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ADD 5

**LIMITE**

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**'I/A' ITEM NOTE**

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From: Presidency

To: Permanent Representatives Committee (Part 2)/Council

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No. Cion doc.: COM(2016)799 FINAL; COM(2016) 799 FINAL/2

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Subject: Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union

- General approach
- Section VIII "Financial Stability, Financial Services and Capital Markets Union" and Section IX "Internal Market, Industry, Entrepreneurship and SMEs"

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1. VIII. FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

79. Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards<sup>1</sup>

[...]

**In order to ensure uniform conditions for the implementation of Regulation (EC) No 1606/2002, implementing powers should be conferred on the Commission to adopt measures concerning the applicability within the Union of international accounting standards. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

Accordingly, Regulation (EC) No 1606/2002 is amended as follows:

(1) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The Commission **shall, by means of implementing acts, [...]** adopt **measures [...]** concerning the applicability within the Union of international accounting standards.

[...]

**Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2). "**

(b) paragraph 3 is deleted;

[...]

(3) Article[...] 6, paragraph 2 is replaced by the following: [...]

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

**80. Council Directive 2009/110/EC of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC<sup>2</sup>**

In order to adapt Directive 2009/110/EC to take account of inflation or technological and market developments, [...] the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

**In order to ensure uniform conditions for the implementation of Council Directive 2009/110/EC of 16 September 2009, implementing powers should be conferred on the Commission to ensure the convergent application of certain exemptions set out in that Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

Accordingly, Directive 2009/110/EC is amended as follows:

**(1) The title of Title IV is replaced by the following:**

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<sup>2</sup> OJ L 267, 10.10.2009, p. 7.

**"FINAL PROVISIONS, DELEGATED AND IMPLEMENTING ACTS".**

([...]2) Article 14 is replaced by the following:

*"Article 14*  
**Delegated acts**

The Commission is empowered to adopt delegated acts in accordance with Article [...] **14b** [...]

[...] amending this Directive in order to take account of inflation or technological and market developments."

[...]

**(3) the following Articles 14a and 14b are inserted:**

**"Article 14a**  
**Implementing acts**

**The Commission shall, by means of implementing acts, ensure the convergent application of the exemptions referred to in Article 1(4) and (5).**

**Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).**

[...]

[...] *"Article 14[...]* **b**  
**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 14 shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 14 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 on Better Law-Making of 13 April 2016\*.

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 14 shall enter into force only if no objection has been expressed either by the European Parliament or by 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.

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\* OJ L 123, 12.5.2016, p. 1.”;

(4[...] ) Article 15, paragraph 2 is replaced by the following:[...]

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

## IX. INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

### 81. Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers<sup>3</sup>

In order to take into account new developments in aerosol dispenser technology and ensure a high level of safety, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Directive 75/324/EEC to adapt it to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 75/324/EEC is amended as follows:

(1) Article 5 is replaced by the following:

*"Article 5*

The Commission is empowered to adopt delegated acts in accordance with Article 10a amending the Annex to adapt it to technical progress.";

(2) Articles 6 and 7 are deleted;

(3) in Article 10(3), the first subparagraph is replaced by the following:

**"The Commission is empowered to adopt delegated acts in accordance with Article 10a amending Article 8, with the exception of paragraph 2 thereof, and the Annex to this Directive, following the adoption of its opinion referred to in paragraph 2 of this Article. Such amendments shall [...]ensure necessary technical adaptations concerning the hazard analysis, the technical characteristics of aerosol dispensers, the physical and chemical properties of the contents, the labelling and flammability requirements and test methods and procedures for aerosol dispensers.**

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<sup>3</sup> OJ L 147, 9.6.1975, p. 40.

(4) the following Article 10a is inserted:

*"Article 10a*

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 5 and Article 10(3) shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 5 and Article 10(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.

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 on Better Law-Making of 13 April 2016\*.

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 5 and Article 10(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 of the Council.

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\* OJ L 123, 12.5.2016, p.1."



**82. Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products<sup>4</sup>**

In order to adapt Directive 76/211/EC to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annexes I and II to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 76/211/EEC is amended as follows:

(1) Article 6 is replaced by the following:

*"Article 6*

"The Commission is empowered to adopt delegated acts in accordance with Article 6a amending Annexes I and II to adapt them to technical progress."

