



Council of the
European Union

Brussels, 16 December 2015
(OR. en)

15364/15

INST 445
POLGEN 181
JUR 802
IA 24
CODEC 1743

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations
Subject: Proposal for an Interinstitutional Agreement on Better Regulation
- Political agreement

At its meeting on 15 December 2015, the Council (General Affairs) confirmed its political agreement on the text provisionally agreed with the European Parliament and the Commission on a proposal for an Interinstitutional Agreement on Better Regulation, as set out in the Annex.

The agreement will be submitted to the Council for formal adoption following legal linguistic revision by the three institutions' experts. It will be signed after the completion of the internal procedures of each of the three institutions concerned.

INTERINSTITUTIONAL AGREEMENT ON BETTER LAW-MAKING

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 295 thereof,

Whereas:

- (1a) The European Parliament, the Council and the Commission (the three institutions) are committed to loyal and transparent cooperation throughout the entire legislative cycle. In this context, they recall the equality of both legislators as defined by the Treaties.
- (2) The three institutions recognise their joint responsibility in delivering high quality legislation, ensuring that Union legislation focuses on areas where it has the greatest added value for European citizens, is as efficient and effective as possible in delivering the common policy objectives of the Union, is as simple and as clear as possible, avoids overregulation and administrative burdens for administrations, businesses and citizens, and especially for small and medium-sized enterprises, and is designed with a view to facilitating its transposition and practical application and to strengthening the competitiveness and sustainability of the Union economy.

- (2a) The three institutions recall the Union obligation to legislate only where and to the extent it is necessary, in accordance with Article 5 of the Treaty on European Union on the application of the principles of subsidiarity and proportionality.
- (3) The three institutions reiterate the role and responsibility of national Parliaments as laid down in the Treaties in the Protocol on the role of National Parliaments in the European Union and Protocol 2 on the application of the principles of subsidiarity and proportionality of the Treaty on the functioning of the European Union.
- (3a) The three institutions agree that the analysis of the potential 'European added value' of any proposed action, as well as an assessment of the 'cost of non-Europe' in the absence of action at EU level, should be fully taken into account when setting the legislative agenda.
- (4) The three institutions consider that the use of stakeholder consultation, ex-post evaluation of existing legislation and impact assessments of new initiatives will help achieve the objective of better law-making.
- (5a) With a view to facilitating the negotiations in the ordinary legislative procedure and improving the application of Articles 290 and 291 of the TFEU, this agreement should establish the principles in accordance with which the Commission will gather all necessary expertise prior to the adoption of delegated acts.

- (6) The three institutions affirm that the goals of simplifying Union legislation and reducing the regulatory burden should be pursued without prejudice to the achievement of the policy objectives of the Union, as specified in the Treaties, or to safeguarding the integrity of the single market.
- (7) This Agreement complements the following Agreements and declarations on better regulation, to which the three institutions remain fully committed:
- Interinstitutional Agreement of 20 December 1994 Accelerated working method for official codification of legislative texts¹;
 - Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting Community legislation²;
 - Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³;
 - Joint Declaration of 13 June 2007 on practical arrangements for the co-decision procedure⁴;
 - Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents⁵.

¹ *OJ C 102, 4.4.1996, p. 2.*

² *OJ C 73, 17.3.1999, p. 1.*

³ *OJ C 77, 28.3.2002, p. 1.*

⁴ *OJ C 145, 30.6.2007, p. 5.*

⁵ *OJ C 369, 17.12.2011, p.15.*

I. COMMON COMMITMENTS AND OBJECTIVES

1. The European Parliament, the Council and the Commission (the three institutions) hereby agree to pursue better law-making by means of a series of initiatives and procedures as set out in this Interinstitutional Agreement.
 - 1a. In exercising the powers and in compliance with the procedures laid down in the Treaty, and recalling the importance which they attach to the Community method, the three Institutions agree to observe general principles such as democratic legitimacy, subsidiarity and proportionality, and legal certainty. They further agree to promote simplicity, clarity and consistency in the drafting of laws and the utmost transparency of the legislative process.
 - 1b. The European Parliament, the Council and the Commission agree that Union law should:
 - be comprehensible and clear;
 - allow parties to easily understand their rights and obligations;
 - include appropriate reporting, monitoring and evaluation requirements;
 - avoid overregulation and administrative burdens; and
 - be practical to implement.

