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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Directive 2009/42/EC of the European Parliament and of the Council on
statistical returns in respect of carriage of goods and passengers by sea**

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amending Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The purpose of this proposal for a Regulation of the European Parliament and the Council is to amend Directive 2009/42/EC in order to make the collection of data by type of goods mandatory for maritime transport statistics.

The collection of data by type of goods is mandatory for road¹, rail², and inland waterways³ transport European statistics.

European statistics on all modes of transport should be collected according to common concepts and standards, with the aim of achieving the fullest practicable comparability between transport modes. More particularly, the availability of comprehensive and homogeneous statistics by type of goods for all the modes of transport would provide a general framework useful to support and monitor the policy promoting co-modality, i.e. the possibility of optimally combining various modes of transport within the same transport chain, and the modernisation of freight transport logistics⁴.

- **General context**

A technical analysis of the data collected under the European legislation on statistical returns in respect of carriage of goods and passengers by sea and of the dissemination policy has been carried out at European level, in order to propose possible technical solutions to simplify, as much as possible, the various activities necessary for the statistical production, while keeping the final output in line with present and foreseeable user needs.

During this analysis the possibility to increase the efficiency in the use of resources devoted to statistical returns in respect of carriage of goods and passengers by sea, by concentrating activities in areas identified by users as more important (statistics on goods) than others (statistics on passengers and on vessel traffic), has been taken into account. As a result of this analysis, simplifications in the statistics on both passengers transport in the main European ports and vessel traffic in the main European ports have been adopted by the Commission⁵ recently.

A certain part of the technical analysis was devoted to the possibility and the

¹ Council Regulation (EC) No 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road, OJ L163, 6.6.1998, p. 1.

² Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, OJ L 14, 21.1.2003, p. 1.

³ Regulation (EC) No 1365/2006 of the European Parliament and of the Council of 6 September 2006 on statistics of goods transport by inland waterways, OJ L 264, 25.9.2006, p. 1.

⁴ Communication from the Commission to the Council and the European Parliament "Keep Europe moving - Sustainable mobility for our continent - Mid-term review of the European Commission's 2001 Transport White Paper", COM (2006) 314 final of 22.06.2006.

⁵ Commission Decision No .../.../EU of ... amending Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea, OJ ...

conditions under which the data collection by type of goods (data set B1) could be made mandatory.

According to the second paragraph of Annex VIII of Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea⁶, the conditions for collecting data set B1 (data concerning "Seaborne transport in the main European ports, by port, type of cargo, goods and relation") shall be decided by the Council on a proposal from the Commission in the light of the results of the pilot study carried out during a three-year transitional period, as provided for in Article 10 of Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea⁷, and concerning the feasibility and the cost to Member States and to respondents of collecting those items of information.

According to the Report from the Commission to the Council and to the European Parliament on experience acquired in the work carried out pursuant to Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea⁸, the collection of detailed information appeared feasible and at reasonable cost for bulk and semi-bulk cargo; however the main difficulty occurred in compiling such data for containers and roll-on-roll-off traffic; it was prudent to explore the possibility to extend the Directive 95/64/EC to other items of information listed in Article 10(2)(a) only when more experience had been gained with collecting the current variables and the current system was well established; as regards the collection of commodity information, the potential revisions of the NST/R classification (Standard Goods Classification for Transport Statistics/Revised, 1967) should be taken into account.

The functioning of the current collection system is well established, including the implementation of the modifications introduced by Commission Decision 2005/366 of 4 March 2005⁹ and the geographical extension of the system due to 2004¹⁰ and 2007¹¹ enlargements of the European Union.

A large part of Member States transmitting data to Eurostat under the scope of the Directive have been regularly providing Eurostat with data set B1 on a voluntary basis according to the NST/R classification.

The main problems in compiling data by type of goods according to NST/R

⁶ OJ L 141, 6.6.2009, p. 29

⁷ OJ L 320, 30.12.1995, p. 25. Directive 95/64/EC has been repealed by Directive 2009/42/EC.

⁸ COM (2001) 93 of 20.2.2001.

⁹ OJ L 123, 17.5.2005, p. 1.

¹⁰ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJ L 236, 23.9.2003, p. 573

¹¹ Commission Regulation (EC) No 1792/2006 of 23 October 2006 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement of persons, competition policy, agriculture (veterinary and phytosanitary legislation), fisheries, transport policy, taxation, statistics, social policy and employment, environment, customs union, and external relations by reason of the accession of Bulgaria and Romania, OJ L 362, 20.12.2006, p. 53.

¹² Annex III to the Directive.

