The operation of the ESS also needs to be reviewed as more flexible development, production and dissemination methods of European Statistics as well as a clear priority setting are required in order to reduce the burden on respondents and improve the availability and timeliness of European Statistics. The 'European Approach to Statistics' is designed to this effect.
- (12) While European Statistics are usually based on national data produced and disseminated by the national statistical authorities of all Member States, they may also be produced from non-published national contributions, from subsets of national contributions and from European statistical surveys or by harmonised concepts or methods, designed specifically.
- (13) In those cases, a 'European Approach to Statistics' that consists of a pragmatic strategy to facilitate the compilation of European statistical aggregates which are of particular importance for Community policies, may be implemented.
- (14) Joint structures, tools and processes could also be established or further developed through collaborative networks, involving national authorities and relevant Commission services and facilitating specialisation by certain Member States in specific statistical activities for the benefit of the ESS as a whole. These collaborative networks between partners of the ESS should aim to avoid duplication of work and therefore increase efficiency and reduce response burdens on economic operators.
- (15) The proposed improved regulatory environment for European Statistics should in particular respond to the need to minimise the response burdens on businesses and contribute to the more general objective of a reduction of administrative burdens arising at European level, in line with the Presidency Conclusions of the European Council of 8 and 9 March 2007; however, the important role played by the national authorities in minimising burdens on European businesses at national level should also be emphasized.
- (16) In order to enhance trust in European Statistics the statistical authorities must enjoy professional independence and ensure impartiality and high quality in the production of European Statistics, in accordance with Article 285(2) of the Treaty and taking into account the Fundamental Principles of Official Statistics adopted by the United Nations Economic Commission for Europe on 15 April 1992 and by the United Nations Statistical Commission on 14 April 1994 as well as the principles laid down in the European Statistics Code of Practice endorsed by the Commission in its Recommendation on the independence, integrity and accountability of national and Community statistical authorities.
- (17) The development, production and dissemination of European Statistics should conform to international best practice.
- (18) The right to respect for private and family life and to the protection of personal data, as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union should be ensured.
- (19) This Regulation ensures the protection of individuals as regards the processing of personal data and specifies, as far as European Statistics are concerned, the rules laid down in Directive 95/46/EC of the European Parliament and of the Council of 24

October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁶ and in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁷.

- (20) The confidential information which the national and Community statistical authorities collect for the production of European Statistics should be protected, in order to gain and maintain the confidence of the parties responsible for providing that information; the confidentiality of statistical information should satisfy the same principles in all the Member States.
- (21) For that purpose it is necessary to establish common rules ensuring the confidentiality of data used for the production of European Statistics and the access to those confidential data with due account for technical developments and the requirements of users in a democratic society.
- (22) The availability of individual data for the needs of the European Statistical System is of particular importance in order to maximise the benefits of the statistical information and to ensure a better harmonisation of European Statistics.
- (23) The research community should enjoy a wider access to statistical information for analysis in the interest of scientific progress in Europe and access to confidential data by researchers at European Community level for scientific purposes should therefore be improved without compromising the high level of protection that confidential statistical data require.
- (24) The use of confidential data for administrative, legal or tax purposes or for verification against the statistical data subjects should be strictly prohibited.
- (25) This Regulation should apply without prejudice to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information⁸ and to Regulation (EC) N°1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies⁹.
- (26) Since the objective of this Regulation, namely the establishment of a legal framework for the development, production and dissemination of European Statistics, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

⁶ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁷ OJ L 8, 12.1.2001, p. 1.

⁸ OJ L 41, 14.2.2003, p. 26.

⁹ OJ L 264, 25.9.2006, p. 13.

- (27) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁰.
- (28) In particular, power should be conferred on the Commission to adopt measures concerning the quality dimensions of European statistics and to establish the conditions under which access can be given to confidential data for scientific purposes. Since those measures are of general scope and are designed to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (29) The measures set out in this Regulation should replace those in Regulation (Euratom, EC) of the European Parliament and of the Council No .../... of ... on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities¹¹ [COM(2006)477], Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics¹² and Council Decision 89/382/EEC, Euratom of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities¹³. Those acts should therefore be repealed. The implementing measures set out in Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics concerning access to confidential data for scientific purposes¹⁴ and Commission Decision 2004/452/EC of 29 April 2004 laying down a list of bodies whose researchers may access confidential data for scientific purposes¹⁵ should continue to apply.
- (30) The Statistical Programme Committee has been consulted,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General Provisions

Article 1

European Statistics

This Regulation establishes a legal framework for the development, production and dissemination of European Statistics.

