



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on Community statistics relating to external trade with non-member countries and  
repealing Council Regulation (EC) No 1172/95**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Grounds for and objectives of the proposal**

The purpose of this proposal for a Regulation of the European Parliament and the Council is to revise the current statistical system of trade in goods with non-member countries (Extrastat) in order to:

- make the legislation clearer, simpler and more transparent;
- adjust the system of extra-Community trade statistics to the changes to be introduced in the procedures regarding the customs declaration through the introduction of Single Authorisations for use of the simplified declaration or the local clearance procedure<sup>1</sup> as well as through centralised clearance under the modernised Community Customs Code (to replace Council Regulation (EEC) No 2913/92 of 12 October 1992);
- reduce the 'Rotterdam effect' resulting (a) in an over-representation in external trade statistics of Member States having a high level of customs clearance or export but playing only the role of transit countries to the detriment of the Member States of actual destination or dispatch of the goods and (b) in a double reporting of the same goods in Extrastat as non Community goods and then in Intrastat as Community goods coming from another MS, with a comparable situation at export;
- increase the relevance, accuracy, timeliness and comparability of external trade statistics, and establish a system for quality assessment;
- support the linking of trade statistics with business statistics;
- respond to user needs by compiling additional trade statistics using information available in customs declarations;
- control, in line with the European Statistics Code of Practice, the privileged access to sensitive external trade data.

#### **1.2. General context**

External trade statistics (Extrastat) record Member States' imports and exports of goods with non-member countries. This information is of essential importance for European economic and trade policies and for analysing market developments for individual commodities. The statistics contain monthly records on imports and exports expressed in value and quantity, broken down by reporting Member State

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<sup>1</sup> Article 1(13) of Regulation (EEC) No 2454/93 (Implementing Provisions of the Customs Code), as to be amended with effect on 1 January 2008 (Working Document TAXUD/1409/2006 Rev. 7)

and by partner country, by commodity according to the Combined Nomenclature, by mode of transport and by tariff treatment (in the case of imports).

Apart from certain specific movements, Extrastat is based on data collected from customs declarations. Using the customs declaration as a source of statistical information means that no direct statistical reporting burden is imposed on traders. As the information is of good quality, the continued use of customs declarations for the production of statistics on external trade is highly desirable.

While such statistics aim at giving a picture of the external trade flows of the Community taken as a whole, they should also allow a breakdown of these flows by Member State.

- (1) However, the development of new methods for the customs clearance of goods throughout the Community (Single Authorisations for use of Simplified Procedures, Centralised Customs Clearance) makes it necessary to adjust the compilation of external trade statistics and, in this context, also to adjust the list of statistical data to be extracted from the customs declaration.

Single Authorisation for use of the simplified declaration or the local clearance procedure in the context of release for free circulation, to be introduced in 2008, as well as 'Centralised Customs Clearance', which will be introduced by the modernized Customs Code, will allow a person to lodge a customs declaration at the place where he is established for goods which are presented at another place. Under these procedures, the lodging of the customs declaration may therefore be dissociated both from the place of entry or exit and examination of the goods and from the place of final destination of imported goods or the place of actual dispatch of goods to be exported. As a result, customs data required for statistics may not be available in the Member State of final destination for imports or the Member State of actual dispatch for exports, but only in the Member State where the declaration is lodged. This is the reason why it is necessary to reconsider the concept of the 'importing' or 'exporting' Member State from a statistical point of view, to define more precisely the customs data source for compiling Community statistics and the data to be reported, and to ensure information exchange between national administrations of the different Member States involved.

Adjusting the definition of the importing and exporting Member State will also reduce the 'Rotterdam effect', which appears when goods, either before leaving the EU or after entry into the EU, move between Member States, but customs formalities are carried out in the Member State of entry in or exit from the EU. As a result, for imports, the trade flows are reported once as non-Community goods in the Extrastat system and a second time as Community goods within the Intrastat system (i.e. statistics relating to the trading of goods between Member States). For exports, the statistics imply that export is from the Member State of exit, rather than that where the actual exporter is established. This makes the interpretation of Community Statistics complicated.