II. PROGRAMMING

2. The three institutions agree to reinforce the Union's annual and multiannual programming in line with Article 17(1) of the Treaty on European Union which entrusts the Commission with the task of initiating annual and multiannual programming.

Multiannual programming

- 2a. Upon the appointment of a new Commission, in order to facilitate longer-term planning, the three institutions will exchange views on the principal policy objectives and priorities of the three institutions for the new term as well as, wherever possible, on indicative timing.

On the Commission's initiative, they will, as appropriate, draw up joint conclusions to be signed by the Presidents of the three institutions.

The three institutions will, on the Commission's initiative, carry out a mid-term review of the joint conclusions adjusting them as appropriate.

Annual programming – Commission Work Programme and interinstitutional programming

3. The Commission will engage in a dialogue with the European Parliament and the Council respectively, ahead of and after the adoption of its Annual Work Programme. This will encompass:
- a) early bilateral exchanges of views on initiatives for the upcoming year in advance of the submission of a written contribution from the President of the Commission and its First Vice-President setting out in appropriate detail items of major political importance for the following year and containing indications on intended withdrawals (hereinafter referred to as "letter of intent");
 - b) following the State of the Union debate, the European Parliament and the Council will have an exchange of views with the Commission on the basis of the letter of intent ahead of the adoption of the Commission Work Programme;

- c) a trilateral exchange of views on the adopted Annual Work Programme, pursuant to paragraph [4].

The Commission will duly take account of the views expressed by the European Parliament and the Council at each stage of the dialogue, including initiatives requested by the co-legislators.

- 4. Following the adoption of the Commission's Annual Work Programme and drawing on it, the three institutions will exchange views on initiatives for the coming year and agree on a joint declaration on interinstitutional programming to be signed by the Presidents of the three institutions, setting out broad objectives and priorities for the following year and identifying items of major political importance which, without prejudice to the powers conferred by the Treaties on the co-legislators, should receive priority treatment in the legislative process.

The three institutions will monitor, on a regular basis throughout the year, implementation of the annual programming declaration.

To that end the three institutions will participate in debates on implementation of the annual programming declaration in the European Parliament and/or the Council during the spring of the year in question.

- 4a. The annual Commission Work Programme will include major legislative and non-legislative proposals for the following year, including repeals, recasts, simplifications and withdrawals. For each item, the Commission Work Programme will indicate, as far as available: the intended legal basis; the type of legal act; indicative timetable for adoption by the Commission; any other relevant procedural information, including impact assessment and evaluation work.

5. In accordance with the principles of sincere cooperation and of institutional balance, when the Commission intends to withdraw a legislative proposal, whether or not such withdrawal is to be followed by a revised proposal, it will provide the reasons, and, if applicable, an indication of intended subsequent steps and a precise timetable, and will conduct proper interinstitutional consultations on this basis. It will take due account of, and respond to the co-legislators' positions.
6. The Commission will give prompt and detailed consideration to the requests for proposals for Union acts made by the European Parliament or the Council pursuant to Article 225 or Article 241 TFEU respectively. If the Commission does not submit a proposal, it will inform the institution concerned of the reasons.

The Commission will reply to such requests within three months, stating the follow-up it intends to give to them by adopting a specific communication. If the Commission decides not to submit a proposal, the Commission will state the detailed reasons, including, where appropriate, an analysis of possible alternatives and any issues raised by the co-legislators in relation to European added value and cost of non-Europe analyses.

If so requested, the Commission will present its reply in the European Parliament or in the Council.

- 6a. The Commission will provide regular updates on its planning throughout the year and give reasons for any delay in the presentation of the proposals included in its Work Programme. The Commission will regularly report to the European Parliament and to the Council on the implementation of its Work Programme for the year in question.

III. BETTER LAW-MAKING TOOLS

Impact assessment

7. The three institutions agree on the positive contribution of impact assessment in improving the quality of Union legislation.

Impact assessments are a tool to help the three institutions reach well-informed decisions and not a substitute for political decisions within the democratic decision-making process. They must not lead to undue delays in the law-making process or prejudice the legislator's capacity to propose amendments.

Impact assessments should cover the existence, scale and consequences of a problem and whether Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. Full respect should be given to the principles of subsidiarity and proportionality and to fundamental rights. Impact assessments should also address, whenever possible, the cost of non-Europe and the impact on competitiveness and the administrative burdens of the different options, having particular regard for SMEs ("Think Small First"), digital aspects and territorial impact. Impact assessments should be based on accurate, objective and complete information and be proportionate with regard to their scope and focus.

