



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the statistics relating to the trading of goods between Member States

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. HISTORY OF THE PROPOSAL

The system of collecting statistics on the trading of goods between Member States of the European Union, known as the Intrastat system, was introduced by Council Regulation (EEC) No 3330/91¹ and has been applicable since 1993, when the single market was completed and the physical frontiers between Member States were removed.

Up to this date, statistical information on the trading of goods, both with non-member countries and between Member States, was collected on the basis of customs declarations. The disappearance of this comprehensive and very closely controlled source of information made it necessary to devise a new system which would maintain a satisfactory level of information, since the advent of the internal market did not detract from the usefulness of statistics which help keep track of the progress made in integrating Europe's economies, and which help European businesses conduct market analyses and define their commercial strategies, whilst remaining an essential source of information for balance of payments statistics, national accounts or short-term economic studies.

From the outset, the main characteristics of the Intrastat system have been:

- the management of detailed statistical information on trade;
- direct collection of information from companies, which have to send the relevant statistical institute a summary statement for the previous month;
- a close link with the VAT system relating to intra-Community trade, so that the exhaustiveness and quality of the statistical data can be checked;
- a maximum reduction of the workload on businesses by means of a system of exemption or simplification thresholds.

Since its introduction, the Member States have, albeit to varying degrees, experienced difficulties in complying with the Community rules. In view of the difficulties faced by certain businesses, particularly very small enterprises, Intrastat was chosen in 1996 as a pilot project for the SLIM (Simpler Legislation for the Internal Market) initiative launched by the internal market ministers. The work has shown that the interests of data providers, who naturally want formalities to be simplified, are not easily reconciled with those of data users who generally want detailed information which is available quickly.

Despite this difficult context, the Commission and the Member States nonetheless managed to reach a consensus on amending the collection system on two occasions, firstly by reducing the number of statistical variables and then by simplifying the arrangements for supplying the product nomenclature.

In 1999, Eurostat adopted a long-term strategic plan that was the subject of extensive consultation among national administrations and professionals; it dealt with all statistics relating to the trading of goods (and not just Intrastat) and its specific aims were to improve

¹ OJ L 316, 16.11.1991, p. 1.

the reliability of results, speed up the availability of statistics and add to the range of statistics on offer in order to respond better to changing demand.

This new proposal for a European Parliament and Council Regulation, which aims to replace the regulations in force as from 2005, forms part of these efforts to improve and adapt the statistical system in order to take better account of both users' needs and the burden on information providers.

It has been drawn up by a working group composed of six Member States and chaired by Eurostat. The Committee on statistics relating to the trading of goods between Member States was kept regularly informed about the work carried out by this group and was twice consulted regarding the proposal. The Statistical Programme Committee was also informed.

2. CHARACTERISTICS OF THE PROPOSAL FOR A REGULATION

The main characteristics of the new Regulation are as follows:

- the contents of the basic regulation have been defined and drafted with the aim of making the rules clearer and simpler - and thus easily understood by non-specialists - but still precise so as to avoid any confusion when applying them and defining implementation measures;
- the scope of the new regulation is defined more clearly, being strictly limited to Community statistics with the Member States remaining free to compile more detailed national statistics to meet national needs;
- in accordance with the principle of subsidiarity, the new regulation gives the Member States more freedom to organise how the data are collected, and makes it possible to take greater account of the specific administrative set-up in each Member State;
- the content of the data to be collected, which had already been adapted under the SLIM initiative, remains unchanged; it has been validated following analysis of the results of three studies (an opinion poll of information providers in six Member States, a sample study of users of Community statistics, a study on problems with the product nomenclature in Sweden);
- the system of thresholds has been retained, in a simplified form, in order to provide a satisfactory response to users' needs whilst reducing the burden of response on the parties responsible for providing statistical information, particularly small and medium-sized enterprises;
- the new regulation now includes provisions on deadlines for the transmission of data and coverage of the entire trade sector which aim to respond in a more appropriate manner to requirements for the purposes of macroeconomic and short-term policy, particularly those expressed by the European Central Bank;
- a link has been retained between the system for collecting statistical information and the fiscal formalities which exist in the context of trade in goods between Member States; this link makes it possible, in particular, to check the quality of the information collected;
- provisions have been introduced which relate to the quality of the statistical information; these deal in particular with evaluating the quality of the data using common indicators and regular reports to ensure transparency in this field;
- the dispositions regarding confidentiality foresee that data are not disseminated or are hidden at the request of the information providers, in order to take into account the burden

caused by the treatment of confidential data by national bodies and in order to guarantee the relevance of data at detailed level ventilated by product; these provisions are in line with those in force in the framework of Extrastat.