- (2) Improvements in accuracy and timeliness are feasible; they will make the use of external trade statistics more efficient, as electronic data exchange between

Customs administrations (national and EU-wide), and between trade operators and Customs administrations will become more and more standard (under the e-customs initiative). The proposal calls for import and export figures to be continuously updated, taking into account the most recent data available, including changes made at Customs after the declaration was accepted. The prescribed time for transmitting data to Eurostat will be shortened to 40 days after the reference month, with the possibility in the implementing provisions of shortening it even further in the future.

- (3) The Commission (Eurostat) received additional user requests which have been taken into account in the draft legal framework.
- The ECB and DG ECFIN need information for monitoring the share of the Euro in international merchandise trade. Therefore, the invoicing currency for exports and imports will be reported at an aggregated level.
  - DG TRADE and DG AGRI need more reliable data on the tariff treatment of goods imported into the EU, including information on quotas.
  - External trade statistics provide data for the Balance of Payments and National Accounts. The characteristics which enable external trade statistics to be adapted for Balance of Payments purposes will be included in the mandatory and standard data set.
  - In order to allocate EU exports and imports to Member States under 'Centralised Customs Clearance', user need data on the 'Member State of final destination', for imports, and the 'Member State of actual export', for exports.
  - Within the new Extrastat framework, Member States' trade data will be broken down by business characteristics such that it is possible to see, for instance, how European companies are operating in the context of globalisation. The link between business and trade statistics can be established by using information on the importer and exporter available in the customs declaration.

### **1.3. Existing provisions in the area of the proposal**

Council Regulation (EC) No 1172/95 of 22 May 1995, on the statistics relating to the trading of goods by the Community and its Member States with non-member countries, and Commission Regulation (EC) No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade. The proposal and its implementing provisions will replace these Regulations.

### **1.4. Consistency with other EU policies and objectives**

Consistent with common trade, customs and macroeconomic policy.

## **2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **2.1. Consultation of interested parties**

Since autumn 2004, regular discussions on the draft Extrastat Regulation have taken place in a project group comprising experts from Member States, and within the Extrastat Committee.

An Inter-Service Coordination Group was established (participating DGs: ESTAT, AGRI, ENTR, FISH, TAXUD, TRADE, TREN) to comment on the proposal at the various drafting stages.

Several discussions have taken place with the ECB on the invoicing currency.

### **2.2. Collection and use of expertise**

There has been no need for external expertise.

### **2.3. Analysis of effects and consequences**

A number of options for external trade statistics have been identified.

Option A: Maintain the status quo and do not change the existing legislation.

Option B: Wait with any new Extrastat legislation until the modernised Customs Code is implemented, until the filling in of additional data on the customs declaration is made mandatory, and until electronic data exchange between Member States' national administrations is in place.

Option C: Implement in 2009 a new Extrastat system incorporating interim provisions valid until the customs provisions are adapted.

Option C, for a new EP/Council regulation on Community external trade statistics in 2009, is the preferred option for the following reasons:

- 'Single Authorisation' for use of the simplified declaration or the local clearance procedure still has a pilot character and is based on bilateral agreements between Member States. However, the Commission (TAXUD) encourages the use of these simplified procedures and is developing standard procedures and proposing changes in the customs implementing provisions foreseen for January 2008. The use, under Single Authorisation, of the simplified declaration or the local clearance procedure for release for free circulation will, together with 'centralised clearance' under the Modernised Customs Code, dissociate the place where the customs declaration is lodged from the physical location of the goods. The use of these procedures is intended to apply across the Community, which may lead to structural changes in the clearance procedures with significant simplification effects for Community exporters and importers.
- As regards the compilation of external trade statistics, the current provisions are ambiguous, and some Member States have started to collect data directly from trade operators in cases where the goods are located on their territory for

import or export, but the customs declaration is made in another Member State. This increases the statistical reporting burden and reduces the quality of Community statistics. 'Centralised Customs Clearance' procedures are intended, in the coming years, to increase the volume in trade declared at the place where the importer/exporter is established, rather than at the place of physical import or export of the goods. There is obvious benefit for the compilation of external trade statistics in this centralization, as the actual importer/exporter and actual Member State of import and export of the goods can more easily be identified. This could be offset, however, if the current provisions and practices for compilation continue; compilation could, in fact, become more and more incoherent, burdensome and inaccurate. New arrangements are essential and the proposal specifies which customs declaration in which Member State shall be used, and does not foresee a direct data collection from exporters or importers. The trend that Member States apply different practices, use different data sources and include/exclude trade transactions according to their individual judgement or capacity, should be reversed in time.

