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*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN PARLIAMENT

P8_TA(2016)0081

Interinstitutional agreement on Better Law-making**European Parliament decision of 9 March 2016 on the conclusion of an Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council of the European Union and the European Commission (2016/2005(ACI))**

(2018/C 050/13)

The European Parliament,

- having regard to the decision of the Conference of Presidents of 16 December 2015,
- having regard to the draft Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council of the European Union and the European Commission,
- having regard to Article 17(1) of the Treaty on European Union,
- having regard to Article 295 of the Treaty on the Functioning of the European Union,
- having regard to the Commission proposal for an Interinstitutional Agreement on Better Regulation (COM(2015)0216 and the annexes thereto),
- having regard to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission ⁽¹⁾ ('the 2010 Framework Agreement'),
- having regard to the Interinstitutional Agreement of 16 December 2003 on Better Law-making between the European Parliament, the Council of the European Union and the Commission of the European Communities ⁽²⁾ ('the 2003 Interinstitutional Agreement'),
- having regard to its resolution of 4 February 2014 on EU Regulatory Fitness and Subsidiarity and Proportionality — 19th report on Better Lawmaking covering the year 2011 ⁽³⁾,
- having regard to its resolution of 16 September 2015 on the Commission Work Programme 2016 ⁽⁴⁾,
- having regard to the conclusions of the European Council of 18 and 19 February 2016,

⁽¹⁾ OJ L 304, 20.11.2010, p. 47.⁽²⁾ OJ C 321, 31.12.2003, p. 1.⁽³⁾ Texts adopted, P7_TA(2014)0061.⁽⁴⁾ Texts adopted, P8_TA(2015)0323.

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- having regard to Rule 140(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A8-0039/2016),
- A. whereas Parliament has repeatedly called for the 2003 Interinstitutional Agreement to be renegotiated in order to take into account the new legislative environment created by the Treaty of Lisbon, consolidate current best practices, and bring that agreement up to date in line with the 'better law-making' agenda;
- B. whereas the Committee of the Regions, the European Economic and Social Committee and various national parliaments have expressed their views on the Commission's Communication of 19 May 2015 on Better regulation for better results — An EU agenda (COM(2015)0215), the above-mentioned Commission proposal for an Interinstitutional Agreement on Better Regulation or the consensus reached between the institutions on a new Interinstitutional Agreement on Better Law-Making;
- C. whereas, in its above-mentioned resolution of 16 September 2015, Parliament welcomed the opening of negotiations for a new interinstitutional agreement on better law-making and set out a number of priorities, notably as regards the quality of the Commission's legislative drafting, multiannual and annual programming, the strengthening of impact assessment of draft laws, equal treatment of the two branches of the legislative authority throughout the legislative process in terms of access to information, proper interinstitutional consultations, the Commission's follow-up to Parliament's proposals and recommendations and the provision of detailed justifications for each envisaged withdrawal;
- D. whereas interinstitutional negotiations were formally opened on 25 June 2015;
- E. whereas, on 16 December 2015, the Conference of Presidents endorsed, by a majority vote, the provisional agreement that had been reached between negotiators of the three institutions on 8 December 2015 on the wording of a new Interinstitutional Agreement on Better Law-Making ('the new IIA');
- F. whereas the new IIA aims to replace the 2003 Interinstitutional Agreement and the Interinstitutional Common Approach to Impact Assessment of November 2005, and whereas the Annex to the new IIA is intended to replace the 2011 Common Understanding on Delegated Acts;
- G. whereas, in accordance with the declaration of the European Parliament and the Commission set out in Annex II to this decision, the new IIA is without prejudice to the 2010 Framework Agreement;
- H. whereas, nevertheless, certain provisions of the 2010 Framework Agreement may become obsolete or may need to be brought up to date as a result of the new IIA;
- I. whereas the new IIA envisages further interinstitutional negotiations, notably on practical arrangements for cooperation and information-sharing in the context of the conclusion of international agreements and on criteria for the application of Articles 290 and 291 of the TFEU on delegated and implementing acts respectively;
- J. whereas certain provisions of Parliament's Rules of Procedure will need to be adapted as a consequence of the new IIA, such as those relating to the Commission Work Programme and verification of the legal basis of acts;
- K. whereas the new IIA addresses, in one way or another, the main concerns expressed by Parliament's Committee on Constitutional Affairs in its 'Contribution of AFCE to the position of the European Parliament for the negotiations on the revision of the Interinstitutional Agreement on Better Law-Making' of 22 April 2015;
1. Welcomes the agreement reached between the institutions and considers this a good basis for establishing and developing a new, more open and transparent relationship between them with a view to delivering better law-making in the interest of the Union's citizens;

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2. Deeply regrets, in the context of better law-making, that negotiations on the IIA failed to follow established practice in terms of a committee procedure in the European Parliament;

