



Council of the
European Union

Brussels, 26 May 2016
(OR. en)

9426/16

Interinstitutional File:
2013/0226 (COD)

STATIS 30
TRANS 189
CODEC 735

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	7924/16 STATIS 18 TRANS 112 CODEC 452
No. Cion doc.:	12091/13 STATIS 66 TRANS 380 CODEC 1697
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures. (early second reading) - Political agreement

1. On 28 June 2013, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1365/2006 on statistics relating to trading of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures.
2. The 1st reading position of the European Parliament was adopted in the Plenary on 11 March 2014.
3. The Working Party on Statistics met on 31 October 2014 and granted the Presidency with a mandate for a trilogue with the European Parliament based on the outcome of the discussions.

4. An informal trilogue meeting took place on 25 November 2014 with representatives of the three institutions. During this meeting, a final compromise text was agreed.
5. On 19 December 2014, COREPER took note but did not endorse the compromise reached during the Trilogue, the main issue being the compulsory pilot studies to be conducted by Member States.
6. Intense informal negotiations then took place between the successive presidencies : LV, LU and NL with the European Parliament and the Commission. A consensus was eventually reached concerning the pilot studies which will be now conducted on a voluntary basis, as it is now reflected in the annex in Article 1.3a. The text has also been adapted according to the new Inter-Institutional Agreement.
7. On 27 April 2016, COREPER granted the Presidency with a new mandate based on this consensus in order to finalise the negotiations with the European Parliament.
8. The Committee on Transport and Tourism (TRAN) agreed on the text of the mandate and on 24 May 2016, the Chair of the Committee addressed a letter to the President of the Permanent Representatives Committee, stating that, if the Council adopts its position at first reading in accordance with the text of the mandate adopted on 27 April 2016, he would recommend to the Plenary that the council's position be accepted without amendment, subject to legal-linguistic verification, at Parliaments' second reading.
9. In view of the above, the Permanent Representatives' Committee is invited to recommend to the Council to confirm, under the A items, the political agreement as set out in annex of this note.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures

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) As a consequence of the entry into force of the Treaty on the Functioning of the European Union ("the Treaty"), the powers conferred upon the Commission need to be aligned to Articles 290 and 291 of the Treaty.
- (2) In connection with the adoption of 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 Member States of the Commission's exercise of implementing powers¹, the Commission has committed itself² to reviewing, in the light of the criteria laid down in the Treaty, legislative acts which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Lisbon Treaty.

¹ *OJ L 55, 28.2.2011, p. 13.*

² *OJ L 55, 28.2.2011, p. 19.*

- (3) Regulation (EC) No 1365/2006 of the European Parliament and of the Council of 6 September 2006 on statistics of goods transport by inland waterways³ confers powers upon the Commission in order to implement some of the provisions of this Regulation.
- (4) In the context of the alignment of Regulation (EC) No 1365/2006 to the new rules of the TFEU, implementing powers currently conferred upon the Commission should be provided for by powers to adopt delegated and implementing acts.
- (5) As regards Regulation (EC) No 1365/2006, in order to take into account economic and technical trends and changes in definitions adopted at international level, 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 the adaption of the threshold above 1 000 000 tonnes for statistical coverage of inland waterway transport, the adaption of definitions and the adoption of new ones, as well as the adaption of the Annexes to Regulation (EC) 1365/2006 to reflect changes in coding and nomenclature at international level or in the relevant legislation of the European Union. 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 on Better Law-Making of [date⁴]. 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) The Commission should ensure that these delegated acts do not impose a significant additional burden on the Member States or on the respondents.

³ OJ L 264, 25.9.2006, p.1.

⁴ OJ: Please insert date of entry into force of the Inter-institutional Agreement

- (8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 1365/2006, implementing powers should be conferred upon the Commission to adopt arrangements for transmitting data including data interchange standards, for the dissemination of results by the Commission (Eurostat) and also to develop and publish methodological requirements and criteria designed to ensure the quality of the data produced. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (9) In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on European Union, it is necessary and appropriate for the achievement of the basic objective of the alignment of the powers conferred on the Commission with Articles 290 and 291 of the Treaty on the Functioning of the European Union to lay down common rules on such alignment in the domain of transport statistics. This Regulation does not go beyond what is necessary in order to achieve that objective, in accordance with Article 5(4) of the Treaty on European Union.
- (9a) It is necessary for the Commission to arrange for pilot studies to be conducted on the availability of statistical data related to passengers transport by inland waterways, included cross border services.
- The Union should award a contribution for conducting these pilot studies in the form of grants to the national institutes and other national authorities referred to in article 5 of Regulation (EC) No 223/2009, and in accordance with Regulation (EU, Euratom) No 966/2012.
- (10) In order to ensure legal certainty, it is necessary that the procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation are not affected by this Regulation.
- (11) Regulation (EC) No 1365/2006 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1365/2006 is amended as follows:

(1) In Article 2, the following paragraph 5 is added:

'5. The Commission is empowered to adopt delegated acts, in accordance with Article 9, concerning the raising of the threshold referred to in paragraph 2 of this Article for statistical coverage of inland waterways transport in order to take account of economic and technical trends.