8. The Commission will carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures expected to have significant economic, environmental or social impacts. The initiatives included in the Commission Work Programme, as well as in the joint declaration provided for in paragraph [4] will, as a general rule, be accompanied by an impact assessment.

In its own impact assessment process the Commission will consult as widely as possible. The Commission's Regulatory Scrutiny Board will carry out an objective quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission initiative.

9. The European Parliament and the Council, upon considering Commission legislative proposals, will take full account of the Commission's impact assessments.

Impact assessments shall therefore be presented in such a way as to facilitate the consideration by the European Parliament and the Council of the choices made by the Commission.

- 10a. The European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission's proposal. The European Parliament and the Council will as a general rule take the Commission's impact assessment as the starting point for their further work. The definition of a 'substantial' amendment should be for the respective Institution to determine.

- 10b. The Commission may, on its own initiative or upon invitation by the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary. When doing so the Commission will take into account all available information, the stage reached in the legislative process and the need to avoid undue delays in this process. The co-legislators will take full account of any additional elements provided by the Commission in this context.
11. Each of the three institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control. They will, on a regular basis, cooperate by exchanging information on best practice and methodologies relating to impact assessments, enabling each institution to further improve its own methodology and procedures, and the coherence of the overall impact assessment work.
13. The Commission's initial impact assessment and any additional impact assessment work conducted in the legislative process by the institutions will be made public by the end of the legislative process and taken together can be used as the basis for evaluation.

Public and stakeholder consultation and feedback

14. Public and stakeholder consultation is integral to well-informed decision-making and to improving the quality of law making. Without prejudice to the specific arrangements applying to the Commission's proposals under Article 155(2) TFEU, the Commission will, prior to the adoption of its proposal, conduct public consultations in an open and transparent way, ensuring that their modalities and time-limits allow for the widest possible participation. The Commission will in particular encourage the direct participation of SMEs and other end-users in the consultations. This will include public internet-based consultations. The results of such consultations shall be communicated without delay to both legislators and made public.

Ex-post evaluation of existing legislation

16. The three institutions confirm the importance of the greatest possible consistency and coherence in the organisation of work to evaluate the performance of Union legislation, including related public and stakeholder consultations.
17. The Commission will inform the European Parliament and the Council of its multiannual planning of evaluations of existing legislation and will, to the extent possible, include their requests for in-depth evaluation of specific policy areas or pieces of legislation.

The Commission's evaluation programming will respect the timing for reports and reviews set out in Union legislation.

18. In the context of the legislative cycle, evaluations of existing law and policy, based on efficiency, effectiveness, relevance, coherence and value added, should provide the basis for impact assessment of options for further action. To support these processes, the European Parliament, the Council and the Commission agree, as appropriate, to establish monitoring, evaluation and reporting requirements in legislation, while avoiding overregulation and administrative burdens, in particular on Member States. Where appropriate, these can include measurable indicators as a basis on which to collect evidence of the effects of legislation on the ground.
19. The three institutions agree to systematically consider the use of review clauses in legislation and take account of the time needed for implementation and for gathering evidence on results and impacts.

The three institutions will consider whether to limit the application of certain legislation to a fixed period of time (sunset clause).

19a. The European Parliament, the Council and Commission shall inform each other in good time before adopting or revising their guidelines concerning the Better Law-Making tools (public and stakeholder consultations, ex-ante or ex-post impact assessments and evaluations).

IV. LEGISLATIVE INSTRUMENTS

20. The Commission shall provide for each proposal an explanation and justification to the European Parliament and to the Council of its choice of legal basis and type of legal act in the explanatory memoranda which accompany its proposals. The Commission should take due account of the difference in nature and effects between regulations and directives.

The Commission shall also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and are compatible with fundamental rights. The Commission shall also give an account of both the scope and the results of any stakeholder consultation, ex-post evaluation of existing legislation and impact assessment that it has undertaken.

If a modification of the legal basis entailing a change from ordinary legislative procedure to special legislative procedure or non-legislative procedure is envisaged, the three institutions will exchange views.

The three institutions agree that the choice of legal basis is a legal determination that must be made on objective grounds amenable to judicial review.