(2) the following Article 6a is inserted:

*"Article 6a*

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 6 shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 6 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.

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<sup>4</sup> OJ L 46, 21.2.1976, p. 1.

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 on Better Law-Making of 13 April 2016\*.

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 6 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.

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\* OJ L 123, 12.5.2016, p.1."

**83. Directive 80/181/EEC of the Council of 20 December 1979 on the approximation of the laws of the Member States relating to units of measurement and on the repeal of Directive 71/354/EEC<sup>5</sup>**

In order to adapt Directive 80/181/EEC to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the Annex to that Directive [...]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

**In order to ensure uniform conditions for the implementation of Directive 80/181/EEC of 20 December 1979, implementing powers should be conferred on the Commission to establish supplementary indications. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

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<sup>5</sup> OJ L 39, 15.2.1980, p. 40.

Accordingly, Directive 80/181/EEC is amended as follows:

(1) Article 6a is replaced by the following:

*“Article 6a*

[...]

**1. The Commission may, by means of implementing acts, establish supplementary indications. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6d.**

**2. The Commission is empowered to adopt delegated acts in accordance with Article 6c amending Chapter I of the Annex to adapt it to technical progress.”**

(2) the following Articles 6c and 6d are inserted:

*“Article 6c*

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 6a shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 6a 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 on Better Law-Making of 13 April 2016\*.

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 6a 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.

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\* OJ L 123, 12.5.2016, p.1.

### *Article 6d*

**1. The Commission shall be assisted by a committee.**

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

**84. Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service<sup>6</sup>**

In order to ensure swift technical adaptation of the quality-of-service standards, in particular on routing times and on the regularity and reliability of cross-border services, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annex II to Directive 97/67/EC to adapt [...] it to technical progress or market developments [...]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

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<sup>6</sup> OJ L 15, 21.1.1998, p. 14.

**In order to ensure uniform conditions for the implementation of Directive 97/67/EC of 15 December 1997, implementing powers should be conferred on the Commission to specify standardised conditions for performance monitoring. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

Accordingly, Directive 97/67EC is amended as follows:

(1) in Article 16, the third and fourth paragraphs are replaced by the following:

"Those standards shall be set by:

- (a) the Member States in the case of national services;
- (b) the European Parliament and the Council in the case of intra-Union cross-border services (see Annex II).

The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex II to adapt the standards for intra-Union cross-border services to technical progress or market developments.

Independent performance monitoring shall be carried out at least once a year by external bodies having no links with the universal service providers under standardised conditions and shall be the subject of reports published at least once a year.

The Commission **shall, by means of implementing acts, [...] specify [...] such standardised conditions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).**"

(2) the title of Chapter 8 is replaced by the following:

"Delegated and implementing acts";

(3) after the title of Chapter 8, the following Article 20a is inserted:

*"Article 20a*

### **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 16, **third paragraph**, shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 16, **third paragraph**, 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 on Better Law-Making of 13 April 2016\*.

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 16, **third paragraph**, shall enter into force only if no objection has been expressed either by the European Parliament or by 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.

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\* OJ L 123, 12.5.2016, p.1.";

(4) in Article 21, the second paragraph is [...] **replaced by the following:**

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

**85. Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors<sup>7</sup>**

In order to adapt Directive 2000/14/EC to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annex III to that Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

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<sup>7</sup> OJ L 162, 3.7.2000, p. 1.

Accordingly, Directive 2000/14/EC is amended as follows:

(1) the following Article 17a is inserted:

*"Article 17a*  
**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 18a shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 18a 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 on Better Law-Making of 13 April 2016\*.
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 18a 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.

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\* OJ L 123, 12. 5. 2016, p.1.";

(2) in Article 18, paragraph 2 is deleted;

(3) Article 18a is replaced by the following:

*"Article 18a*  
**Amendments to Annex III**

The Commission is empowered to adopt delegated acts in accordance with Article 17a amending Annex III to adapt it to technical progress. Those delegated acts shall not have any direct impact on the measured sound power level of equipment listed in Article 12, in particular through the inclusion of references to relevant European standards.";

(4) in Article 19, point (b) is deleted.