- in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission², the committee set up to assist the Commission in implementing the new regulation is a *regulatory* committee, whereas the existing committee is a *management* committee.

² OJ L 184, 17.7.1999, p. 23.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,

Whereas:

- (1) Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States⁶ introduced a completely new system of data collection, which has been simplified on two occasions. In order to improve the transparency of this system and to facilitate comprehension, Regulation (EEC) No 3330/91 should be replaced by this Regulation.
- (2) This system should be retained, as a sufficiently detailed level of statistical information is still required for the Community policies involved in the development of the internal market and for European enterprises to analyse their specific markets. Aggregated data also need to be available quickly in order to analyse the development of economic and monetary union. Member States should have the possibility of collecting information which meets their specific needs.
- (3) There is, however, a need to improve the wording of the rules on compiling statistics relating to the trading of goods between Member States so that they can be more easily understood by the companies responsible for providing the data, the national services collecting the data and users.
- (4) A system of thresholds should be retained, but in a simplified form, in order to provide a satisfactory response to users' needs whilst reducing the burden of response on the parties responsible for providing statistical information, particularly small and medium-sized enterprises.

³ OJ C [...], [...], p.

⁴ OJ C [...], [...], p.

⁵ OJ C [...], [...], p.

⁶ OJ L 316, 16.11.1991, p. 1.

- (5) A close link should be maintained between the system for collecting statistical information and the fiscal formalities which exist in the context of trade of goods between Member States. This link makes it possible, in particular, to check the quality of the information collected.
- (6) The quality of the statistical information produced, its evaluation by means of common indicators and transparency in this field are important objectives which call for regulation at Community level.
- (7) Since the objectives of the planned action, namely the creation of a common legal framework for the systematic production of community statistics on exchange of goods between Member States, cannot be sufficiently achieved at national level and can be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is required to achieve those objectives.
- (8) Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics⁷ provides a reference framework for the provisions of this Regulation. However, the very detailed level of information in the field of statistics relating to the trading of goods requires specific rules with regard to confidentiality.
- (9) It is important to ensure the uniform application of this Regulation and, in order to do so, to make provision for a Community procedure to help determine the implementing arrangements within an appropriate timescale and to make the necessary technical adaptations.
- (10) The measures necessary for implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁸,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes a common framework for the systematic production of Community statistics on the trading of goods between Member States.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) 'goods': all movable property, including electric current;

⁷ OJ L 52, 22.2.1997, p. 1.

⁸ OJ L 184, 17.7.1999, p. 23.

- (b) ‘specific goods or movements’: goods or movements which, by their very nature, call for specific provisions, and in particular industrial plant; vessels and aircraft; sea products; goods delivered to vessels and aircraft; staggered consignments; military goods; goods to or from offshore installations; spacecraft; motor vehicle and aircraft parts; and waste products;
- (c) ‘national authorities’: national statistical institutes and other bodies responsible in each Member State for producing Community statistics on trading of goods between Member States;
- (d) ‘Community goods’:
 - (i) goods entirely obtained in the customs territory of the Community, without addition of goods from non-member countries or territories which are not part of the customs territory of the Community,
 - (ii) goods from countries or territories not forming part of the customs territory of the Community which have been released for free circulation in a Member State,
 - (iii) goods obtained in the customs territory of the Community either from the goods referred to exclusively in point (ii) or from the goods referred to in points (i) and (ii);
- (e) ‘Member State of dispatch’: the Member State as defined by its statistical territory from which goods are dispatched to a destination in another Member State;
- (f) ‘Member State of arrival’: the Member State as defined by its statistical territory in which goods arrive from another Member State;
- (g) ‘goods in ordinary circulation between Member States’: Community goods dispatched from one Member State to another, which on the way to the Member State of destination travel directly through another Member State or stop for reasons related only to the transport of the goods.