The Commission shall continue to play fully its institutional role to ensure that the Treaties and the jurisprudence of the Court of Justice are respected.

V. DELEGATED AND IMPLEMENTING ACTS

21. The three institutions underline the important role played by delegated and implementing acts in legislation. Used in an efficient, transparent manner and in justified cases, they are an integral tool of better regulation, contributing to simple, up-to-date legislation and its efficient, swift implementation. It is the competence of the legislator to decide whether and to what extent to use delegated or implementing acts, within the limits of the Treaties.

(21a) The three institutions acknowledge the need for the alignment of all existing legislation to the legal framework introduced by the Lisbon Treaty, and in particular give high priority to the prompt alignment of all basic acts still referring to the Regulatory Procedure with Scrutiny. The Commission will propose this latter alignment by the end of 2016.

22. The three institutions have agreed on the attached “Common Understanding on Delegated Acts” (Annex 1) and on the related standard clauses (Annex 2). In accordance with this Understanding and with a view to enhancing transparency and consultation, the Commission commits to gathering, prior to the adoption of delegated acts, all necessary expertise including through the consultation of experts from the Member States and through public consultations. Moreover and whenever broader expertise is needed in the early preparation of draft implementing acts, the Commission will make use of expert groups, consult targeted stakeholders and carry out public consultations, as appropriate.

To ensure equal access to all information, the European Parliament and Council shall receive all documents at the same time as Member State experts. Experts from the European Parliament and the Council shall systematically have access to the meetings of Commission expert groups to which Member State experts are invited and which concern the preparation of delegated acts.

The Commission may be invited to meetings in the European Parliament or the Council in order to have a further exchange of views on the preparation of delegated acts.

The three institutions will enter into negotiations without undue delay after the entry into force of this agreement, with a view to supplementing the attached "Common Understanding on Delegated Acts" by providing for non-binding criteria for the application of Articles 290 and 291 TFEU.

- 22a. The three institutions commit to set up at the latest by the end of 2017 in close cooperation a joint functional register of delegated acts, providing information in a well-structured and user friendly way in order to enhance transparency, to facilitate planning and to enable traceability of all the different stages in the lifecycle of a delegated act.
23. As regards the Commission's exercise of implementing powers, the three institutions agree to refrain from adding, in Union legislation, procedural requirements which would alter the mechanisms for control established by Regulation (EU) No 182/2011 of the European Parliament and the Council concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. Committees carrying out their tasks under the procedure set up under this Regulation should not, in that capacity, be called to exercise other functions.
- 23a. On the condition that the Commission provides objective justifications based on the substantive link between two or more empowerments contained in a single legislative act, and unless the legislative act provides otherwise, empowerments may be bundled. Consultations in the preparation of delegated acts also serve to indicate which empowerments are considered to be substantively linked. In such cases, any objection by the European Parliament or the Council will indicate clearly to which empowerment it specifically relates.

VI. TRANSPARENCY AND COORDINATION OF THE LEGISLATIVE PROCESS

23b. The three institutions acknowledge that the ordinary legislative procedure has developed on the basis of regular contacts at all stages of the procedure. They remain committed to further improve the work under this procedure in line with the principles of sincere cooperation, transparency, accountability and efficiency.

They agree in particular that the European Parliament and the Council, as co-legislators, shall exercise their powers on an equal footing. The Commission shall carry out its role as facilitator by treating the two branches of the legislative authority equally, in full respect of the roles attributed by the Treaties to the institutions.

23c. The three institutions will keep each other regularly informed throughout the legislative process about their work, about on-going negotiations among them and about any stakeholder feedback that they may receive, via appropriate procedures, including dialogue between the European Parliament, the Council and the Commission.

24. The European Parliament and the Council, in their capacity as legislators, agree to the importance of maintaining close contacts already in advance of interinstitutional-negotiations so as to achieve a better mutual understanding of their respective positions. To that end, in the context of the legislative procedure, they will facilitate mutual exchange of views and information, including by inviting representatives of the other institutions, to informal exchanges of views on a regular basis.

26. The European Parliament and the Council will, in the interest of efficiency, ensure a better synchronisation of their treatment of legislative proposals. In particular, the European Parliament and the Council will compare indicative timetables for the various stages leading to the final adoption of each legislative proposal.

26a. Where appropriate, the three institutions may agree to coordinate efforts to accelerate the legislative process while ensuring that the prerogatives of the legislators are respected and the quality of legislation is preserved.