- In order to meet the objectives of this new Regulation, a change to the implementing provisions of the Community Customs Code will be prepared and submitted to the Customs Code Committee in such a way that data on the Member State of final destination and the Member State of actual export are made mandatory to be collected at the Customs. Currently the information is only partially available, and it is up to each Member State to request the data. In addition, data exchange between Member States should be taken into account when Customs are designing the automated import and export system (AIS & AES). This will allow Member States to exchange their import and export figures according to the concept of Member State of final destination / actual export. The proposal introduces specific provisions for the trade statistics to be adapted gradually until the required data are available in all Member States. This approach reduces dependence on the timetable for changing customs provisions, but at the same time encourages Member States to adapt to the new requirements faster. In particular, the progressive collection of data pertaining to the Member State of final destination and of actual export will make it easier to investigate the widening gap between the Member States where the customs declaration is made and the intended importing and exporting Member States. Trade figures will be disseminated by Eurostat according to the Member State where the customs declaration is lodged, but users can already be given partial information on the Member State of destination or actual export.
- A delay in implementing the legislation would have negative effects on all other aspects of the proposal, such as timeliness and new user requirements.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Summary of the proposed action**

This proposal provides the legal framework for improving the quality and transparency of Extrastat; it reacts to the changing administrative environment, and will satisfy new user requirements.

#### **3.2. Legal basis**

Article 285 of the Treaty provides the legal basis for Community statistics. The Council, acting under the co-decision procedure, adopts measures for the production of statistics needed for the performance of the Community's activities. This article sets out requirements relating to the production of Community statistics and to the requisite standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

#### **3.3. Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall within the exclusive competence of the Community.

The objective of the proposed action, namely the production of Community statistics on external trade, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level on the basis of a Community legal act, because only the Commission can coordinate the necessary harmonisation of statistical information at Community level, while the collection of data and compilation of comparable external trade statistics can be organised by the Member States. Consequently, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty.

#### **3.4. Proportionality principle**

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

This Regulation confines itself to the minimum required to achieve this objective and does not go beyond what is necessary for that purpose. The proposal specifies the Community's data requirements on trade in goods with non-member countries, thereby referring as far as possible to information which is declared by importers and exporters for customs purposes (i.e. external trade statistics are based on administrative sources). However, for well justified reasons, a few additional data elements requested on the customs declaration have to be collected for statistical purposes.

To accommodate new user requirements and to keep accurate statistics, the proposal adds new data elements for compiling external trade statistics. Some of the data (identification of the importer and exporter, country of consignment) are requested on the customs declaration and should in the future be used for statistics. This will not involve any additional reporting burden for companies; national administrations will just have to adapt slightly their data transmission and processing systems.

The proposal also asks for the quota ID number for import transactions. Although the information is held by the national Customs administration, compilation for statistics purposes is more complex, because the information is often not directly taken from the customs declaration and may be available only belatedly, after the Commission services have granted the quota.

However, the Member State of final destination/actual export is not yet requested in all Member States on the customs declaration, and this element will lead in the short term to an additional reporting burden for trade operators. Nevertheless, the information is deemed essential in order to cope with 'Centralised Customs Clearance'. The overall statistical reporting obligation will be reduced in the medium term, because the intention is to cease requesting Intrastat declarations on intra-Community movements before or after customs release if the information is in the customs data. By providing a two-digit alphanumeric country code on the customs declaration, two complete Intrastat declarations (one on dispatch and one on arrival) can be avoided.

Furthermore, data on 'invoicing currency' (for exports) and 'nature of transaction' are not fully available in the customs declarations in all Member States. Collecting them will involve some (limited) additional burden in those few Member States which do not collect them at present.

As a result of consulting the users of external trade statistics, the proposal no longer requests the 'nationality of active means of transport crossing the border'. Abolishing this requirement can partly compensate for the above additional information request.

In 2008 it is planned to launch the MEETS (Modernisation of European Enterprise and Trade Statistics) programme. Part of the budget of this programme is earmarked for running the new Extrastat system.