¹³ Commission Regulation 1304/2007 of 7 November 2007, OJ L 290, 8.11.2007, p. 14.

classification, as mentioned in the Report cited above, have been solved by the introduction of the NST 2007¹² (Standard Goods Classification for Transport Statistics, 2007) as the unique classification for transported goods in maritime, road, rail and inland waterways transport, applicable from the reference year 2008, covering the 2008 data.¹³

For the Member States already collecting data set B1, the compilation of data according to NST 2007 necessitates a reclassification of information already available at the competent National Statistical Authorities, without any additional burden on respondents, following the same approach as for road, rail and inland waterways transport statistics; for the other Member States, it should be possible to compile data set B1 by using information already available at the competent National Statistical Authorities, with very limited exceptions. For the most part, the collection of data set B1 will not impose any additional burden on respondents.

Finally it was agreed that the introduction in 2011 of the obligation to provide the Commission (Eurostat) with data set B1, would give Member States an adequate period during which a voluntary compilation could be used for the necessary tests and adaptations.

- **Existing provisions in the area of the proposal**

Provisions already exist in the current legislation (Directive 2009/42/EC, Annex VIII, data set B1); however, data are collected on a voluntary basis.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

At the beginning of 2006 a Task Force on Maritime Transport Statistics was created to carry out a technical analysis of the existing data collection and dissemination policy, under the European legislation on statistical returns in respect of carriage of goods and passengers by sea.

The Task Force includes representatives from different organisations (data producers, users and maritime transport experts), and more precisely:

- Competent National Statistical Authorities (National Statistical Institutes, National Maritime Administrations, Ministries of Transport);
- Commission Services;
- the European Maritime Safety Agency;
- economic operators (European Sea Port Organisation – ESPO, European Community Ship-owners Associations – ECSA).

In order to prepare and feed the work of the Task Force, in 2006 Eurostat circulated a specific questionnaire to the main users of maritime transport statistics within the Commission, namely DG TREN, DG COMP, DG ENV, DG FISH (now DG MARE),

DG JLS, DG TAXUD.

The proposals elaborated by the Task Force were then discussed in the standard framework of the European Statistical System, by the Working Group on Maritime Transport Statistics and the Coordinating Committee for Statistics on Transport.

This proposal for a Regulation of the European Parliament and the Council has been object of intensive negotiations between the interested parties and is part of an overall package of legislative initiatives that is in accordance with the Commission's policy approach to the simplification of legislation and better regulation¹⁴ and more precisely:

- Commission Regulation 1304/2007 of 7 November 2007¹⁵, establishing the classification NST 2007 for transported goods in all the concerned modes of transport;
- Draft Commission Decision No .../.../EU of ... amending Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea, simplifying statistics on passenger transport and vessel traffic;

The previously existing legislation has also undergone a process of recast of the basic act¹⁶ and codification of the implementing acts.¹⁷

- **Collection and use of expertise**

The participants in the Task Force on Maritime Transport Statistics and the Working Group on Maritime Transport Statistics were all experts with knowledge of the existing legislation, the national systems for collecting and compiling maritime transport statistics and new trends in the development of maritime transport.

- **Analysis of effects and consequences**

Option 1: (The current legislation is maintained) – It would not be possible to secure a complete and continuous provision of statistical data on maritime transport by type of goods.

Option 2: (The current legislation will be amended) – It would be possible to secure a complete and continuous provision of statistical data on maritime transport by type of goods. A comprehensive and homogeneous statistics by type of goods for all the modes of transport would provide a general framework useful to support and monitor the policy promoting co-modality, i.e. the possibility of optimally combining various modes of transport within the same transport chain, and the modernisation of freight transport logistics. More generally, the proposed amendment, in combination with

¹⁴ COM(2006) 689; COM(2006) 693; COM(2007) 23; COM(2008) 35; COM(2009) 28.

¹⁵ OJ L 290 of 8.11.2007, p. 14

¹⁶ Directive 2009/42/EC of the European Parliament and of the Council of 6 May 2009, OJ L 141, 6.6.2009, p.29

¹⁷ Commission Decision 2008/861/EC of 29 October 2008, OJ L 306, 15.11.2008, p. 66

other legal initiatives, would adapt the statistical output to current and foreseeable users' needs.

As presented under the part 1 of this explanatory memorandum, an evaluation of the effects of this proposal on the burden for respondents, was made by the Task Force on Maritime Transport Statistics, the Working Group on Maritime Transport Statistics (where all the National Statistical Authorities in charge of this data collection are represented) and the Coordinating Committee on Statistics on Transport: for the most part, the collection of data set B1 will not impose any additional burden on respondents.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The objective of the Regulation is to ensure a complete and continuous provision of statistical data on maritime transport by type of goods, consistent and harmonised with the statistics already available for the other relevant modes of transport.

- **Legal basis**

Article 338 of the Treaty on the Functioning of the European Union provides the legal basis for European statistics. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Union. This Article sets out the requirements relating to the production of European statistics, stating that they must conform to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the European Union.

The objectives of this proposal, namely the establishment of a common framework for the systematic production of European statistics on seaborne goods using the same classification by type of goods as for the other relevant transport statistics, cannot be sufficiently achieved by the Member States via a voluntary collection.