¹⁰ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11)

¹¹ OJ L , , p. .

¹² OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

¹³ OJ L 181, 28.6.1989, p. 47.

¹⁴ OJ L 133, 18.5.2002, p. 7. Regulation as last amended by Regulation (EC) No 1104/2006 (OJ L 197, 19.7.2006, p. 3).

¹⁵ OJ L 156, 30.4.2004, p. 1, as corrected by OJ L 202, 7.6.2004, p. 1. Decision as last amended by Decision 2007/439/EC (OJ L 164 , 26/06/2007 P. 0030 - 0031).

In compliance with the principle of subsidiarity and in accordance with the independence, integrity and accountability of the national and the Community authorities, European Statistics are relevant statistics necessary for the performance of the activities of the European Community. They shall be developed, produced and disseminated in conformity with the statistical principles set out in Article 285(2) of the Treaty and in Article 2 of this Regulation and within the framework of the European Statistical Programme.

Article 2
Statistical Principles

1. The development, production and dissemination of European Statistics shall be governed by the following statistical principles:
 - (a) 'professional independence' meaning that statistics must be developed, produced and disseminated in an independent manner, free from any pressures from political or interest groups particularly as regards the selection of techniques, definitions, methodologies and sources to be used, and the timing and content of all forms of dissemination;
 - (b) 'impartiality' meaning that statistics must be developed, produced and disseminated in a neutral manner, and that all users must be given equal treatment;
 - (c) 'objectivity' meaning that statistics must be developed, produced and disseminated in a systematic, reliable and unbiased manner; it implies the use of professional and ethical standards, and that the policies and practices followed are transparent to users and survey respondents;
 - (d) 'reliability' meaning that statistics must measure as faithfully, accurately and consistently as possible the reality that they are designed to represent; it implies that scientific criteria are used for the selection of sources, methods and procedures;
 - (e) 'statistical confidentiality' meaning the protection of confidential data related to single statistical data subjects which are obtained directly for statistical purposes or indirectly from administrative or other sources; it implies the prohibition of use for non statistical purposes of the data obtained and of their unlawful disclosure;
 - (f) 'cost effectiveness' meaning that the costs of producing statistics must be in proportion to the importance of the results and the benefits sought, that resources must be optimally used and the response burden minimised. The information requested shall, where possible, be readily extractable from available records or sources.
2. The development, production and dissemination of European Statistics shall conform to international best practice.

Article 3
Definitions

For the purposes of this Regulation the following definitions shall apply:

- (1) 'statistics' means quantitative and qualitative, aggregated and representative information characterising a collective phenomenon in a considered population;
- (2) 'statistical information' means all different forms of statistics including basic data, indicators, accounts and metadata;
- (3) 'development' means the activities aiming at setting up, strengthening and improving the statistical methods, standards and procedures used for the production and dissemination of statistical information as well as at designing new statistics and indicators;
- (4) 'production' means all the activities necessary for the collection, storage, processing, compilation, and analysis of the statistical information;
- (5) 'dissemination' means the activity of making statistics and statistical analysis accessible to users;
- (6) 'data collection' means surveys and all other forms of deriving information from different sources;
- (7) 'statistical data subject' means the basic observation unit, namely a natural person, a household, an economic operator and other undertakings, referred to by the data;
- (8) 'confidential data' means data used by the national authorities and Eurostat for statistical purposes which allow statistical data subjects to be identified, either directly or indirectly, thereby disclosing individual information. To determine whether a statistical data subject is identifiable, account shall be taken of all relevant means that might reasonably be used by a third party to identify the statistical data subject;
- (9) 'use for statistical purposes' means the exclusive use for the development and production of statistical results and analyses;
- (10) 'direct identification' means the identification of a statistical data subject from its name or address, or from a publicly accessible identification number;
- (11) 'indirect identification' means the identification of a statistical data subject by any other means than by way of direct identification ;
- (12) 'officials of the Commission (Eurostat)' means the officials of the Communities, within the meaning of Article 1 of the Staff Regulations of Officials of the European Communities, working at the Commission (Eurostat);
- (13) 'other staff of the Commission (Eurostat)' means the servants of the Communities, within the meaning of Articles 2 to 5 of the Conditions of Employment of Other Servants of the European Communities, working at the Commission (Eurostat).