Article 3

Scope

1. Statistics on trade between Member States shall cover dispatches and arrivals of goods.
2. Dispatches shall cover the following goods leaving the Member State of dispatch for a destination in another Member State:
 - (a) Community goods, except goods which are in ordinary circulation between Member States;
 - (b) goods placed in the Member State of dispatch under the inward processing customs procedure or the processing under customs control procedure.
3. Arrivals shall cover the following goods entering the Member State of arrival which were initially dispatched from another Member State:

- (a) Community goods, except goods which are in ordinary circulation between Member States;
 - (b) goods formerly placed in the Member State of dispatch under the inward processing customs procedure or the processing under customs control procedure which are maintained under the inward processing customs procedure or the processing under customs control procedure or released for free circulation in the Member State of arrival.
4. Different or particular rules, to be determined by the Commission in accordance with the procedure referred to in Article 14(2) may apply to specific goods or movements.
5. Some goods, a list of which shall be drawn up by the Commission in accordance with the procedure referred to in Article 14(2), shall be excluded from the statistics.

Article 4
Statistical territory

1. The statistical territory of the Member States shall correspond to their customs territory as defined in Article 3 of Council Regulation (EEC) No 2913/92⁹.
2. By way of derogation from paragraph 1, the statistical territory of Germany shall include Heligoland.

Article 5
Data sources

1. A specific data collection system, hereafter referred to as the “Intrastat” system, shall apply for the provision of the statistical information on dispatches and arrivals of *Community goods* which are not the subject of a Single Administrative Document for customs or fiscal purposes.
2. The statistical information on dispatches and arrivals of other goods shall be provided directly by Customs to the national authorities, at least once a month.
3. For specific goods or movements, sources of information other than the Intrastat system or Customs declarations may be used.
4. Each Member State shall organise the way Intrastat data is delivered by the parties responsible for providing information. To facilitate the task of these parties, the conditions for increased use of automatic data processing and electronic data transmission shall be promoted by the Commission (Eurostat) and the Member States.

⁹ OJ L 302, 19.10.1992, p. 1.

Article 6
Reference period

The reference period for the information to be provided according to Article 5 shall be the calendar month of dispatch or arrival of the goods.

The reference period may be adapted to take into account the linkage with value added tax (VAT) and Customs obligations pursuant to provisions adopted by the Commission in accordance with the procedure referred to in Article 14(2).

Article 7
Parties responsible for providing information within the Intrastat system

1. The parties responsible for providing the information for the Intrastat system shall be:
 - (a) the natural or legal person registered for VAT in the Member State of dispatch who:
 - (i) has concluded the contract, with the exception of transport contracts, giving rise to the dispatch of goods or, failing this,
 - (ii) dispatches or provides for the dispatch of the goods or, failing this,
 - (iii) is in possession of the goods which are the subject of the dispatch;
 - (b) the natural or legal person registered for VAT in the Member State of arrival who:
 - (i) has concluded the contract, with the exception of transport contracts, giving rise to the delivery of goods or, failing this,
 - (ii) takes delivery or provides for delivery of the goods or, failing this,
 - (iii) is in possession of the goods which are the subject of the delivery.
2. The party responsible for providing information may transfer the task to a third party, but such transfer shall in no way reduce the responsibility of the said party.
3. Failure by any party responsible for providing information to fulfil his obligations under this Regulation shall render him liable to the penalties which the Member States shall lay down.

Article 8
Registers

1. National authorities shall set up and manage a register of intra-Community operators containing at least the consignors, upon dispatch, and the consignees, upon arrival.
2. In order to identify the providers of information referred to in Article 7 and to check the information which is provided, the tax administration responsible in each Member State shall furnish the national authority:

- (a) at least once a month, with the lists of natural or legal persons who have declared that, during the period in question, they have supplied goods to other Member States or acquired goods from other Member States. The lists shall show the total values of the goods declared by each natural or legal person for fiscal purposes;
- (b) on its own initiative or at the request of the national authority, with any information provided to comply with tax requirements which could improve the quality of statistics.

