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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Position of the Council at first reading with a view to the adoption of 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 the conferral of delegated and implementing powers on the Commission for the adoption of certain measures

REGULATION (EU) 2016/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending Regulation (EC) No 1365/2006
on statistics of goods transport by inland waterways
as regards the conferral of delegated and implementing powers
on 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 procedure¹,

¹ Position of the European Parliament of ... (not yet published in the Official Journal) and position of the Council at first reading of ... (not yet published in the Official Journal).
Position of the European Parliament of ... (not yet published in the Official Journal).

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 on 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 Council¹, the Commission committed itself, by means of a statement², 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.
- (3) Regulation (EC) No 1365/2006 of the European Parliament and of the Council³ confers powers on the Commission in order to implement some of its provisions.
- (4) In order to align Regulation (EC) No 1365/2006 with Articles 290 and 291 of the Treaty, implementing powers conferred on the Commission by that Regulation should be replaced by powers to adopt delegated and implementing acts.

¹ 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 (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 waterways and repealing Council Directive 80/1119/EEC (OJ L 264, 25.9.2006, p. 1).

- (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 should be delegated to the Commission in respect of amending that Regulation to raise the threshold above 1 000 000 tonnes for statistical coverage of inland waterway transport, to adapt definitions or provide for new ones, as well as to adapt the Annexes to Regulation (EC) 1365/2006 to reflect changes in coding and nomenclature at international level or in the relevant Union legislative acts. 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-Making¹. 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 those delegated acts do not impose a significant additional burden on the Member States or on the respondents.

¹ OJ L 123, 12.5.2016, p. 1.

- (7) In order to ensure uniform conditions for the implementation of Regulation (EC) No 1365/2006, implementing powers should be conferred on the Commission enabling it 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.
- (8) In accordance with the principle of proportionality, 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 to lay down rules on such alignment in the field of transport statistics. This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (9) It is necessary for the Commission to arrange for pilot studies to be conducted on the availability of statistical data relating to passenger transport by inland waterways, including by cross border transport services.

The Union should contribute to the cost of carrying out those pilot studies. Such contributions should take the form of grants awarded to the national statistical institutes and other national authorities referred to in Article 5 of Regulation (EC) No 223/2009 of the European Parliament and of the Council¹, in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council².

- (10) In order to ensure legal certainty, the procedures for adopting measures that 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:

¹ 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).

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

Article 1

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

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

- '5. The Commission is empowered to adopt delegated acts, in accordance with Article 9, concerning the amendment of paragraph 2 of this Article to raise the threshold for statistical coverage of inland waterways transport referred to therein in order to take account of economic and technical trends. When exercising that power, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents. Furthermore, the Commission shall duly justify the statistical actions for which those delegated acts provide, 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 of the European Parliament and of the Council*.

* 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).'

(2) In Article 3, the following paragraphs are added:

'The Commission is empowered to adopt delegated acts in accordance with Article 9, concerning the amendment of the present Article to adapt the definitions contained therein or provide for new ones in order to take into account relevant definitions amended or adopted at international level.

When exercising that power, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents. Furthermore, the Commission shall duly justify the statistical actions for which those delegated acts provide, 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 is added:

'4. The Commission is empowered to adopt delegated acts in accordance with Article 9, concerning the amendment of the Annexes to reflect changes in coding and nomenclature at international level or in the relevant Union legislative acts. When exercising that power, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents. Furthermore, the Commission shall duly justify the statistical actions for which those delegated acts provide, 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.'

(4) The following article is inserted:

'Article 4a.

Pilot studies

1. By ... [24 months after the entry into force of this Regulation], the Commission, in cooperation with the Member States, shall develop the appropriate methodology for compiling statistics on passenger transport by inland waterways, including by cross-border transport services.
2. By ... [36 months after the entry into force of this Regulation], the Commission shall launch voluntary pilot studies to be carried out by Member States that provide data within the scope of this Regulation on the availability of statistical data relating to passenger transport by inland waterways, including by cross-border transport services. Those pilot studies shall aim to assess the feasibility of those new data collections, the costs of the related data collections and the statistical quality implied.
3. By ... [48 months 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 such pilot studies. Depending on the results of that report, and within a reasonable period, the Commission shall submit, if appropriate, a legislative proposal to the European Parliament and to the Council to amend this Regulation with regard to statistics on passenger transport by inland waterways, including by cross-border transport 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) In Article 5, paragraph 2 is replaced by the following:
2. The Commission shall adopt implementing acts laying down the arrangements for transmitting data to the Commission (Eurostat), including data interchange standards. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).'
- (6) In Article 6, the following subparagraph is added:
- 'The Commission shall adopt implementing acts laying down the arrangements for disseminating results. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).'
- (7) In Article 7, paragraph 1 is replaced by the following:
1. The Commission shall adopt implementing acts laying down the methodological requirements and criteria designed to ensure the quality of the data produced. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).'
- (8) In Article 7, the following paragraphs are added:
4. 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.
5. 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 to in Article 10(2).'

(9) Article 8 is replaced by the following:

'Article 8

Reports on implementation

By 31 December 2020 and every five years thereafter, the Commission, after consulting the European Statistical System Committee, shall submit a report to the European Parliament and to the Council on the implementation of this Regulation and on 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.'

(10) 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.

2. 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 amending Regulation]. 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 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. 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 of 13 April 2016 on Better Law-Making(*).
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 or 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.

(*) OJ L 123, 12.5.2016, p. 1.'

- (11) Article 10 is replaced by the following:

'Article 10

Committee procedure

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 of the European Parliament and of the Council(*)
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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

(12) 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 ...,

For the European Parliament
The President

For the Council
The President