CHAPTER II

Statistical Governance

Article 4

The European Statistical System

1. The European Statistical System (ESS) is the partnership between the Community statistical authority, which is the Commission (Eurostat), and the National Statistical Institutes (NSIs) and other authorities responsible in each Member State (national authorities) for the development, production and dissemination of European Statistics.
2. The Heads of NSIs of the Member States and the Commission (Eurostat) shall meet as the ESS Partnership Group at least three times a year in order to provide professional guidance to the ESS for the development, production and dissemination of European Statistics in line with the statistical principles.
3. The ESS Partnership Group shall examine the following issues:
 - (a) measures for the development, production and dissemination of European Statistics, including the European Approach to Statistics, their justification on a cost effectiveness basis, the means and timetables for achieving them, the reporting burden on survey respondents;
 - (b) the outline of the European Statistical Programme;
 - (c) developments and priorities in the European Statistical Programme, in particular on the basis of the intermediate evaluation report established by the Commission (Eurostat) according to Article 11(2);
 - (d) issues concerning statistical confidentiality;
 - (e) any other questions, in particular issues of methodology, arising from the establishment or implementation of statistical programmes.
4. A Code of Practice for the development, production and dissemination of European Statistics shall be established by the ESS Partnership Group and shall be published by the Commission. The purpose of the Code shall be to ensure public trust in European Statistics by establishing how European Statistics are to be developed, produced and disseminated in conformity with the statistical principles and best international statistical practice. The Code shall be reviewed and updated as necessary.

Article 5

National Statistical Institutes and other national authorities

1. The NSI of each Member State shall have responsibility for coordinating all activities at national level for the development, production and dissemination of

European Statistics. The Member States shall take the necessary measures to ensure the application of this provision.

2. The Commission (Eurostat) shall maintain and publish on its web site a list of the other national authorities designated by Member States.
3. The NSIs and the other national authorities included in the list referred to in paragraph 2 may receive grants without a call for proposals.

Article 6
Commission (Eurostat)

1. At Community level, the Commission (Eurostat) shall ensure the production of European Statistics according to established rules and statistical principles; in this respect, it shall have the sole responsibility for deciding on processes, statistical methods, standards and procedures, and on the content and timing of statistical releases.
2. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks (ESCB) and the European Central Bank (ECB), the Commission (Eurostat) shall coordinate the statistical activities of the institutions and bodies of the Community, in particular with a view to ensuring consistency and quality of the data and minimising response burden. To that end, the Commission (Eurostat) may invite any institution or body of the Community to consult and cooperate with it for the purpose of developing methods and systems for statistical purposes in their respective field of competence; any of these Institutions and bodies which may propose to produce statistics shall consult with the Commission (Eurostat) and take into account any recommendation that it may make to this effect.

Article 7
Cooperation with other bodies

The European Statistical Advisory Committee and the European Statistical Governance Advisory Board shall be consulted within the limits of their respective competence.

Article 8
Cooperation with the ESCB

To minimise reporting burden and guarantee the coherence necessary to produce European Statistics, the ESCB and the ESS shall cooperate closely, while complying with the statistical principles.

Article 9
International cooperation

Without prejudice to the position of individual Member States, the position of the ESS as regards issues of particular relevance to European Statistics at international level as well as

the specific arrangements for representation in the international statistical bodies shall be coordinated by the Commission (Eurostat).