3. Welcomes, in particular, the results of the negotiations as regards multiannual and annual interinstitutional programming, the Commission's follow-up to Parliament's legislative initiatives, and the provision of justifications for and consultations on envisaged withdrawals of legislative proposals; stresses that the agreed strong focus on the Commission's work programme cannot be understood as justifying any restriction of Parliament's own legislative powers or right of initiative; welcomes the agreed interinstitutional exchange of views in the event that a modification of the legal basis of an act is envisaged, and expresses its strong determination to resist any attempt to undermine the legislative powers of the European Parliament by means of a modification of the legal basis;

4. Underlines the importance of the new IIA's provisions on better law-making tools (impact assessments, public and stakeholder consultations, evaluations, etc.) for a well-informed, inclusive and transparent decision-making process and for the correct application of legislation, whilst noting that those provisions safeguard the prerogatives of the legislators; believes that impact assessments must be comprehensive and balanced and should assess, inter alia, the cost to producers, consumers, workers, administrators and to the environment of not adopting the necessary legislation; is concerned that the wording in relation to impact assessments does not sufficiently commit the three institutions to include small and medium-sized enterprises (SMEs) and competitiveness tests in their impact assessments; stresses the importance of taking into account, and paying attention to, the needs of SMEs at all stages of the legislative cycle; underlines that, in accordance with the Commission Staff Working Document of 19 May 2015 on Better Regulation guidelines (SWD(2015)0111), the assessment of the impact on SME shall be included in impact assessment reports and calls on the Commission to provide supplementary information on this practice; welcomes the aim of improving the implementation and application of Union legislation, inter alia through better identification of national measures that are not required by the Union legislation that is to be transposed ('gold-plating'), and, whilst bearing in mind that Member States are free to apply higher standards if only minimum standards are defined by Union law, expects Member States to clearly indicate and document such measures;

5. Notes that the cumulative cost of legislation can result in significant difficulties for businesses and individuals affected by Union rules;

6. Takes note of the letter of 15 December 2015 from the First Vice President of the Commission on the functioning of the new Regulatory Scrutiny Board, which is to oversee the quality of the Commission's impact assessments (but without giving it a power of veto over legislative proposals, which is a matter for the elected authorities); recalls that, in its resolution of 27 November 2014 on the revision of the Commission's impact assessment guidelines and the role of the SME test ⁽¹⁾, it requested that the independence of the Regulatory Scrutiny Board (formerly 'Impact Assessment Board') be strengthened including, in particular, that members of the Board should not be subject to political control; believes, in this respect, that the establishment of the Regulatory Scrutiny Board is a welcome first step in achieving independence thereof; points out that the legislators may also carry out their own impact assessments where they consider this necessary; notes that impact assessments do not replace the political decision-making process; underlines, furthermore, that the new IIA provides for exchanges of information between the institutions on best practice and methodologies relating to impact assessments, thereby providing an opportunity to review in due time the functioning of the Regulatory Scrutiny Board with a view to achieving a common methodology;

7. Welcomes the agreement between the institutions to cooperate in order to update and simplify legislation and to exchange views thereon, prior to the finalisation of the Commission Work Programme; underlines the importance of the agreed 'Annual Burden Survey' as a tool to identify and monitor, in a clear and transparent manner, the results of the Union's efforts, in order to avoid and reduce any overregulation and administrative burdens, which should include a list relating specifically to SME's and should distinguish between burdens that individual Commission proposals seek to impose and acts by individual Member States; points out that the feasibility and desirability of establishing objectives for the reduction of burdens in specific sectors must be carefully evaluated on a case-by-case basis in close cooperation between the

⁽¹⁾ Texts adopted, P8_TA(2014)0069.

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institutions, while focusing on the quality of legislation, and without undermining relevant Union standards; expects the Commission to propose, on a regular basis, the repeal of legal acts where such repeal is deemed to be necessary; welcomes in this respect the fact that the three institutions have agreed that impact assessments should also address the impact of proposals on administrative burdens, particularly as regards SMEs; recognises that appropriate Union legislation can cut administrative burdens for SME's by replacing 28 divergent sets of rules with a single set of rules for the internal market;

8. Believes that, in principle, a balanced solution has been found with regard to delegated and implementing acts, ensuring transparency and parity between legislators, but points to the need for a swift agreement on appropriate criteria for delineating delegated and implementing acts and a prompt alignment of all basic acts to the legal framework introduced by the Treaty of Lisbon;

9. Acknowledges that the agreed measures to improve the mutual exchange of views and information between Parliament and the Council in their capacity as legislators constitute a step forward; considers, however, that those measures should be developed further, particularly in terms of mutual access to information and meetings, so as to ensure a truly equal balance and equal treatment between the legislators throughout the legislative procedure, and to guarantee that the principle of mutual sincere cooperation among institutions is complied with; warns that the agreed informal exchanges of views should not develop into a new arena of non-transparent interinstitutional negotiations;

