Annex

Common Understanding

I. Scope and general principles

1. Taking into account the commitments mentioned by the Commission in the communication of 9 December 2009, this Common Understanding builds further on that communication and streamlines the practice established thereafter by the European Parliament and the Council. It sets out the practical arrangements and agreed clarifications and preferences applicable to delegations of legislative power under Article 290 of the Treaty on the Functioning of the European Union (TFEU), in accordance with the objectives, content, scope and duration of a delegation must be expressly defined in each legislative act making a delegation (hereinafter "the basic act").

2. In exercising their powers and in compliance with the procedures laid down in the TFEU, the three Institutions shall cooperate throughout the procedure with a view to a smooth exercise of delegated power and an effective control of this power by the European Parliament and the Council. To this effect, appropriate contacts at administrative level shall be established.

3. The Institutions concerned, depending on the procedure for the adoption of the basic act, undertake to refer as far as possible to the standard clauses annexed to this Common Understanding when proposing or making delegations of power under Article 290 TFEU.

II. Consultations in the preparation and drawing-up of delegated acts

4. The Commission, when preparing and drawing up delegated acts, will ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council and carry out appropriate and transparent consultations well in advance, including at expert level. The European Parliament and the Council shall indicate to the Commission their respective functional mailboxes to be used for the transmission of documents relating to these consultations.

III. Arrangements for the transmission of documents and computation of time periods

5. By way of an appropriate mechanism, the Commission shall officially transmit the delegated acts to the European Parliament and the Council. Classified documents shall be processed in accordance with internal administrative procedures drawn up by each institution with a view to providing all the requisite guarantees.

6. In order to ensure that the European Parliament and the Council are able to exercise the rights provided for in Article 290 TFEU within the time limits laid down in each basic act, the Commission shall not transmit any delegated acts during the following periods:

   - From 22 December until 6 January.

   - From [1 July until 15 July] [15 July until 20 August].

   These periods shall only apply when the period of objection is based on paragraph 10.

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

   The three institutions shall agree by 1 October 2013 on an arrangement for the notification of delegated acts during the European Elections in 2014.

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

IV. Duration of the delegation

8. The basic act may empower the Commission to adopt delegated acts for an undetermined or determined period of time.

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

V. Periods for objection by the European Parliament and Council

10. Without prejudice to the urgency procedure, the period for objection defined on a case-by-case basis in each basic act should in principle be of two months, and not less than that, extendable by two months at the initiative of the European Parliament or the Council.

11. However, the delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission that they will not object.

VI. Urgency procedure

12. An urgency procedure should be reserved for exceptional cases, such as security and safety matters, the protection of health and safety, or external relations, including humanitarian crises. The European Parliament and the Council should justify the choice of an urgency procedure in the basic act. The basic act shall specify the cases in which the urgency procedure shall be used.

13. The Commission undertakes to keep the European Parliament and the Council fully informed about the possibility of a delegated act being adopted under the urgency procedure. As soon as the Commission services foresee such a possibility, they shall informally forewarn the secretariats of the European Parliament and the Council via the functional mailboxes mentioned in point 4.

14. A delegated act adopted under the urgency procedure shall enter into force without delay and apply as long as no objection is expressed within the period provided for in the basic act. If an objection is expressed, the Commission shall repeal the act without delay following the notification by the European Parliament or the Council of the decision to object.

15. When notifying a delegated act under the urgency procedure to Parliament and the Council, the Commission shall state the reasons for its use.

VII. Publication in the Official Journal

16. Delegated acts shall be published in the L series of the *Official Journal of the European Union* only after the expiry of the period for objection, with the exception of paragraph 11 above. Delegated acts adopted under the urgency procedure shall be published without delay.

17. Without prejudice to Article 297 TFEU, decisions by the European Parliament or Council to revoke a delegation, to object to a delegated act adopted under the urgency procedure or to oppose the tacit renewal of a delegation of power shall also be published in the L series of the *Official Journal of the European Union.* A decision to revoke shall enter into force the day following its publication of the decision in the *Official Journal of the European Union.*

18. The Commission shall also publish in the *Official Journal of the European Union* the decisions repealing delegated acts adopted under the urgency procedure.

VIII. Mutual exchange of information, in particular in the event of a revocation

19. When exercising their rights in applying the conditions laid down in the basic act, the European Parliament and the Council will inform each other and the Commission.

20. When either the European Parliament or the Council initiates a procedure which could lead to the revocation of a delegation, it will inform the other two institutions at the latest one month before taking the decision to revoke.

Annex: standard clauses

Recital:

In order to [objective], the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of [content and scope]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Article(s) delegating power

The Commission shall be empowered to adopt delegated acts in accordance with Article a concerning [*content and scope*].

Supplementary paragraph to be added where urgency procedure applies:

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

Article a
Exercise of the delegation

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

2. [*duration*]

Option 1:
The delegation of power referred to in Article[s] shall be conferred for an indeterminate period of time from the (*)

Option 2:
The delegation of power referred to in Article[s] shall be conferred on the Commission for a period of X years from the (*).The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the X-year period. The delegation of power shall be tacitly extended for

periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Option 3:
The delegation of power referred to in Article[s] shall be conferred on the Commission for a period of *X* years from the (*)

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

3. The delegation of powers referred to in Articles ... may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Article ... shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 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 [2 months] at the initiative of the European Parliament or the Council.

Supplementary article to be added where urgency procedure applies:

Article b
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 a (5). 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 the Council.