Article 10
Statistical quality

1. To guarantee the quality of results, European statistics shall be produced on the basis of uniform standards and of harmonised methods. In this respect, the following quality dimensions shall apply:
 - (a) 'relevance' refers to the degree to which statistics meet current and potential needs of the users.
 - (b) 'accuracy' refers to the closeness of estimates to the unknown true values;
 - (c) 'timeliness' refers to the time lag between the availability of the information and the event or phenomenon it describes;
 - (d) 'punctuality' refers to the time lag between the date of the release of the data and the target date when it should have been delivered;
 - (e) 'accessibility' and 'clarity' refer to the conditions and modalities by which users can obtain, use and interpret data;
 - (f) 'comparability' refers to the measurement of the impact of differences in applied statistical concepts and measurement tools and procedures when statistics are compared between geographical areas, sectoral domains or over time;
 - (g) 'coherence' refers to the adequacy of the data to be reliably combined in different ways and for various uses.
2. In applying the quality dimensions laid down in paragraph 1 of this Article to the data covered by sectoral legislation in specific statistical domains, the modalities, structure and periodicity of quality reports provided for in sectoral legislation shall be defined by the Commission in accordance with the regulatory procedure referred to in Article 27(2). Specific quality requirements, such as target values and minimum standards for the statistical production, may be laid down in sectoral legislation. Where sectoral legislation does not so provide, measures may be adopted by the Commission. Such measures designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(3).
3. Member States shall provide the Commission (Eurostat) with reports on the quality of the data transmitted. The Commission (Eurostat) shall assess the quality of data transmitted and publish the reports.

CHAPTER III

Production of European Statistics

Article 11 *European Statistical Programme*

1. The European Statistical Programme shall provide the framework for the development, production and dissemination of European Statistics, the main fields and the objectives of the actions envisaged for a period not exceeding five years. It shall be decided by the European Parliament and the Council.
2. For each European Statistical Programme, the Commission shall submit to the European Parliament and the Council an intermediate evaluation report during the third year of implementation of the programme and a final evaluation report within twelve months of the end of the programme period.

Article 12 *Implementation of the European Statistical Programme*

1. The European Statistical Programme shall be implemented by individual statistical actions which shall be decided either:
 - (a) by the European Parliament and the Council; or
 - (b) in exceptional cases, by the Commission under the conditions laid down in Article 15; or
 - (c) by means of agreement between the national authorities and Eurostat within their respective spheres of competence. These agreements shall be in writing.
2. In pursuing an action referred to in paragraphs 1(a) and 1(b), the Commission shall provide the objectives for the action and a cost effectiveness analysis, including an assessment of the burden on respondents;

Article 13 *Collaborative networks*

In the individual statistical actions, synergies shall be developed, when possible, within the ESS through collaborative networks, by the sharing of expertise and results or by fostering specialisation on specific tasks. To this end, an adequate financial structure shall be developed.

Article 14 *European approach to statistics*

1. The European Approach to Statistics aims at:

- (a) maximising the availability and timeliness of European totals where the production and dissemination of European Statistics may rely entirely or not on national data produced and disseminated by the national authorities of all Member States;
 - (b) optimising the transmission of data and the release and revision of statistics where a coordinated policy and approach need to be established.
2. The measures to take shall be determined in the individual statistical actions laid down in Article 12(1) for the sectoral statistical domains or in accordance with the regulatory procedure with scrutiny.

Article 15

Temporary direct statistical actions of the Commission (Eurostat)

The Commission may decide on a temporary direct statistical action in accordance with the regulatory procedure referred to in Article 27(2) provided that:

- (a) the action does not exceed the duration of the European Statistical Programme in force at that time;
- (b) the data to be collected are already available or accessible within the national authorities responsible, or the data can be obtained directly, using the appropriate samples for the observation of the statistical population at European level.

Article 16

Annual work programme

Each year, before the end of May, the Commission shall submit for examination by the ESS Committee its work programme for the following year. This work programme shall indicate in particular:

- (a) the actions which the Commission considers to have priority, bearing in mind Community policy needs and both national and Community financial constraints;
- (b) the procedures and any legal instruments envisaged by the Commission for implementation of the programme.

The Commission shall take the utmost account of the comments of the ESS Committee.

CHAPTER IV

Dissemination of European Statistics

Article 17 *Dissemination measures*

1. The dissemination of European Statistics shall be undertaken in full compliance with the statistical principles, particularly in respect of protecting statistical confidentiality and ensuring equality of access as required under the principle of impartiality.
2. The dissemination of European Statistics shall be carried out by the Commission (Eurostat), the NSIs and other national authorities within their respective spheres of competence.
3. Member States and the Commission shall provide the necessary support to ensure equality of access to European Statistics for all users.

Article 18 *Public Use Files*

Individual data may be disseminated in the form of a public use file consisting of anonymised records which have been prepared in such a way that the statistical data subject cannot be identified when account is taken of all relevant means that might reasonably be used by a third party.

