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'I/A' ITEM NOTE

From: Presidency

To: Permanent Representatives Committee (Part 2)/Council

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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 X "Justice and Consumers" and Section XIII "Taxation and Customs Union"

X. JUSTICE AND CONSUMERS

100. Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)¹

In order to take account of technical progress, changes in international regulations or specifications and new findings, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to [...] **make strictly technical amendments to Annex I to Directive 92/85/EEC** [...]. 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 of **13 April 2016** on Better Law-Making [...]. 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 systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

It is recalled that the Commission is assisted by the Advisory Committee on Safety and Health at Work in the preparation, implementation and evaluation of activities in the fields of safety and health at work, in accordance with Council Decision of 22 July 2003².

Accordingly, Directive 92/85/EEC is amended as follows:

(1) in Article 13, paragraph 1 is replaced by the following:

"1. The Commission is empowered to adopt delegated acts in accordance with Article 13a **introducing strictly technical amendments to** [...] Annex I [...], in order to take account of technical progress, changes in international regulations or specifications and new findings.

[...]";

(1a) in Article 13, paragraph 2 is deleted.

¹ OJ L 348, 28.11.1992, p. 1.

² Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1).

(2) 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 13(1) shall be conferred on the Commission for [...] **a period of 5 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 5 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 13(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 Inter-institutional Agreement o[...] **f 13 April 2016 Better Law-Making [...]***
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 13(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 the Council.

[...]

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

101. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EC³

In order to update Directive 2008/48/EC, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend that Directive to add additional assumptions for the calculation of the annual percentage rate or to modify the existing assumptions. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making [...]. 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 2008/48/EC is amended as follows:

³ OJ L 133, 22.5.2008, p. 66.

(1) in Article 19, paragraph 5 is replaced by the following:

"5. Where necessary, the additional assumptions set out in Annex I may be used in calculating the annual percentage rate of the charge.

If the assumptions set out in this Article and in Part II of Annex I do not suffice to calculate the annual percentage rate of the charge in a uniform manner or are no longer adapted to the commercial situations in the market, the Commission is empowered to adopt delegated acts in accordance with Article 24a amending this Article and **Part II of Annex I** to add the necessary additional assumptions for the calculation of the annual percentage rate of charge or to modify the existing ones.";

(2) the following Article 24a is inserted:

"Article 24a

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 19(5) shall be conferred on the Commission for [...] **a period of 5 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 5 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 19(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of **13 April 2016** on Better Law-Making [...]*.

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

6. A delegated act adopted pursuant to Article 19(5) 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.

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

(3) Article 25 is deleted.

XIII. TAXATION AND CUSTOMS UNION

168. Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade

Under Article 15 of Decision No 70/2008/EC the Commission is empowered to extend certain time limits in accordance with Council Decision 1999/468/EC. That empowerment has never been exercised and is no longer needed. Therefore, it is not necessary to adapt it to Article 290 of the Treaty. Instead, the empowerment should be revoked and Articles 15 and 16 of the Decision should be deleted.

Accordingly, in Decision No 70/2008/EC, Articles 15 and 16 are deleted