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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 26 June 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL amending Regulation (EC) No 184/2005 on Community
statistics concerning balance of payments, international trade in services
and foreign direct investment as regards conferring of delegated and
implementing powers upon the Commission for the adoption of certain
measures

Delegations will find attached document COM(2014) 379 final.

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EUROPEAN
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Brussels, 26.6.2014
COM(2014) 379 final

2014/0194 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 184/2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Treaty on the Functioning of the European Union (TFEU) makes a distinction between powers which may be delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a particular legislative act, as laid down in Article 290(1) of the TFEU (delegated acts), and the implementing powers which shall be conferred upon the Commission where uniform conditions for implementing legally binding Union acts are needed, as laid down in Article 291(2) of the TFEU (implementing acts).

In view of 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 currently contain references to the regulatory procedure with scrutiny.

The overall objective is to remove all provisions referring to the regulatory procedure with scrutiny from all legislative instruments by the end of Parliament's seventh term (June 2014).

In the context of the alignment of Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment³ to the new rules of the TFEU, implementing powers currently conferred upon the Commission by that Regulation should be provided for by conferring powers on the Commission to adopt delegated and/or implementing acts.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Directors meeting for macroeconomic statistics (DMES), the balance of payments working group and the Balance of Payments Committee were consulted.

There was no need for impact assessment.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The objective of this proposal is to amend Regulation (EC) No 184/2005 so as to align it to the new institutional context.

In particular, the aim is to identify the powers conferred upon the Commission and put in place the appropriate procedure for adopting measures on the basis of these powers.

¹ OJ L 55, 28.2.2011, p. 13.

² OJ L 55, 28.2.2011, p. 19.

³ OJ L 35, 8.2.2005, p. 23.

It is proposed to empower the Commission to adopt delegated acts when, for reasons of economic and technical changes, data requirements need to be updated, including submission deadlines and revisions, extensions and eliminations of data flows set out in Annex I, and when the definitions set out in Annex II need to be updated.

Furthermore, uniform conditions are needed for implementing Regulation (EC) No 184/2005 in terms of quality reporting. It is therefore proposed to confer implementing powers upon the Commission, in accordance with the examination procedure laid down in Article 5 of Regulation (EU) No 182/2011, with a view to adopting common quality standards and harmonising the content and periodicity of the quality reports.

- **Streamlining of the European Statistical System**

Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics⁴ defined the European Statistical System (ESS) as the partnership between the Union statistical authority, which is the Commission (Eurostat), and the national statistical institutes (NSIs) and other national authorities responsible in each Member State for the development, production and dissemination of European statistics.

The European Statistical System Committee (ESSC), established by Article 7 of Regulation (EC) No 223/2009, is regarded as the umbrella committee within the ESS. It assists the Commission in exercising its implementing powers in certain statistical domains. These exclude the balance of payments, international trade in services and foreign direct investment. In these domains, according to Article 11 of Regulation (EC) No 184/2005, the Balance of Payments Committee (BOP Committee) assists the Commission.

The Commission is proposing a new ESS structure to improve coordination and partnership in a clear pyramid structure within the ESS, with the ESSC as the highest strategic body. One aspect of this streamlining is to concentrate comitology powers in the hands of the ESSC. In February 2012⁵, the ESSC supported this new approach.

Therefore it is also proposed to amend Regulation (EC) No 184/2005 by replacing the references to the BOP committee by a reference to the ESSC.

- **Legal basis**

Article 338 (1) of the Treaty on the Functioning of the European Union.

- **Choice of instrument**

Regulation of the European Parliament and of the Council.

4. BUDGETARY IMPLICATION

The proposal has no implications for the EU budget.

5. OPTIONAL ELEMENTS

None

⁴ OJ L 87, 31.3.2009, p. 164.

⁵ 12th meeting of the ESSC, 12 February 2012.

- **European Economic Area**

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

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(Text with EEA relevance)

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 should be aligned to Articles 290 and 291 of the Treaty.
- (2) In view of the adoption of Regulation (EU) No 182/2011⁶, the Commission has committed itself⁷ to reviewing, in the light of the criteria laid down in the Treaty, legislative acts which currently contain references to the regulatory procedure with scrutiny.
- (3) The Commission should have the power to adopt delegated acts under Article 290 of the TFEU to supplement or amend certain non-essential elements of particular legislative acts, notably to take account of economic, social and technical developments. The Commission should ensure that these delegated acts do not impose a significant additional administrative burden on Member States or on the respondent units.