27a. The three institutions agree that the provision of information to national parliaments must allow them to exercise fully their prerogatives under the Treaties.

28. The three institutions will ensure the transparency of legislative procedures, on the basis of relevant legislation and case-law, including an appropriate handling of trilateral negotiations.

They will improve communication to the public during the whole legislative cycle and in particular announce jointly the successful outcome of the legislative process in the ordinary legislative procedure once they have reached agreement, namely through joint press conferences or any other means considered appropriate.

28a. In order to facilitate traceability of the various steps in the legislative process, the three institutions undertake to identify, by 31 December 2016, ways of further developing platforms and tools to this end, with a view to establishing a dedicated joint database on the state of play of legislative files.

29a. The three institutions acknowledge the importance of ensuring that each institution can exercise its rights and fulfil its obligations enshrined in the Treaties as interpreted by the Court of Justice regarding the negotiation and conclusion of international agreements.

The three institutions commit to meet within 6 months after the entry into force of the present agreement in order to negotiate improved practical arrangements for co-operation and information sharing within the framework of the Treaties, as interpreted by the Court of Justice.

VII. IMPLEMENTATION AND APPLICATION OF UNION LEGISLATION

- 29b. The three institutions agree on the importance of a more structured cooperation among them to assess the application and effectiveness of EU law in view of its improvement through future legislation.
30. The three institutions stress the need to swiftly and correctly apply Union legislation in the Member States. The time limit for transposition of directives will be as short as possible and, generally, not exceed two years.
31. The three institutions call upon the Member States, when they adopt measures to transpose or implement Union legislation or to ensure the implementation of the Union budget, to communicate clearly to their public on these measures. When in the context of transposing directives into national law, Member States choose to add elements that are in no way related to the said Union legislation, such additions should be made identifiable either through the transposing act or acts, or through associated documents.
- 31a. The three institutions call upon Member States to cooperate with the Commission in obtaining information and data needed to monitor and evaluate the implementation of EU law. The three institutions recall and stress the importance of the two Joint Political Declarations on explanatory documents of 28 September and 27 October 2011 which accompany the notification of transposition measures.
32. The Commission will continue to report annually to the European Parliament and the Council on the application of Union legislation. This report includes, where relevant, reference to the information mentioned in paragraph 31. The Commission may provide further information on the state of implementation of a given legal act.

VIII. SIMPLIFICATION

34(2) The three institutions confirm their commitment to use the legislative technique of recasting for the modification of existing legislation more frequently and in full respect of the provisions contained in the Interinstitutional Agreement of 28 November 2001 on a more structure use of the recasting technique for legal acts. Where recast is not appropriate, the Commission will submit a proposal according to the provisions of the Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts as soon as possible after the adoption of a modifying act. If the Commission does not submit a proposal, it shall state the reasons for not doing so.

34b. The three institutions commit to promoting the most efficient regulatory instruments, such as harmonisation and mutual recognition, to avoid overregulation and administrative burdens and fulfil the objectives of the Treaty.

34c. The three institutions agree to cooperate in order to update and simplify legislation and to avoid overregulation and administrative burdens for citizens, administrations and businesses, including small and medium sized enterprises, while ensuring that the objectives of the legislation are met. In this context, the three institutions agree to exchange views on this matter prior to finalisation of the Commission's annual work programme.

The Commission undertakes to present annually an overview, including an annual burden survey, as a contribution to its regulatory fitness programme (REFIT), of the results of the Union's efforts to simplify legislation and avoid overregulation and reduce administrative burdens.

Based on the institutions' impact assessment and evaluation work and input from Member States and stakeholders, and while taking into account the costs and benefits of EU regulation, the Commission will, wherever possible, quantify the regulatory burden reduction or savings potential of individual proposals or legislative acts.

The Commission will also assess the feasibility of establishing, in its regulatory fitness programme, objectives for the reduction of burdens in specific sectors.

IX. IMPLEMENTATION AND MONITORING OF THIS AGREEMENT

35. The three institutions will take the necessary steps to ensure that they have the means and resources required for the proper implementation of this Agreement.
36. The three institutions will monitor the implementation of this Agreement jointly and regularly, at the political level through annual discussions, as well as at the technical level in the Interinstitutional Coordination Group.

X. REPLACEMENT

37. This Interinstitutional Agreement replaces the 2003 Interinstitutional Agreement on better law-making and the 2005 Interinstitutional common approach to impact Assessment.