The objectives can be achieved more readily at European level on the basis of a European legal act, because only the Commission can coordinate the necessary harmonisation of statistical information at European level, whereas the collection of data and compilation of comparable statistics on maritime transport can be organised by the Member States. The European Union may therefore take action to this end in accordance with the principle of subsidiary as enshrined in Article 5 of the Treaty on European Union

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

In line with the principle of proportionality, this Regulation confines itself to the minimum required to achieve its objective and does not go beyond what is necessary for that purpose. This Regulation does not specify the data collection mechanisms for each Member State, but the European legislation merely defines the data to be supplied so as to ensure a harmonised structure and timing.

- **Choice of instruments**

Proposed instruments: a European Parliament and Council Regulation.

4. BUDGETARY IMPLICATION

The data collection has no new implication for the European Union budget.

5. ADDITIONAL INFORMATION

The proposed act is an EEA matter and should therefore extend to the whole European Economic Area.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338 (1) thereof,

Having regard to the proposal from the Commission,

Having regard to the notification to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) According to the second paragraph of Annex VIII of Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea¹⁸, the conditions for collecting data set B1 (data concerning "Seaborne transport in the main European ports, by port, type of cargo, goods and relation") shall be decided by the Council on a proposal from the Commission in the light of the results of the pilot study carried out during a three-year transitional period, as provided for in Article 10 of Council Directive 95/64/EC of 8 December 1995 on statistical returns in respect of carriage of goods and passengers by sea¹⁹.
- (2) According to the Report from the Commission to the Council and to the European Parliament on experience acquired in the work carried out pursuant to Directive 95/64/EC²⁰, the collection of detailed information appeared feasible and at reasonable cost for bulk and semi-bulk cargo; however the main difficulty occurred in compiling such data for containers and roll-on-roll-off traffic. It was appropriate to explore the possibility to extend the scope of Directive 95/64/EC to other items of information listed in Article 10 (2)(a) only when more experience had been gained with collecting the current variables and the current system was well established. As regards the collection of commodity information the potential revisions of the NST/R

¹⁸ OJ L 141, 6.6.2009, p. 29.

¹⁹ OJ L 320, 30.12.1995, p. 25. Directive 95/64/EC has been repealed by Directive 2009/42/EC.

²⁰ COM (2001) 93 of 20.2.2001.

classification (Standard Goods Classification for Transport Statistics/Revised, 1967) should be taken into account.

- (3) The functioning of the current collection system is well established, including the implementation of the modifications introduced by Commission Decision 2005/366 of 4 March 2005 implementing Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea and amending Annexes thereto²¹ and the geographical extension of the system due to 2004 and 2007 enlargements of the European Union.
- (4) A large number of Member States transmitting data to Eurostat under the scope of Directive 95/64/EC have been regularly providing Eurostat with data set B1 on a voluntary basis according to the NST/R classification.
- (5) Commission Regulation 1304/2007 of 7 November 2007 amending Council Directive 95/64/EC, Council Regulation (EC) No 1172/98, Regulations (EC) No 91/2003 and (EC) No 1365/2006 of the European Parliament and of the Council with respect to the establishment of NST 2007 as the unique classification for transported goods in certain transport modes²² introduced the NST 2007 (Standard Goods Classification for Transport Statistics, 2007) as the unique classification for transported goods in maritime, road, rail and inland waterways transport. This classification is applicable as from the reference year 2008, covering the 2008 data. The main problems in compiling data by type of goods according to NST/R classification, as mentioned in the Report cited under recital (2), have been solved by the introduction of the NST 2007. Therefore, for the most part, the collection of data set B1 will not impose any additional burden on respondents.
- (6) The collection of data by type of goods is mandatory for road²³, rail²⁴, and inland waterways²⁵ transport European statistics, while it is voluntary for maritime transport. European statistics on all modes of transport should be collected according to common concepts and standards, with the aim of achieving the fullest practicable comparability between transport modes.
- (7) The introduction in 2011 of the obligation to provide the Commission (Eurostat) with data set B1, provides Member States with an adequate period of time during which a voluntary compilation could be used for the necessary tests and adaptations.
- (8) Directive 2009/42/EC should therefore be amended accordingly.

²¹ OJ L 123, 17.5.2005, p. 1.

²² OJ L 290, 8.11.2007, p. 14.

²³ Council Regulation (EC) No 1172/98 of 25 May 1998 on statistical returns in respect of the carriage of goods by road, OJ L163, 6.6.1998, p. 1.

²⁴ Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, OJ L 14, 21.1.2003, p. 1.

²⁵ Regulation (EC) No 1365/2006 of the European Parliament and of the Council of 6 September 2006 on statistics of goods transport by inland waterways, OJ L 264, 25.9.2006, p. 1.

HAVE ADOPTED THIS REGULATION:

Article 1

The second paragraph of Annex VIII to Directive 2009/42/EC is deleted.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

The first reference year for the application of this Regulation shall be 2011, covering the 2011 data.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President