When exercising this power, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States and on the respondents. In addition, the Commission shall duly justify the statistical actions provided for in those delegated acts, using, where appropriate, cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs, as referred to in point (c) of Article 14(3) of Regulation (EC) No 223/2009'

(2) In Article 3, the following paragraph is added:

'The Commission is empowered to adopt delegated acts in accordance with Article 9, concerning the adaptation of the definitions or the adoption of new ones in order to take into account relevant definitions adopted at international level.

When exercising this power , the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States and on the respondents. In addition, the Commission shall duly justify the statistical actions provided for in those delegated acts, using, where appropriate, cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs, as referred to in point (c) of Article 14(3) of Regulation (EC) No 223/2009'

(3) In Article 4, the following paragraph 4 is added:

'4. The Commission is empowered to adopt delegated acts in accordance with Article 9, concerning the adaptation of the Annexes to reflect changes in coding and nomenclature at international level or in the relevant legislation of the European Union.

When exercising this power, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States and on the respondents. In addition, the Commission shall duly justify the statistical actions provided for in those delegated acts, using, where appropriate, cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs, as referred to in point (c) of Article 14(3) of Regulation (EC) No 223/2009. '

(3a) Article 4.a is added.

Article 4.a

Pilot studies

1. [By 24 months⁵ after the entry into force of this Regulation] the Commission, in cooperation with Member States, shall develop the appropriate methodology for compiling statistics on passengers transport by inland waterways and inland waterway cross-border services.
2. [By 36 months⁶ after the entry into force of this Regulation] the Commission shall launch voluntary pilot studies to be carried out by Member States providing data within the scope of this Regulation on the availability of statistical data related to passengers transport by inland waterways and inland waterway cross-border services. Those pilot studies shall aim to assess the feasibility of these new data collections, the costs of the related data collections and the implied statistical quality.
3. [By 48 months⁷ after the entry into force of this Regulation] the Commission shall submit a report to the European Parliament and to the Council on the results of those pilot studies. Depending on the results of that report, within a reasonable timeframe, the Commission shall submit, if appropriate, a proposal to amend this Regulation with regard to statistics on passengers transport by inland waterways and inland waterway cross-border services.
4. The general budget of the Union shall, where appropriate and taking into account the Union's added value, contribute to the financing of those pilot studies.

⁵ OJ: please insert the date: two years after the date of entry into force of this Regulation.

⁶ OJ: please insert the date: three years after the date of entry into force of this Regulation.

⁷ OJ: please insert the date: four years after the date of entry into force of this Regulation.

(4) In Article 5, paragraph 2 is replaced by the following:

'2. Arrangements for transmitting data to the Commission (Eurostat), including data interchange standards, shall be adopted by the Commission in accordance with the examination procedure referred to in Article 10(2).'

(5) In Article 6, the following subparagraph is added:

'Arrangements for the dissemination of results shall be adopted by the Commission in accordance with the examination procedure referred to in Article 10(2).'

(6) In Article 7, paragraph 1 is replaced by the following:

'1. The Commission shall adopt the methodological requirements and criteria designed to ensure the quality of the data produced in accordance with the examination procedure referred to in Article 10(2).'

(6a) In Article 7, the following paragraphs are added:

- 3a. For the purposes of this Regulation, the quality criteria to be applied to the data to be transmitted are those referred to in Article 12(1) of Regulation (EC) No 223/2009 of the European Parliament and of the Council*.
- 3b. The Commission shall adopt implementing acts laying down the detailed arrangements, structure, periodicity and comparability elements for the quality reports. Those implementing acts shall be adopted in accordance with the examination procedure referred in Article 10(2).

*Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics repealing Regulation (EC, Euratom) no 1101/2008 and 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) 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)'

(6b) Article 8 is replaced by the following:

'Article 8

Report on implementation

The Commission, after consulting the European Statistical System Committee, shall submit a report to the European Parliament and the Council by 31 December 2020 and every five years thereafter, on the implementation of this Regulation and future developments;

In that report, the Commission shall take account of relevant information provided by Member States on potential improvements and on users' needs. In particular, that report shall:

- (a) assess the benefits accruing, to the Union, the Member States and the providers and users of statistical information, of the statistics produced, in relation to their costs;
- (b) assess the quality of the data transmitted and the data collection methods used;

(7) Article 9 is replaced by the following:

'Article 9

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
3. The power to adopt delegated acts referred to in Article 2(5), Article 3 and Article 4(4) shall be conferred on the Commission for a period of five years from [*date of entry into force of this Regulation*].

- 3a. 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.
4. The delegation of power referred to in Article 2(5), Article 3 and Article 4(4) 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.a 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 [*date*⁸].
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 Article 2(5), Article 3 and Article 4(4) shall enter into force only if no objection has been expressed either by the European Parliament or 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.'

⁸ OJ: Please insert date of entry into force of the Inter-institutional Agreement

(8) Article 10 is replaced by the following:

'Article 10

Committee

1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics(*). That committee shall be a committee within the meaning of 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 Member States of the Commission's exercise of implementing powers(**)
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) OJ L 87, 31.3.2009, p. 164.

(**) OJ L 55, 28.2.2011, p. 13.'

(9) Annex G is deleted.

Article 2

This Regulation shall not affect the procedures for the adoption of measures provided for in Regulation (EC) No 1365/2006 which have been initiated but not completed before the entry into force of this Regulation.

Article 3

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

The President

For the Council

The President