The arrangements for the communication of the information shall be determined by the Commission in accordance with the procedure referred to in Article 14(2).

This information shall be treated by the national authority in accordance with the rules applied to it by the tax administration.

- 3. The tax administration shall bring to the attention of VAT-registered traders the obligations which they may incur as parties responsible for providing the information required by Intrastat.

Article 9

Intrastat information to be collected

- 1. The following information shall be collected by the national authorities:
 - (a) the identification number allocated to the party responsible for providing information in accordance with Article 22.1(c) of Council Directive 77/388/EEC¹⁰; in the version given in Article 28h thereof;
 - (b) the reference period;
 - (c) the flow (arrival, dispatch);
 - (d) the commodity, identified by the eight-digit code of the Combined Nomenclature as defined in Council Regulation (EEC) No 2658/87¹¹;
 - (e) the partner Member State;
 - (f) the value of the goods;
 - (g) the quantity of the goods;
 - (h) the nature of the transaction.

Definitions of the data referred to in points (e) to (h) of the first subparagraph are given in Annex I. Where necessary, the arrangements for the collection of this information, particularly the codes to be employed, shall be determined by the Commission in accordance with the procedure referred to in Article 14(2).

¹⁰ OJ L 145, 13.6.1977, p. 1.

¹¹ OJ L 256, 7.9.1987, p. 1.

2. Member States may also collect additional information, for example:
 - a) the identification of the goods, according to a more detailed level than the Combined Nomenclature;
 - b) the country of origin, on arrival;
 - c) the region of origin, on dispatch, and the region of destination, on arrival;
 - d) the delivery terms;
 - e) the mode of transport;
 - f) the statistical procedure.

Definitions of the data referred to in points (b) to (f) of the first subparagraph are given in Annex I. Where necessary, the arrangements for the collection of this information, particularly the codes to be employed, shall be determined by the commission in accordance with the procedure referred to in Article 14(2).

Article 10

Simplification within the Intrastat system

1. In order to satisfy users' needs for statistical information without imposing excessive burdens on economic operators, Member States shall set up each year thresholds expressed in annual values of intra Community trade below which parties are exempted from providing any Intrastat information or have to provide simplified information.
2. The thresholds shall be set up by each Member State, separately for arrivals and dispatches.
3. For defining thresholds below which parties are exempted from providing any Intrastat information, Member States shall ensure that information referred to in Article 9(1), first subparagraph, points (a) to (f), made available by the information providers, is such that at least 98% of the relevant Member State's total trade expressed in value is covered.
4. Member States may define other thresholds below which parties may benefit from the following simplification:
 - (a) exemption from providing the quantity of the goods;
 - (b) exemption from providing the nature of the transaction;
 - (c) possibility of reporting a maximum of ten of the detailed relevant subheadings of the Combined Nomenclature, that are the most used in term of value, and regroup the other products according to rules determined by the Commission in accordance with the procedure referred to in Article 14(2).

Every Member State applying these thresholds shall ensure that the trade of these parties shall amount to a maximum of 6% of its total trade.

5. Member States may, under certain conditions defined by the Commission in accordance with the procedure referred to in Article 14(2), simplify the information to be provided for small individual transactions.
6. The information on the thresholds applied by the Member States shall be sent to the Commission (Eurostat) no later than 31 October of the year preceding the year to which they apply.

Article 11

Confidentiality

Where the provider of statistical information so requests the national authorities, statistical results which make it possible indirectly to identify the said provider shall not be disseminated or shall be amended in such a way that their dissemination shall not prejudice statistical confidentiality.

Article 12

Transmission of data to the Commission

1. Member States shall transmit to the Commission (Eurostat) the monthly results of their statistics on trade between Member States no later than:
 - (a) 40 calendar days after the end of the reference month in the case of aggregated results to be defined by the Commission;
 - (b) 70 calendar days after the end of the reference month in the case of detailed results including the information referred to in Article 9(1), first subparagraph, points (b) to (h).

As regards the value of the goods, the results shall include the statistical value only, as defined in the Annex.

Member States shall transmit to the Commission (Eurostat) the data which are confidential.