⁶ 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).

⁷ OJ L 55, 28.2.2011, p. 19.

- (4) Regulation (EC) No 184/2005⁸ concerning balance of payments (BOP), international trade in services (ITS) and foreign direct investment (FDI) contains references to the regulatory procedure with scrutiny and should therefore be reviewed in the light of the criteria laid down in the Treaty.
- (5) In the context of aligning Regulation (EC) No 184/2005 to the new rules of the Treaty, implementing powers currently conferred upon the Commission should be provided for by conferring powers on the Commission to adopt delegated and implementing acts.
- (6) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission when, for reasons of economic and technical changes, data requirements need to be updated, including submission deadlines as well as revisions, extensions and eliminations of data flows set out in Annex I, and when the definitions set out in Annex II need to be updated.
- (7) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (8) To ensure uniform conditions for the implementation of Regulation (EC) No 184/2005, implementing powers should be conferred on the Commission with a view to adopting common quality standards and harmonising the content and periodicity of the quality reports. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (9) The Balance of Payments Committee (BOP Committee) referred to in Article 11 of Regulation (EC) No 184/2005 provide advice to and assist the Commission in exercising of its implementing powers.
- (10) Under the strategy for a new European Statistical System (ESS) structure intended to improve coordination and partnership in a clear pyramid structure within the ESS, the European Statistical System Committee (ESSC), established by Regulation (EC) No 223/2009⁹, should have an advisory role and assist the Commission in exercising its implementing powers.
- (11) To that effect, Regulation (EC) No 184/2005 should be amended with the references to the BOP Committee being replaced by a reference to the ESSC.
- (12) The existing good operative cooperation between the National Central Banks (NCBs) and the National Statistical Institutes and between Eurostat and the European Central Bank is an asset that should be continued and further developed in the light of improving the overall harmonisation and quality of balance of payments statistics, financial statistics, government finance statistics, macro-economic statistics and

⁸ Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment (OJ L 35, 8.2.2005, p. 23).

⁹ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics (OJ L 87, 31.3.2009, p. 164).

national accounts. The NCBs would continue to be closely involved in the preparation of all the decisions related to BOP, ITS and FDI via their participation in the relevant Commission expert group responsible for BOP, ITS and FDI. The strategic cooperation between the ESS and ESCB is coordinated in the European Statistical Forum, established via a Memorandum of Understanding on the cooperation between the members of the European Statistical System and the members of the European System of Central Banks¹⁰ signed on 24 April 2013.

(13) To ensure legal certainty, procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation should not be affected by this Regulation.

(14) Regulation (EC) No 184/2005 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 184/2005 is amended as follows:

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

‘3. The Commission shall be empowered to adopt delegated acts in accordance with Article 10, when, for reasons of economic and technical changes, data requirements need to be updated, including submission deadlines as well as revisions, extensions and eliminations of data flows set out in Annex I, and when the definitions set out in Annex II need to be updated.’

(2) In Article 4, paragraph 3 is replaced by the following:

‘3. The Commission shall adopt, by means of implementing acts, the common quality standards, as well as the content and periodicity of the quality reports, taking into account the implications as regards the cost of collecting and compiling the data as well as important changes concerning data collection.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

On the basis of the quality reports, the quality of the data transmitted shall be assessed by the Commission with the assistance of the European Statistical System Committee referred to in Article 11(1).

This assessment of the Commission shall be sent to the European Parliament for information.’

(3) Article 10 is replaced by the following:

‘Article 10

Exercise of delegated powers

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

¹⁰ http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/MOU_ESS_ESCB/EN/MOU_ESS_ESCB-EN.PDF

2. When exercising the powers delegated in Article 2(3), the Commission shall ensure that the delegated acts do not impose a significant additional administrative burden on Member States and on the respondents.

3. The power to adopt delegate acts referred to in Article 2(3) shall be conferred on the Commission for an indeterminate period of time from [*Publication office: please insert the exact date of the entry into force of the amending Regulation*].

4. The delegation of power referred to in Article 2(3), 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.

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(3), 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 the Council.’

(4) Article 11 is replaced by the following:

Article 11

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.

Article 2

This Regulation shall not affect the procedures for the adoption of measures provided for in Regulation (EC) No 184/2005 that 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

For the Council

The President