### **3.5. Choice of instruments**

Proposed instrument: an EP/Council Regulation.

Other means would not be appropriate for the following reasons:

- It is generally acknowledged that an EP/Council regulation is appropriate for the majority of statistical activities that require detailed and uniform application throughout the Community.
- A regulation is preferable to a directive as a basic act because, unlike a directive, a regulation lays down the same law throughout the Community, leaving the Member States with no powers to apply it partially or selectively and no choice in the form and methods to be used to attain its objectives.
- Moreover, a regulation is directly applicable, which means that it does not need to be transposed into national law, thus avoiding the delays associated with such transpositions. It also leads to better and faster legislation.

#### **4. BUDGETARY IMPLICATION**

The budget of the MEETS programme can be considered to cover the implementation costs of the new Extrastat system (2010: 335; 2011: 600; 2012: 600; 2013: 600 *in '000 EUR are set aside for adjusting external trade statistics*).

#### **5. ADDITIONAL INFORMATION**

##### **5.1. Simplification**

The proposal has a potential simplification effect which might reduce the reporting burden on companies. The exact size of this effect is at present difficult to forecast. The simplification benefits will be fully realised in the longer term after the new customs rules are put in place, the Member State of final destination / actual export is collected by all Member States, and electronic data exchange of customs information is up and running. From then on, the Community and national figures will be compiled according to the same procedures, and both will be based on administrative data (the customs declaration). In addition, the reporting burden of the Intrastat system will be lightened when trade statistics are disseminated according to the Member State of final destination and actual export, and there is no further need for reporting the related intra-Community movements.

On the other hand, the additional data requested will mean, by their nature, additional burden for national administrations and respondents (see chapter 3.4 on Proportionality). However, keeping the existing system might increase the reporting burden even more drastically and simultaneously reduce the quality of the statistics. It is assumed that, if no legal changes are made national statistical authorities will continue to collect more and more data for external trade statistics directly from companies, because their national Customs authorities cannot provide the required information under 'Centralised Customs Clearance'. What makes the situation worse is that these reporting companies are not even established in the relevant Member State, which means less opportunity to check the completeness and quality of the data (not to mention the language problems).

Unlike the existing legislation, the proposal no longer refers to Community statistics relating to transit, to customs warehouses and free zones and free warehouses, because no need was expressed by Community institutions for those statistics.

##### **5.2. Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

##### **5.3. European Economic Area**

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

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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 Commission,

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

Having regard to the opinion of the European Central Bank,

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

Whereas:

- (1) The statistical information on Member States' trade flows with non-member countries is of essential importance for the Community's economic and trade policies and for analysing market developments for individual commodities. The transparency of the statistical system should be improved in order for it to be able to react to the changing administrative environment, and to satisfy new user requirements. Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries<sup>2</sup> should therefore be replaced by a new Regulation in conformity with the requirements set out in Article 285(2) of the Treaty.
- (2) External trade statistics are based on information obtained from customs declarations as provided for in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>3</sup>, hereinafter referred to as the 'Customs Code'. Progress in European integration and the resulting changes in customs clearance, including single authorisations for the use of the simplified declaration or the local clearance procedure, as well as centralised clearance, which will emanate

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<sup>2</sup> OJ L 118, 25.5.1995, p. 10. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>3</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

from the current process of modernisation of the Customs Code, make it necessary to adjust the way external trade statistics are compiled, to reconsider the concept of the importing or exporting Member State, and to define more precisely the data source for compiling Community statistics.