10. Recalls that the TFEU establishes an ordinary legislative procedure with three readings; points out that, where Parliament and the Council fully exercise their prerogatives in the legislative procedure, second-reading agreements should be the standard procedure whereas first reading agreements should be used only where a considered and explicit decision has been taken to do so;

11. Welcomes the commitment to ensure transparency of legislative procedures, but underlines the need for more concrete provisions and tools to achieve this, in particular as regards the use of first-reading agreements;

12. Believes, also, that better use should be made of the arrangements for political dialogue with national parliaments; highlights, in this connection, the important role given to national parliaments by the Lisbon Treaty and stresses that, alongside the role which they play in monitoring respect for the principles of subsidiarity and proportionality, they can and do make positive contributions in the framework of the political dialogue; encourages better use of the existing subsidiarity and proportionality mechanisms as laid down in the Treaties; emphasises the need for greater flexibility in the enforcement of the eight week deadline for national parliaments to issue a reasoned opinion on non-compliance with the principle of subsidiarity;

13. Calls for a comprehensive evaluation of the impact that the new IIA will have on the 2010 Framework Agreement and other related existing interinstitutional agreements, bearing in mind the need to safeguard the European Parliament's position and prerogatives and to simplify the architecture of the numerous arrangements regulating interinstitutional relations;

14. Considers that such simplification should be carried through once all practical arrangements to implement the new IIA in its entirety are in place, at which point the institutions could also evaluate whether adjustments to the new IIA may be necessary in light of experience gained up until that point in time with the implementation of the new IIA;

15. Underlines the importance of proper implementation and of ensuring that the commitments given and the deadlines set out in the new IIA are honoured;

16. Points out that the following issues in particular need further follow-up at technical and/or political level, with the active involvement, and drawing on the expertise, of all parliamentary committees having the relevant experience:

— programming (technical review of the 2010 Framework Agreement and Parliament's Rules of Procedure);

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- verification of the legal basis of acts (review of the Rules of Procedure to incorporate arrangements for a trilateral exchange of views);
 - evaluation of the application by the Commission of its abovementioned Better Regulation Guidelines and of the effective functioning of the newly created Regulatory Scrutiny Board, in particular in order to verify, in accordance with paragraph 6, that it operates in an independent manner and that its members are not subject to any political control;
 - the transparency and coordination of the legislative process (including the appropriate use of first and second-reading procedures, practical arrangements for exchanges of views, information-sharing and comparison of time-tables, transparency in the context of trilateral negotiations, development of platforms and tools for the establishment of a joint database on the state of play of legislative files, the provision of information to national parliaments and practical arrangements for cooperation and information-sharing regarding negotiations on, and the conclusion of, international agreements);
 - an evaluation and possible follow up of the independence of the Regulatory Scrutiny Board in fulfilling its role in supervising and providing objective advice on respective impact assessments;
 - the expectation by Parliament, pursuant to the relevant provisions of the new IIA, that the Commission comes forward with proposals establishing targets, where feasible, for the reduction of burdens in key sectors as soon as possible while ensuring that the objectives of the legislation are met;
 - ensuring operational and legal coherence between the new IIA and cooperation agreements regarding the Union advisory bodies;
 - delegated and implementing acts, on the basis of its resolution of 25 February 2014 on follow-up on the delegation of legislative powers and control by Member States of the Commission's exercise of implementing powers ⁽¹⁾ (negotiations on delineation criteria for delegated and implementing acts, the setting-up of a register of delegated acts and full alignment of pre-Lisbon acts);
 - implementation and application of Union legislation (scrutiny of the communication, by Member States, of the transposition of directives, as well as of each national measure that goes beyond the provisions of Union legislation ('gold-plating'));
17. Approves the draft agreement contained in Annex I to this decision;
 18. Approves the statement by Parliament and the Commission contained in Annex II to this decision;
 19. Asks its competent committee to examine the extent to which amendments or interpretation of the Rules of Procedure or changes to Parliament's practices, administration and channels of contact with other institutions are necessary for the implementation of the new IIA;
 20. Instructs its President to sign the new IIA with the President of the Council and the President of the Commission and to arrange for its publication in the *Official Journal of the European Union*;
 21. Instructs its President to forward this decision, including its annexes, to the Council and the Commission for information.

⁽¹⁾ Texts adopted, P7_TA(2014)0127.

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ANNEX I

Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making

(The text of this annex is not reproduced here since it corresponds to the interinstitutional agreement as published in OJ L 123, 12.5.2016, p. 1.)

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ANNEX II

**STATEMENT OF THE EUROPEAN PARLIAMENT AND OF THE COMMISSION ON THE OCCASION OF THE ADOPTION OF
THE INTERINSTITUTIONAL AGREEMENT ON BETTER LAW-MAKING**

The European Parliament and the Commission consider that this Agreement reflects the balance between, and respective competences of, the European Parliament, the Council and the Commission as set out in the Treaties.

It is without prejudice to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission ⁽¹⁾.

⁽¹⁾ OJ L 304, 20.11.2010, p. 47.