86. [...]

**87. Directive 2004/9/EC of the European Parliament and of the Council of 11 February 2004 on the inspection and verification of good laboratory practice (GLP)<sup>8</sup>**

In order to adopt the necessary technical adaptation to Directive 2004/9/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission:

- to amend that Directive in order to resolve disagreements in relation to GLP compliance;
- to amend the endorsement formula in that Directive;
- to amend Annex I to that Directive to take account of technical progress.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 2004/9/EC is amended as follows:

(1) in Article 6, paragraph 3 is replaced by the following:

"3. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending this Directive in order to resolve the matters referred to in paragraph 1.  
**Amendments relating to the Annex I shall be limited to providing detailed practical guidance to the Member States.**"

(2) the following Article 6a is inserted:

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<sup>8</sup> OJ L 50, 20.2.2004, p. 28.

*"Article 6a*

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 6(3) and Article 8(2) shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 6(3) and Article 8(2) 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 Inter-institutional Agreement on Better Law-Making of 13 April 2016\*.
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 6(3) and Article 8(2) shall enter into force only if no objection has been expressed either by the European Parliament or by 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.

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\* OJ L 123, 12.5.2016, p. 1.";

(3) in Article 7, paragraph 3 is deleted;

(4) in Article 8, paragraph 2 is replaced by the following:

"2. The Commission is empowered to adopt delegated acts in accordance with Article 6a amending:

- (a) the formula in Article 2(2);
- (b) Annex I, to take account of technical progress."

**88. Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances<sup>9</sup>**

In order to ensure the necessary technical adaptations to Directive 2004/10/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annex I to that Directive in order to adapt it to technical progress with regard to the principles of good laboratory practice, and to amend that Directive **except Annex I thereof** in order to introduce necessary technical adaptations. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 2004/10/EC is amended as follows:

(1) Article 3a is replaced by the following:

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<sup>9</sup> OJ L 50, 20.2.2004, p. 44.

*"Article 3a*

The Commission is empowered to adopt delegated acts in accordance with Article 3b amending Annex I to adapt it to technical progress, with regard to principles of GLP.";

(2) the following Article 3b is inserted:

*"Article 3b*

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 3a and Article 5(2) shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 3a and Article 5(2) 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 Inter-institutional Agreement on Better Law-Making of 13 April 2016\*.

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 3a and Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by 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.

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\* OJ L 123, 12.5.2016, p.1.";

(3) Article 4 is deleted;

(4) in Article 5(2), the third and fourth subparagraphs are replaced by the following:

"The Commission is empowered to adopt delegated acts in accordance with Article 3b amending this Directive [...] **with the exception of Annex I thereof, in order to resolve the matters referred to in paragraph 1.**"

**89. Directive 2006/42/EC of the European Parliament and of the Council on machinery, and amending Directive 95/16/EC<sup>10</sup>**

In order to take into account new developments, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the indicative list of safety components in Annex V to Directive 2006/42/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

In order to ensure uniform conditions for the implementation of Directive 2006/42/EC, implementing powers should be conferred on the Commission concerning necessary measures to deal with potentially hazardous machinery. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

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<sup>10</sup> OJ L 157, 9.6.2006, p. 24.

Accordingly, Directive 2006/42/EC is amended as follows:

(1) in Article 8, paragraph 1 is replaced by the following:

"1. The Commission is empowered to adopt delegated acts in accordance with Article 21a amending Annex V to update the indicative list of safety components.";

(2) in Article 9(3), the second and third subparagraphs are replaced by the following:

"Taking due account of the results of that consultation, the Commission shall adopt the necessary measures by implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 22(3).";

(3) the following Article 21a is inserted:

*"Article 21a*  
**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 8(1) shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 8(1) 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 on Better Law-Making of 13 April 2016\*.

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 8(1) 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.

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\* OJ L 123, 12.5.2016, p.1.";

(4) in Article 22, paragraph 3 is replaced by the following:

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

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\* 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).".

## **90. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>11</sup>**

[...]