- (3) In order to record the physical trade flow of goods between Member States and non-member countries and to ensure that information on imports and exports is available in the Member State concerned, arrangements between Customs and statistical authorities are necessary and have to be specified. This includes rules on the exchange of data between Member States' administrations.
- (4) In order to allocate EU exports and imports to a given Member State, it is necessary to compile information on the 'Member State of final destination', for imports, and the 'Member State of actual export', for exports. In the medium term, those Member States should become the importing and the exporting Member State for external trade statistics purposes.
- (5) For the purpose of this Regulation commodities for external trade purposes should be classified in accordance with the 'Combined Nomenclature' established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>4</sup>, hereinafter referred to as the 'Combined Nomenclature'.
- (6) To meet the European Central Bank's and the Commission's need for information on the share of the euro in international merchandise trade, the invoicing currency of exports and imports should be reported at an aggregated level.
- (7) For the purposes of trade negotiations and internal market management, the Commission should be provided with detailed data on the tariff treatment of goods imported into the European Union, including information on quotas.
- (8) External trade statistics provide data for the compilation of balance of payments and national accounts. The characteristics which make it possible to adapt them to Balance of Payments purposes should become part of the mandatory and standard data set.
- (9) Member States should provide Eurostat with annual aggregated data on trade broken down by business characteristics, one of the uses of which is to facilitate analysis of how European companies operate in the context of globalisation. The link between business and trade statistics is established by merging information on the importer and the exporter available on the customs declaration with information requested by Council Regulation (EEC) No 2186/93 of 22 July 1993 on Community coordination in drawing up business registers for statistical purposes<sup>5</sup>, hereinafter referred to as 'Business Register legislation'.

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<sup>4</sup> OJ L 256, 7.9.1987, p. 1 Regulation as last amended by Council Regulation (EC) No 733/2007 (OJ L 169, 29.6.2007, p. 1).

<sup>5</sup> OJ L 196, 5.8.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (10) Council Regulation (EC) No 322/97 of 17 February 1997<sup>6</sup> on Community Statistics provides a reference framework for the provisions laid down in this Regulation. However, the very detailed level of information on trade in goods requires specific confidentiality rules if these statistics are to be relevant.
- (11) In the production and dissemination of Community statistics under this Regulation, the national and Community statistical authorities should take account of the principles set out in the European Statistics Code of Practice, which was adopted by the Statistical Programme Committee on 24 February 2005 and appended to the Commission Recommendation of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities.
- (12) Specific provisions need to be formulated until such time as customs legislation changes yield additional information on the customs declaration and until the electronic exchange of customs information is required by Community legislation.
- (13) Since the objective of this Regulation cannot be achieved by the Member States 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 this objective.
- (14) The measures necessary for implementing this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999<sup>7</sup> laying down the procedures for the exercise of implementing powers conferred on the Commission.
- (15) In particular power should be conferred on the Commission to specify the customs procedures which determine an export or import for external trade statistics, to adopt different or specific rules for goods or movements which, for methodological reasons, call for specific provisions, to specify the statistical data, to detail trade by business characteristics and trade broken down by invoicing currency as well as to set out particular rules on dissemination. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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<sup>6</sup> OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1.).

<sup>7</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Subject matter**

This Regulation establishes a common framework for the systematic production of Community statistics relating to trade in goods with non-member countries (external trade statistics).

*Article 2*

**Definitions**

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

- (a) 'goods' means all movable property, including electricity;
- (b) 'statistical territory of the Community' means the customs territory of the Community as defined in the Customs Code with the addition of the island of Heligoland in the territory of the Federal Republic of Germany;
- (c) 'national statistical authorities' means the national statistical institutes and other bodies responsible in each Member State for producing Community external trade statistics;
- (d) 'Customs authorities' means the 'customs authorities' as defined in the Customs Code;
- (e) 'customs declaration' means the 'customs declaration' as defined in the Customs Code;
- (f) 'decision by Customs' means any official act by Customs authorities relating to accepted customs declarations and having legal effect on one or more persons.

*Article 3*

**Scope**

1. External trade statistics shall record imports and exports of goods.

An export shall be recorded by Member States when goods leave the statistical territory of the Community according to one of the following customs procedures or customs-approved treatment or use, laid down in the Customs Code:

- (a) exportation;
- (b) outward processing;

- (c) re-exportation following either inward processing or processing under customs control.

An import shall be recorded by Member States when goods enter the statistical territory of the Community according to one of the following customs procedures laid down in the Customs Code:

- (d) release for free circulation;
  - (e) inward processing;
  - (f) processing under customs control.
2. The lists of customs procedures or customs-approved treatment or use referred to in paragraph (1) may be adapted by the Commission in particular in order to take into account changes in the Customs Code or provisions deriving from international conventions. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).
  3. For goods or movements which, for methodological reasons, call for specific provisions ('specific goods or movements'), different or specific rules may be adopted by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).
  4. Certain goods or movements shall be excluded from external trade statistics for methodological reasons. A list of them shall be drawn up by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

#### *Article 4*

#### **Data source**

1. The data source for records on the imports and exports of goods referred to in Article 3(1) shall be the customs declaration, including possible amendments or changes to statistical data resulting from decisions by Customs authorities pertaining to it.

