



Council of the
European Union

055374/EU XXV. GP
Eingelangt am 10/02/15

Brussels, 10 February 2015
(OR. en)

5997/15

Interinstitutional File:
2014/ 0194 (COD)

ECOFIN 78
UEM 25
STATIS 10
COMER 26
CODEC 154

NOTE

From:	General Secretariat of the Council
To:	Delegations
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. = Presidency revised proposal

Delegations will find attached the Presidency revised proposal on the Balance of Payments.

The Latvian Presidency 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 (COM (2014) 379)

COMMISSION PROPOSAL	LV PRESIDENCY PROPOSAL	COMMENTS
	Changes to the Commission proposal are indicated in bold. Deleted text is marked with square brackets [...]. New modifications introduced compared to document 5144/15 are indicated as bold/underlined.	
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	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,	legislative procedure,	
Whereas:	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.	(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 182/2011 ¹ , the Commission has committed itself ² 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.	(2) In view of the adoption of Regulation (EU) No 182/2011, the Commission has committed itself 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.	(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 [...] burden on Member States or on the respondent units.	

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.

(4) Regulation (EC) No 184/2005 ³ 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.	(4) Regulation (EC) No 184/2005 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.	(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 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.	(6) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission when <u>geographical breakdown levels, institutional sectors breakdown levels and economic activity breakdown levels set out in Annex I and the definitions set out in Annex II need to be updated to ensure consistency with other legislative acts and relevant international standards, as well as,</u> for reasons of economic and technical changes, [...] data flows set out in Annex I [...] need to be [...] <u>eliminated</u> .	Recital is aligned with Article 1 (1) of this Regulation.
(7) It is of particular importance that the Commission carries out appropriate	(7) It is of particular importance that the Commission carries out appropriate	

³ 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).

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.	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.	(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 provides advice to and assist the Commission in exercising of its implementing powers.	(9) The Balance of Payments Committee (BOP Committee) referred to in Article 11 of Regulation (EC) No 184/2005 provides 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 223/2009 ⁴ , should have an advisory role and assist the Commission in exercising its implementing	(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 223/2009, should have an advisory role and assist the Commission in exercising its implementing	

⁴ 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).

powers.	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.	(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 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 Banks ⁵ signed on 24 April 2013.	(12) The existing good operative cooperation between the National Central Banks (NCBs) and the National Statistical Institutes (NSIs) 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 national accounts. The NSIs and 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 Banks signed on 24 April 2013.	
	(12a) In order to strengthen strategic cooperation between the ESS and ESCB, the	The wording in recital is consistent with the opinion of the Council Legal Service (document

⁵ http://epo.eurostat.ec.europa.eu/cache/ITY_PUBLIC/MOU_ESS_ESCB/EN/MOU_ESS_ESCB-EN.PDF

	Commission should consult the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB) set up by Council Decision 2006/856/EC of 13 November 2006 establishing a Committee on Monetary, Financial and Balance of Payments Statistics*, on all matters falling within its competences as referred to in Decision 2006/856/EC.	number 5818/15).
	(*) OJ L 332, 30.11.2006, p. 21. Subsequent references: Decision 2006/856/EC	
(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.	(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,	(14) Regulation (EC) No 184/2005 should therefore be amended accordingly,	
HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
Article 1	Article 1	
Regulation (EC) No 184/2005 is amended as follows:	Regulation (EC) No 184/2005 is amended as follows:	
(1) In Article 2, the following paragraph is added:	(1) In Article 2, the following paragraph 3 is added:	Agreement pending
'3. The Commission shall be empowered to	'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.'	adopt delegated acts in accordance with Article 10, when <u>geographical breakdown levels, institutional sectors breakdown levels and economic activity breakdown levels set out in Annex I and the definitions set out in Annex II need to be updated to ensure consistency with other legislative acts and relevant international standards, as well as</u> , for reasons of economic and technical changes, [...] data flows set out in Annex I [...] need to be [...] <u>eliminated</u> .'	
(2) In Article 4, paragraph 3 is replaced by the following:	(2) In Article 4, paragraph 3 is replaced by the following:	Text provisionally agreed in the 22/01 CWPS
'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.	'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).	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).	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	This assessment of the Commission shall be	

sent to the European Parliament for information.'	sent to the European Parliament for information.'	
(3) Article 10 is replaced by the following:	(3) Article 10 is replaced by the following:	
'Article 10 - Exercise of delegated powers	'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.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	Text provisionally agreed in the 22/01 CWPS
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.	2. When exercising [...] its powers delegated in Article 2(3), 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 actions provided for in those delegated acts, <u>conducting</u> where appropriate cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs in accordance with Article 14(3) of Regulation (EC) No 223/2009. <u>It is of particular importance that the Commission carries out consultations with experts, including Member States' experts, before adopting those delegated acts.</u>	Agreement pending The wording in paragraph 2 is agreed with the Council Legal Service.
3. The power to adopt delegate acts referred to in Article 2(3) shall be conferred on the Commission for an indeterminate period of	3. The power to adopt delegated acts referred to in Article 2(3) shall be conferred on the Commission for [...] a period of 5 years [...]	Text provisionally agreed in the 22/01 CWPS

time from [Publication office: please insert the exact date of the entry into force of the amending Regulation].	from [Publication office: please insert the exact date of the entry into force of the amending Regulation]. The Commission shall draw up a report in respect of the delegation of power no 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 no later than three months before the end of each period.	
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 <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	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 <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	Text provisionally agreed in the 22/01 CWPS
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	Text provisionally agreed in the 22/01 CWPS
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	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	Text provisionally agreed in the 22/01 CWPS

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.'	period of [...] three 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 [...] three months at the initiative of the European Parliament or the Council.'	
(4) Article 11 is replaced by the following:	(4) Article 11 is replaced by the following:	Text provisionally agreed in the 22/01 CWPS
'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(**). (*) OJ L 87, 31.3.2009, p. 164. (**) OJ L 55, 28.2.2011, p. 13.	'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(**). (*) OJ L 87, 31.3.2009, p. 164. (**) OJ L 55, 28.2.2011, p. 13.	
2. Where reference is made to this	2. Where reference is made to this	

paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.'	paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.'	
	3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Art. 5 para 4 of Regulation (EU) No 182/2011 shall apply.	
	(5) The following article 12a is inserted:	Agreement pending
	'Article 12a Cooperation with other committees On all matters falling within the competence of the Committee on Monetary, Financial and Balance of Payments Statistics established by Decision 2006/856/EC, the Commission shall consult that Committee in accordance with Article 2 of that Decision.'	The wording in this Article is consistent with the opinion of the Council Legal Service (document number 5818/15).
Article 2	Article 2	Text agreed in the 22/01 CWPS
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.	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	Article 3	Text agreed in the 22/01 CWPS

This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. 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	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. 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	
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