Annexes 1 and 2 to this Agreement replace the 2011 Common Understanding on Delegated Acts.

38. This Agreement shall enter into force upon signature.

Annex 1

Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts

I. SCOPE AND GENERAL PRINCIPLES

1. This Common Understanding builds upon, and replaces, the 2011 Common Understanding and streamlines the practice established thereafter by the European Parliament and the Council. It sets out the practical arrangements and agreed clarifications and preferences applicable to delegations of legislative power under Article 290 of the Treaty on the Functioning of the European Union (TFEU). This article requires that the objectives, content, scope and duration of a delegation are expressly defined in each legislative act that includes such a delegation (hereinafter "the basic act").
2. In exercising their powers and in compliance with the procedures laid down in the TFEU, the three institutions shall cooperate throughout the legislative procedure with a view to a smooth exercise of delegated power and an effective control of this power by the European Parliament and the Council. To this effect, appropriate contacts at administrative level shall be maintained.
3. When proposing or making delegations of power under Article 290 TFEU, the institutions concerned, depending on the procedure for the adoption of the basic act, undertake to refer as far as possible to the standard clauses annexed to this Common Understanding.

III. CONSULTATIONS IN THE PREPARATION AND DRAWING-UP OF DELEGATED ACTS

15. The Commission shall consult experts designated by each Member State in the preparation of draft delegated acts. The Member State experts shall be consulted in a timely manner on each draft delegated act prepared by the Commission services.* The draft delegated acts shall be shared with the Member State experts. These consultations shall take place via existing expert groups, or via ad hoc meetings with experts from the Member States, for which the Commission shall send invitations via the Permanent Representations of all Member States. It is for the Member States to decide which experts shall participate. Experts shall be provided with the draft delegated acts, the draft agenda and any other relevant documents in sufficient time to prepare.
16. At the end of any meeting with Member State experts or in the follow-up to such meetings, the Commission services shall state the conclusions they have drawn from the discussions, including how they will take the experts' views into consideration and how they intend to proceed. Those conclusions will be recorded in the minutes of the meeting.
17. The preparation and drawing-up of delegated acts may also include consultations with stakeholders.
- 17a. Where the material content of a draft delegated act is changed in any way the Commission shall give Member State experts the opportunity to react to the amended version of the draft delegated act, where appropriate in written form.

* The specificities of the procedure for preparing regulatory technical standards (RTS) as described in the ESA Regulations 1093/2010 (EU), 1094/2010 (EU) and 1095/2010 (EU) will be taken into account without prejudice to the consultation arrangements as laid down in this agreement.

18. A summary of the consultation process shall be included in the explanatory memorandum of the delegated act.
19. The Commission shall make indicative lists of planned delegated acts available at regular intervals.
20. When preparing and drawing up delegated acts, the Commission shall ensure a timely and simultaneous transmission of all documents including the draft acts to the European Parliament and the Council at the same time as to Member State experts.
- 20a. Where they consider this necessary, the European Parliament and the Council may each send experts to meetings of the Commission expert groups dealing with the preparation of delegated acts to which Member State experts are invited. To this end the European Parliament and the Council shall receive the planning for the following months and the invitations for all experts meetings.
22. The three institutions shall indicate to each other their respective functional mailboxes to be used for the transmission and reception of all documents relating to delegated acts. Once the register mentioned in paragraph [22a] of the Agreement is established it shall be used to this effect.

**IV. ARRANGEMENTS FOR THE TRANSMISSION OF DOCUMENTS
AND COMPUTATION OF TIME PERIODS**

23. By way of an appropriate mechanism, the Commission shall officially transmit the delegated acts to the European Parliament and the Council. Classified documents shall be processed in accordance with internal administrative procedures drawn up by each institution with a view to providing all the requisite guarantees.
24. In order to ensure that the European Parliament and the Council are able to exercise the rights provided for in Article 290 TFEU within the time limits laid down in each basic act, the Commission shall not transmit any delegated acts during the following periods:

From 22 December until 6 January;

From 15 July until 20 August.

These periods shall only apply when the period of objection is based on paragraph 28.

These periods shall not apply for delegated acts adopted under the urgency procedure, as set out in part VII of this Common Understanding. In the event that a delegated act is adopted under the urgency procedure during these periods, the time limit for objection provided for in the basic act shall start to run only when this period is finished.