Where a simplified procedure as defined in the Customs Code is used and a supplementary declaration is furnished, the data source for records shall be this supplementary declaration.

2. A statistical threshold expressed in value or quantity below which the customs declaration does not have to serve as data source for records on import and export shall be defined by the Commission in accordance with the procedure referred to in Article 11(2). The statistical threshold may be applied by Member States if estimations are provided for import and export records below the thresholds.

3. For records on imports and exports of specific goods or movements, data sources other than the customs declaration may be specified by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

#### *Article 5*

#### **Statistical data**

1. Member States shall obtain the following data from records on imports and exports referred to in Article 3(1).
  - (a) the trade flow (import, export);
  - (b) the monthly reference period;
  - (c) the statistical value of the goods at the national border of the importing or exporting Member States;
  - (d) the quantity expressed in net mass and in a supplementary unit when indicated on the customs declaration;
  - (e) the trader, being the importer/consignee on import and the exporter/consignor on export;
  - (f) the importing or exporting Member States, being the Member State where the customs declaration is lodged and when indicated on the customs declaration:
    - (i) on import, the Member States of final destination;
    - (ii) on export, the Member States of actual export;
  - (g) the partner countries, that is on imports, the country of origin and the country of consignment/dispatch, and on export, the country of destination;
  - (h) the commodity according to the Combined Nomenclature being:
    - (i) on import, the goods code of the Taric subheading;
    - (ii) on export, the goods code of the Combined Nomenclature subheading;
  - (i) the customs procedure codes to be used for deriving the statistical procedure ;
  - (j) the nature of transaction when indicated on the customs declaration;

- (k) if granted, the tariff treatment on import held by Customs authorities, that is the preferential code and the order number of the quota;
  - (l) the invoicing currency if indicated on the customs declaration;
  - (m) the mode of transport, detailing:
    - (i) the mode of transport at the frontier;
    - (ii) the internal mode of transport;
    - (iii) the container.
2. Further specification of the data referred to in paragraph 1, including the codes to be used, may be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).
3. When not otherwise stated and without prejudice to customs legislation, the data shall be contained in the customs declaration.
4. Data other than those referred to in paragraph 1 for 'specific goods or movements' may be requested by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

#### *Article 6*

#### **Compilation of external trade statistics**

1. Member States shall compile for each monthly reference period statistics on imports and exports of goods expressed in value and quantity by:
- (a) commodity;
  - (b) importing/exporting Member States;
  - (c) partner countries;
  - (d) statistical procedure;
  - (e) nature of transaction;
  - (f) tariff treatment, on import;
  - (g) mode of transport.

Implementing provisions for compiling the statistics may be determined by the Commission in accordance with the procedure referred to in Article 11(2).

2. Member States shall compile annual statistics on trade by business characteristics.

The statistics shall be compiled by linking data on business characteristics recorded according to the Business Register legislation with the data recorded according to Article 5 (1) on import and export.

Implementing provisions for compiling the statistics may be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

3. Every two years Member States shall compile statistics on trade broken down by invoicing currency.

Member States shall compile the statistics using a representative sample of records on imports and exports from customs declarations which contain the data on the invoicing currency. If the invoicing currency for exports is not available on the customs declaration, a survey shall be carried out to collect the required data.

The characteristics of the sample, the reporting period, the quality requirements, and the level of aggregation for partner countries, commodities and currencies shall be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

4. The compilation by Member States of additional statistics for Community or for national purposes may be determined when the data are available on the customs declaration.

Implementing provisions for compiling additional statistics for Community purposes shall be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

5. Member States shall not be obliged to compile and transmit to the Commission (Eurostat) external trade statistics on statistical data which, by virtue of the Customs Code or national instructions, are not yet available on the customs declaration lodged at their Customs authorities. The following data are concerned.

- (a) the Member State of final destination, on import;
- (b) the Member State of actual export, on export;
- (c) the Nature of Transaction.

## *Article 7*

### **Data exchange**

1. Without delay and at the latest during the month following the month the customs declarations were accepted or were subject to customs decisions pertaining to them, national statistical authorities shall obtain from their national Customs authority the records on import and export based on the declarations which are lodged with or furnished to that authority.

