Protecting against the effects of the extra-territorial application of legislation adopted by a third country and actions based thereon or resulting therefrom. Recast

2015/0027(COD) - 06/02/2015 - Legislative proposal

PURPOSE: to undertake a codification of Council Regulation (EC) No 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: The European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Council Regulation (EC) No 2271/96 has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

CONTENT: the purpose of this proposal is to undertake a **codification** of Council Regulation (EC) No 2271/96 of 22 November 1996. The new Regulation will supersede the various acts incorporated in it, fully preserving the content of the acts being codified.

At the same time, it is also appropriate to make certain substantive amendments to Regulation (EC) No 2271/96, with a view to delegating powers to the Commission. Therefore, the proposal is being presented in the form of a **recast**.

Develop world trade and progressive abolition of restrictions on international trade: the proposed Regulation provides seeks to provide protection against and counteracts the effects of the extra-territorial application of the laws, regulations and other legislative instruments specified in Annex I, and of actions based thereon or resulting therefrom, where such application affects the interests of persons, referred to in the Regulation, engaging in international trade and/or the movement of capital and related commercial activities between the Union and third countries.

A third country (the United States of America) has enacted certain laws, regulations and other legislative instruments which purport to regulate activities of natural and legal persons under the jurisdiction of the Member States.

By their extra-territorial application such laws, regulations and other legislative instruments violate international law and impede the attainment of the objectives of free movement of capital between Member States and third countries, including the removal of any restrictions on direct investment, including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets.

The proposed Regulation stipulates that, under exceptional circumstances, it is necessary to protect the established legal order, the interests of the Union and the interests of the said natural and legal persons at Union level, in particular by removing, neutralising, blocking or otherwise countering the effects of the foreign legislation concerned.

Delegated acts: under this proposal, the Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU for the purpose of amending Annex I to this Regulation as well as for establishing criteria for the authorisation of persons to comply fully or partially with any requirement or prohibition, including requests of foreign courts, in cases where non-compliance would seriously damage their interests or those of the Union.