**In order to ensure uniform conditions for the implementation of Directive 2006/123/EC of 12 December 2006, implementing powers should be conferred on the Commission to establish common criteria for defining what is appropriate to the nature and extent of the risk relevant to professional liability insurance and guarantees and certain time-limits. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

Accordingly, Directive 2006/123/EC is amended as follows:

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<sup>11</sup> OJ L 376, 27.12.2006, p. 36



(1) in Article 23, paragraph 4 is replaced by the following:

"4. For the implementation of paragraph 1, the Commission may, in accordance with the procedure referred to in Article 40(2), establish a list of services which exhibit the characteristics referred to in paragraph 1 of this Article.

[...] **The Commission may also, in accordance with the procedure referred to in Article 40(3), establish[...] common criteria for defining, for the purposes of the insurance or guarantees referred to in paragraph 1 of this Article, what is appropriate to the nature and extent of the risk."**

(2) Article 36 is replaced by the following:

*"Article 36*  
**[...]Implementing acts**

The Commission **shall, by means of implementing acts, [...] specify the time-limits provided for in Articles 28 and 35. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).**

The Commission shall also adopt, by means of implementing acts, the practical arrangements for the exchange of information by electronic means between Member States, and in particular the interoperability provisions for information systems. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 40(2).";

[...]

([...]**3**) in Article 40, paragraph 3 is **replaced by the following:**

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

91. [...]

**92. Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009 relating to common provisions for both measuring instruments and methods of metrological control<sup>12</sup>**

In order to ensure that the necessary technical adaptations are made to Directive 2009/34/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the Annexes to that Directive to adapt them to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

As far as the empowerment in Article 5(3) is concerned, which provides that Member States which have granted limited EC pattern approval are to apply for adjustment to technical progress of Annexes I and II, such limited EC pattern approvals no longer exist. The empowerment in Article 5(3) should therefore be deleted.

Accordingly, Directive 2009/34/EC is amended as follows:

(1) in Article 5, paragraph 3 is deleted;

(2) Article 16 is replaced by the following:

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<sup>12</sup> OJ L 106, 28.4.2009, p. 7.

*"Article 16*

The Commission is empowered to adopt delegated acts in accordance with Article 16a amending Annexes I and II to adapt them to technical progress.";

(3) the following Article 16a is inserted:

*"Article 16a*

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 16 shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 16 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 on Better Law-Making of 13 April 2016\*.
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 16 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.

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\* OJ L 123, 12.5.2016, p. 1.";

(4) Article 17 is deleted.

**93. Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community<sup>13</sup>**

In order to ensure that the list of defence-related products set out in the Annex to Directive 2009/43/EC strictly corresponds to the Common Military List of the European Union, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend that Annex and to amend that Directive as regards the circumstances in which Member States may exempt transfers of defence-related products from the obligation of prior authorisation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>\*</sup>. 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.

Accordingly, Directive 2009/43/EC is amended as follows:

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<sup>13</sup> OJ L 146, 10.6.2009, p. 1.

(1) in Article 4, paragraph 3 is replaced by the following:

"3. The Commission is empowered to adopt delegated acts in accordance with Article 13a, at the request of a Member State or on its own initiative, amending paragraph 2, in order to include cases where:

- (a) the transfer takes place under conditions which do not affect public policy or public security;
- (b) the obligation of prior authorisation has become incompatible with international commitments of the Member States subsequent to the adoption of this Directive;
- (c) it is necessary for intergovernmental cooperation, as referred to in Article 1(4).";

(2) Article 13 is replaced by the following:

*"Article 13*  
**Amendment of the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 13a amending the list of defence-related products set out in the Annex, so that it strictly corresponds to the Common Military List of the European Union.

[...]

(3) the following Article[...] 13a [...] is inserted:

*"Article 13a*  
**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 4(3) and Article 13 shall be conferred on the Commission for [...] **a period of five years from[*date of entry into force of this 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 4(3) and Article 13 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 on Better Law-Making of 13 April 2016\*.

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 4(3) and Article 13 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.

[...]

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\* OJ L 123, 12.5.2016, p. 1.";

(4) Article 14 is deleted.