CHAPTER V

Statistical Confidentiality

Article 19 *Protection of confidential data within the ESS*

1. The following rules and measures shall apply to ensure that confidential data are exclusively used for statistical purposes and to prevent their unlawful disclosure.
2. National authorities and the Commission (Eurostat) shall ensure that the confidential data are used exclusively for statistical purposes unless the statistical data subjects have consented in writing to their use for any other specified purposes.
3. Statistical results which may make it possible to identify a statistical data subject may be disseminated by the national authorities and the Commission (Eurostat) in exceptional cases; the specific conditions shall be determined by Community Law. These results shall be amended in such a way that their dissemination does not prejudice statistical confidentiality whenever the statistical data subject has so requested.

4. National authorities and the Commission (Eurostat) shall take all necessary regulatory, administrative, technical and organisational measures to ensure the harmonisation of methods, criteria and practices within the ESS as regards the physical and logical protection of confidential data (Statistical Disclosure Control).

Measures to ensure the implementation of the first subparagraph shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 27(2).

5. Officials and other staff of national authorities having access to confidential data shall be subject to compliance with such confidentiality, even after cessation of their functions.

Article 20

Transmission of confidential data

1. Transmission between the national authorities and between the national authorities and the Commission (Eurostat), of confidential data may take place provided that this transmission is necessary for the development, production and dissemination of European Statistics. Any further transmission must be explicitly authorised by the national authority that collected the data.
2. National rules on statistical confidentiality may not be invoked to prevent the transmission of confidential data where an act of Community law provides for the transmission of such data.
3. The exchange of confidential data for statistical purposes between the ESS and the ESCB may take place where deemed necessary for the development, production and dissemination of European or ESCB Statistics and if explicitly provided for in Community law.
4. The protection measures provided for in this Regulation shall apply to all confidential data transmitted within the ESS and between the ESS and the ESCB.

Article 21

Protection of confidential data in the Commission (Eurostat)

1. Confidential data shall be accessible, subject to the exceptions laid down in paragraph 2, only to officials of the Commission (Eurostat) and may be used by them exclusively for statistical purposes.
2. The Commission (Eurostat) may in exceptional cases grant access to confidential data to its other staff and to other natural persons working for the Commission (Eurostat) under contract.
3. Persons having access to confidential data shall use these data only for the purposes laid down in this Regulation. They shall be subject to this restriction even after cessation of their functions.

Article 22
Access to confidential data for research purposes

Access to confidential data may be granted at Community level by the Commission (Eurostat) to researchers carrying out statistical analyses for scientific purposes. If the data have been transmitted to Eurostat the approval of the national authority which provided the data is required.

The modalities, rules and conditions for access shall be established by the Commission. Such measures designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(3).

Article 23
Access to administrative records

In order to reduce the burden on respondents, the national authorities and the Commission (Eurostat) shall have access to administrative data sources, each in the fields of activity of their own public administrations, to the extent that these data are necessary for the development, production and dissemination of European Statistics.

The practical arrangements and the limits and conditions for achieving effective access shall be determined where necessary by each Member State and the Commission in their respective spheres of competence.

Article 24
Data from public sources

Data obtained from sources lawfully available to the public shall not be considered confidential for the purpose of dissemination of statistical information obtained from these data.

Article 25
Agreement by the statistical data subject

Statistical confidentiality shall not prevent dissemination when the statistical data subject has agreed to the disclosure of the data.

Article 26
Violation of statistical confidentiality

Member States and the Commission shall take appropriate measures to prevent and sanction any violations of statistical confidentiality.

CHAPTER VI

Final Provisions

Article 27 *Committee*

1. The Commission shall be assisted by a European Statistical System Committee, hereinafter referred to as the ESS Committee.
2. Where reference is made to this paragraph, the procedure laid down in Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.

3. Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Council Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 28 *Repeal*

1. Regulation (Euratom, EC) [*of the European Parliament and of the Council No .../... of ... on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities [COM(2006)477]*] is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

References to the Committee on Statistical Confidentiality established under the repealed Regulation shall be construed as references to the ESS Committee established by Article 27 of this Regulation.

2. Regulation (EC) No 322/97 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

3. Decision 89/382/EEC, Euratom is repealed.

References to the Committee shall be construed as references to the ESS Committee established by Article 27 of this Regulation.

Article 29 *Entry into force*

This Regulation shall enter into force on the 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