By October of the year preceding the elections of the European Parliament, the three institutions shall agree on an arrangement for the notification of delegated acts during the election recess.

25. The period for expressing objections shall start when all official language versions of the delegated act have been received by the European Parliament and the Council.

V. DURATION OF THE DELEGATION

26. The basic act may empower the Commission to adopt delegated acts for an undetermined or determined period of time.
27. Where a determined period of time is provided, the basic act should in principle provide for the delegation of power to be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes the extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegated power not later than nine months before the end of each period. This paragraph does not affect the European Parliament or the Council's right of revocation.

VI. PERIODS FOR OBJECTION BY THE EUROPEAN PARLIAMENT AND COUNCIL

28. Without prejudice to the urgency procedure, the period for objection defined on a case-by-case basis in each basic act should in principle be of two months, and not less than that, extendable for each institution (the European Parliament or the Council) by two months at its initiative.
29. However, the delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission that they will not object.

VII. URGENCY PROCEDURE

30. An urgency procedure should be reserved for exceptional cases, such as security and safety matters, the protection of health and safety, or external relations, including humanitarian crises. The European Parliament and the Council should justify the choice of an urgency procedure in the basic act. The basic act shall specify the cases in which the urgency procedure shall be used.
31. The Commission undertakes to keep the European Parliament and the Council fully informed about the possibility of a delegated act being adopted under the urgency procedure. As soon as the Commission services foresee such a possibility, they shall informally forewarn the secretariats of the European Parliament and the Council via the functional mailboxes mentioned in point 22.
32. A delegated act adopted under the urgency procedure shall enter into force without delay and apply as long as no objection is expressed within the period provided for in the basic act. If an objection is expressed, the Commission shall repeal the act immediately following notification by the European Parliament or the Council of the decision to object.
33. When notifying a delegated act under the urgency procedure to European Parliament and the Council, the Commission shall state the reasons for its use.

VIII. PUBLICATION IN THE OFFICIAL JOURNAL

34. Delegated acts shall be published in the L series of the Official Journal of the European Union only after the expiry of the period for objection, with the exception of paragraph 29 above. Delegated acts adopted under the urgency procedure shall be published without delay.
35. Without prejudice to Article 297 TFEU, decisions by the European Parliament or Council to revoke a delegation, to object to a delegated act adopted under the urgency procedure or to oppose the tacit renewal of a delegation of power shall also be published in the L series of the Official Journal of the European Union. A decision to revoke shall enter into force the day following its publication in the Official Journal of the European Union.
36. The Commission shall also publish in the Official Journal of the European Union the decisions repealing delegated acts adopted under the urgency procedure.

IX. MUTUAL EXCHANGE OF INFORMATION, IN PARTICULAR IN THE EVENT OF A REVOCATION

37. When exercising their rights in applying the conditions laid down in the basic act, the European Parliament and the Council will inform each other and the Commission.
38. When either the European Parliament or the Council initiates a procedure which could lead to the revocation of a delegation, it will inform the other two institutions at the latest one month before taking the decision to revoke.

Annex 2

Standard clauses

Recital:

In order to [objective], 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 [*content and scope*]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [date]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts have systematic access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Article(s) delegating power

The Commission [shall adopt/ is empowered to adopt] delegated acts in accordance with Article a concerning [content and scope]. Before the adoption of 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].

The following supplementary paragraph to be added where urgency procedure applies:

Where, in the case of [content and scope], imperative grounds of urgency so require, the procedure provided for in Article b shall apply to delegated acts adopted pursuant to this Article.

Article a
Exercise of the delegation

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

[duration]

Option 1:

The delegation of power referred to in Article[s]... shall be conferred on the Commission for an indeterminate period of time from the (*)

Option 2:

The delegation of power referred to in Article[s]... shall be conferred on the Commission for a period of X years from the (*).The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the X-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.

Option 3:

The delegation of power referred to in Article[s]... shall be conferred on the Commission for a period of X years from the (*)

(*) date of entry into force of the basic legislative act or from any other date set by the legislator.

The delegation of power referred to in Article[s]... may be revoked at any time by the European Parliament or the Council. A decision of revocation 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.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.

A delegated act adopted pursuant to Article[s] ... 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.

The following supplementary article to be added where urgency procedure applies:

Article b
Urgency procedure

Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article a(5). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or the Council.