**94. Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys<sup>14</sup>**

In order to harmonise the safety levels of toys throughout the Union and to remove obstacles to trade in toys between Member States, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend:

- [...] Points 11 and 13 of Part III of Annex II, and Annex V to Directive 2009/48/EC; to adapt them to technical and scientific developments;
- Appendix C to Annex II to that Directive so as to lay down specific limit values for chemicals used in toys for use by children under 36 months or in other toys intended to be placed in the mouth;
- Appendix A to Annex II to that Directive so as to lay down permitted uses in toys of substances or mixtures classified as carcinogenic, mutagenic or toxic for reproduction of category 1A, 1B or 2 under Regulation (EC) No 1272/2008.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 2009/48/EC is amended as follows:

- (1) Article 46 is replaced by the following:

*"Article 46*  
**Amendments to the Annexes**

1. The Commission is empowered to adopt delegated acts in accordance with Article 46a amending [...] points 11 and 13 of Part III of Annex II, and Annex V to adapt them to technical and scientific developments.

2. The Commission is empowered to adopt delegated acts in accordance with Article 46a amending Appendix C to Annex II in order to lay down specific limit values for chemicals used in toys for use by children under 36 months or in other toys intended to be placed in the mouth, taking into account the packaging requirements for food as laid down in Regulation (EC) No 1935/2004 and the related specific measures for particular materials, as well as the differences between toys and materials which come into contact with food.

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<sup>14</sup> OJ L 170, 30.6.2009, p. 1.

3. The Commission is empowered to adopt delegated acts in accordance with Article 46a amending Appendix A to Annex II in order to decide upon permitted uses in toys of substances or mixtures that are classified as carcinogenic, mutagenic or toxic for reproduction of category 1A, 1B or 2 under Regulation (EC) No 1272/2008 and that have been evaluated by the relevant Scientific Committee.";

(2) the following Article 46a is inserted:

*"Article 46a*

**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 46 shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 46 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 on Better Law-Making of 13 April 2016\*.

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 46 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.

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\* OJ L 123, 12.5.2016, p. 1.";

(3) Article 47 is deleted.

**95. Regulation (EC) No 79/2009 of the European Parliament and of the Council of 14 January 2009 on type-approval of hydrogen-powered motor vehicles, and amending Directive 2007/46/EC<sup>15</sup>**

In order to adapt Regulation (EC) No 79/2009 to technical progress as regards the safety of hydrogen powered vehicle, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement that Regulation with technical requirements for such vehicles as well as with administrative provisions, templates for administrative documents and models for markings. 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 Inter-institutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Regulation (EC) No 79/2009 is amended as follows:

(1) Article 12 is replaced by the following:

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<sup>15</sup> OJ L 35, 4.2.2009, p. 32.

*“Article 12*

**Delegated powers**

The Commission is empowered to adopt delegated acts in accordance with Article 12a in the light of technical progress concerning:

- (a) detailed rules for the test procedures set out in Annexes II to V;
- (b) detailed rules concerning the requirements for the installation of hydrogen components and systems set out in Annex VI;
- (c) detailed rules concerning the requirements for the safe and reliable functioning of hydrogen components and systems set out in Article 5;
- (d) specifications for requirements relating to any of the following:
  - (i) the use of pure hydrogen or a mixture of hydrogen and natural gas/biomethane;
  - (ii) new forms of hydrogen storage or usage;
  - (iii) the impact protection of vehicles with regard to the integrity of hydrogen components and systems;
  - (iv) integrated system safety requirements, covering at least the detection of leakage and requirements relating to purge gas;
  - (v) electrical isolation and electric safety;
- (e) administrative provisions for the EC type-approval of vehicles, with regard to hydrogen propulsion, and hydrogen components and systems;
- (f) rules on the information to be provided by manufacturers for the purposes of the type-approval and inspection referred to in Article 4(4) and (5);
- (g) detailed rules for the labelling or other means of clear and rapid identification of hydrogen-powered vehicles referred to in point 16 of Annex VI;  
and
- (h) other measures necessary for the application of this Regulation.

(2) the following Article 12a is inserted:

“Article 12a

**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 12 shall be conferred on the Commission for [...] **a period of five years from [date of entry into force of this 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 12 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 Inter-institutional Agreement on Better Law-Making of 13 April 2016\*.
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 12 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.

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\* OJ L 123, 12.5.2016, p. 1.”;

(3) Article 13 is deleted.