2. Member States shall provide the Commission (Eurostat) with monthly results which cover their total trade in goods by using estimates, where necessary.
3. Member States shall transmit the data to the Commission (Eurostat) in electronic form, in accordance with an interchange standard.

The practical arrangements for the transmission of data to the Commission shall be determined by the Commission in accordance with the procedure referred to in Article 14(2).

Article 13

Quality

1. Member States shall take all measures necessary to ensure the quality of the data transmitted according to the quality indicators and standards in force.

2. Member States shall supply the Commission (Eurostat) with a yearly report on the quality of the data transmitted.
3. The indicators and standards enabling the quality of the data to be assessed, the structure of the quality reports to be presented by the Member States and any measures necessary for assessing or improving the quality of the data shall be determined by the Commission in accordance with the procedure referred to in Article 14(2).

Article 14
Committee

1. The Commission shall be assisted by a Committee for the statistics on the trading of goods between Member States (the “Intrastat Committee”), hereinafter referred to as “the Committee”.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

Article 15
Final provisions

Regulation (EEC) No 3330/91 is hereby repealed.

Any references to the repealed Regulation shall be considered as references to this Regulation.

Article 16
Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall take effect as from [1 January 2005].

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
[...]

ANNEX

Definitions of statistical data

1. Partner Member State

- (a) The partner Member State is the Member State of consignment, on arrival. This means the presumed Member State of dispatch in cases where goods enter directly from another Member State. When, before reaching the Member State of arrival, goods have entered one or more Member States in transit and have been subject in those States to halts or legal operations not inherent in their transport (e.g. change of ownership), the Member State of consignment shall be taken as the last Member State where such halts or operations occurred.
- (b) The partner Member State is the Member State of destination, on dispatch. This means the last Member State to which it is known, at the time of dispatch, that the goods are to be dispatched.

2. Quantity of the goods

The quantity of the goods can be expressed in two ways:

- (a) the net mass which means the actual mass of the goods excluding all packaging;
- (b) the supplementary units which mean the possible units measuring quantity other than net mass, as detailed in the annual Commission Regulation updating the Combined Nomenclature.

3. Value of the goods

The value of the goods can be expressed in two ways:

- (a) the taxable amount which is the value to be determined for taxation purposes in accordance with Directive 77/388/EEC;
- (b) the statistical value which is the value calculated at the national frontier of the Member States. It includes only incidental expenses (freight, insurance) incurred, in the case of dispatches, in the part of the journey located on the territory of the Member State of dispatch and, in the case of arrivals, in the part of the journey located outside the territory of the Member State of arrival. It is said to be an FOB value (free on board), for dispatches, and a CIF value (cost, insurance, freight) for arrivals.

4. Nature of the transaction

The nature of transaction means the different characteristics (purchase/sale, work under contract, etc.) which are deemed to be useful in distinguishing one transaction from another.

5. Country of origin

The country of origin, on arrivals only, means the country where the goods originate.

Goods which are wholly obtained or produced in a country originate in that country.

Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in a company equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

6. Region of origin or destination

(a) The region of origin, on dispatch, means the region of the Member State of dispatch where the goods were produced or were erected, assembled, processed, repaired or maintained; failing this, the region of origin is the region where the goods were dispatched, failing this, the region where the commercial process took place.

(b) The region of destination, on arrival, means the region of the Member State of arrival where the goods are to be consumed or erected, assembled, processed, repaired or maintained; failing this, the region of destination is the region to which the goods are to be dispatched, failing this, the region where the commercial process is to take place.

7. Delivery terms

The delivery terms mean those provisions of the sales contract which lay down the obligations of the seller and the buyer respectively, in accordance with the Incoterms of the International Chamber of Commerce (CIF, FOB, etc.).

8. Mode of transport

The mode of transport is determined by the active means of transport by which the goods are presumed to be going to leave the statistical territory of the Member State of dispatch, on dispatch, and by the active means of transport by which the goods are presumed to have entered the statistical territory of the Member State of arrival, on arrival.

9. Statistical procedure

The statistical procedure means the different characteristics which are deemed to be useful in distinguishing different types of arrivals/dispatches for statistical purposes.