The records shall contain at least those statistical data listed in Article 5 which are, according to the Customs Code or national instructions, available on the customs declaration.

2. Member States shall ensure that records on imports and exports which are based on a customs declaration lodged at their national Customs authority are transmitted to the national statistical authorities of the Member State which is indicated on the record as:
  - (a) the Member State of final destination, on import
  - (b) the Member State of actual export, on export
3. A Member State shall not be required by Article 7(2) to transmit records on imports and exports to another Member State until the Customs authorities in those Member States have established a mechanism for mutual exchange of the relevant data by electronic means.
4. Implementing provisions for determining such transmission may be determined in accordance with the procedure referred to in Article 11(2).

## *Article 8*

### **Transmission of external trade statistics to the Commission (Eurostat)**

1. Member States shall transmit to the Commission (Eurostat) the statistics referred to in Article 6(1) no later than 40 days after the end of each monthly reference period.

Member States shall ensure that the statistics contain information on all imports and exports in the reference period in question, making adjustments where records are not available.

Member States shall transmit updated statistics when statistics already transmitted are subject to revisions.

Member States shall include in the results transmitted to the Commission (Eurostat) any statistical information which is confidential.

Provisions on the deadline, coverage, revisions and content of the statistics may be specified by the Commission. Any measures designed to amend non-essential

elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

2. The deadline for transmitting to the Commission (Eurostat) statistics on trade by business characteristics referred to in Article 6(2), statistics on trade broken down by invoicing currency referred to in Article 6(3) and Community statistics referred to in Article 6(4) may be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).
3. Member States shall transmit the statistics in electronic form, in accordance with an interchange standard. The practical arrangements for the transmission of the results may be determined in accordance with the procedure referred to in Article 11(2).

#### *Article 9*

#### **Quality assessment**

1. For the purpose of this Regulation, the following quality assessment dimensions shall apply to the statistics to be transmitted.
  - (a) 'relevance' refers to the degree to which statistics meet current and potential needs of the users;
  - (b) 'accuracy' refers to the closeness of estimates to the unknown true values;
  - (c) 'timeliness' refers to the time lag between the availability of the information and the event or phenomenon it describes;
  - (d) 'punctuality' refers to the time lag between the date of release of the data and the target date when it should have been delivered;
  - (e) 'accessibility' and 'clarity' refer to the conditions and modalities by which users can obtain, use and interpret data;
  - (f) 'comparability' refers to the impact of differences in applied statistical concepts and measurement tools and procedures when statistics are compared between geographical areas, sectoral domains or over time;
  - (g) 'coherence' refers to the suitability of the data for being reliably combined in different ways and for various uses.
2. Member States shall provide the Commission (Eurostat) with a report on the quality of the statistics transmitted every year.
3. In applying the quality dimensions laid down in paragraph 1 to the statistics covered by this Regulation, the modalities, structure and periodicity of the quality reports shall be defined in accordance with the procedure referred to in Article 11(2).

The Commission (Eurostat) shall assess the quality of the statistics transmitted.

#### *Article 10*

##### **Dissemination of external trade statistics**

1. External trade statistics compiled in accordance with Article 6(1) and transmitted by the Member States shall be disseminated by the Commission by Combined Nomenclature subheading at least.

Only where an importer or exporter so requests shall the national authorities of a given Member State decide whether such statistics of that State which may make it possible to identify the said importer or exporter are to be disseminated or are to be amended in such a way that their dissemination does not prejudice statistical confidentiality.

2. In order to protect essential interests of the European Union the dissemination of sensitive data may be restricted.
3. The implementing measures necessary for the dissemination of external trade statistics shall be determined by the Commission. Any measures designed to amend non-essential elements of this regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).

#### *Article 11*

##### **Committee procedure**

1. The Commission shall be assisted by a Committee for external trade statistics.
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. Where reference is made to this paragraph, Article 5a (1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

#### *Article 12*

##### **Repeal**

Regulation (EC) No 1172/95 is repealed with effect from 1 January 2009.

It shall continue to apply to data pertaining to reference periods before 1 January 2009.

*Article 13*

**Entry into force**

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

It shall apply as from 1 January 2009.

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*