**96. Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC<sup>16</sup>**

In order to adapt Directive 2009/81/EC to rapid technical, economic and regulatory developments, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend the threshold amounts for contracts in order to align them to those laid down in Directive 2014/25/EU of the European Parliament and of the Council<sup>17</sup>, to amend the references to the Common Procurement Vocabulary (CPV nomenclature) and to amend certain reference numbers in the CPV nomenclature and the procedures for reference in notices to certain headings in the CPV nomenclature. As the technical details and characteristics of the devices for electronic receipt should be kept up to date with technological developments, it is also necessary to empower the Commission to amend the technical details and characteristics of devices for electronic receipt. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.

Accordingly, Directive 2009/81/EC is amended as follows:

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<sup>16</sup> OJ L 216, 20.8.2009, p. 76

<sup>17</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L94, 28.3.2014, p.243).

(1) Article 68(1) is amended as follows:

(a) the second subparagraph is replaced by the following:

"The Commission is empowered to adopt delegated acts in accordance with Article 66a amending the thresholds as provided for in the first subparagraph;"

(b) the following third subparagraph is inserted:

"Where it is necessary to revise the thresholds as provided for in the first subparagraph, and time constraints prevent the use of the procedure set in Article 66a and therefore imperative grounds of urgency so require, the procedure provided for in Article 66b shall apply to delegated acts adopted pursuant to this paragraph."

(2) in Article 69, paragraph 2 is replaced by the following:

"2. The Commission is empowered to adopt delegated acts in accordance with Article 66a amending:

(a) the reference numbers in the CPV nomenclature set out in Annexes I and II, insofar as this does not change the material scope of this Directive, and the procedures for reference in the notices to particular headings in the CPV nomenclature within the categories of services listed in those Annexes;

(b) the technical details and characteristics of the devices for electronic receipt referred to in points (a), (f) and (g) of Annex VIII."

(3) the following Articles 66a and 66 b are inserted:

*"Article 66a*

#### **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 68(1) and Article 69(2) shall be conferred on the Commission for [...] **a period of five years from[*date of entry into force of this 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 68(1) and Article 69(2) 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 on Better Law-Making of 13 April 2016\*.

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 68(1) and Article 69(2) 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.

#### *Article 66b*

#### **Urgency procedure**

1. 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 to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 66a (6). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

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\* OJ L 123, 12.5.2016, p. 1.";

(6) in Article 67, paragraphs 3 and 4 are deleted.

**97. Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of eco-design requirements for energy- related products<sup>18</sup>**

[...]

**In order to ensure uniform conditions for the implementation of Directive 2009/125/EC, implementing powers should be conferred on the Commission to lay down specific ecodesign requirements for selected environmental aspects which have a significant environmental impact. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.**

**There is no need to empower the Commission in Directive 2009/125/EC to adopt certain implementing measures during a transitional period. Therefore, the possibility to adopt those implementing measures in accordance with the regulatory procedure with scrutiny should be removed from Directive 2009/125/EC, without replacing it with an empowerment conferred in accordance with Article 290(1) or Article 291(2) of the Treaty.**

Accordingly, Directive 2009/125/EC is amended as follows:

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<sup>18</sup> OJ L 285, 31.10.2009, p. 10.

(1) Article 15 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Where a product meets the criteria listed in paragraph 2, it shall be covered by [...] **an implementing act** or by a self-regulation measure in accordance with paragraph 3(b).

[...] **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(3).**";

(b) paragraph 3 is replaced by the following:

"3. In preparing [...] **an implementing act** the Commission shall take into account:

(a) Union environmental priorities, such as those set out in Decision No 1600/2002/EC or in the Commission's European Climate Change Programme

(ECCP);

(b) relevant Union legislation and self-regulation, such as voluntary agreements, which, following an assessment in accordance with Article 17, are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements.";

(c) paragraph 10 is replaced by the following:

"10. Where appropriate [...] **an implementing act** laying down ecodesign requirements shall include provisions on the balancing of various environmental aspects.";

(2) [...] Article 16(2) **is deleted.** [...]

[...]



(3[...] ) in Article 19, the third paragraph is [...] **replaced by the following:**

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

\* Regulation (EU) No 182/2011 of the European Parliament and 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).

98. [...]

99. [...]

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