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NOTE

from: Presidency
to: Working Party on Statistics
dated: 3 September 2008

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States

1. Introduction

- (1) On 10 June, and subsequently on 9 July 2008, the European Parliament Committee on Economic Affairs proposed a total of nine amendments to this proposal for a Regulation.

At the meeting of the Council Working Party on Statistics on 11 July 2008, only the European Parliament's proposed amendments of 10 June 2008 could be discussed

- (2) Comments by delegations and the Commission at the meeting of the Working Party on Statistics on 11 July 2008 and informal contacts with the European Parliament and with the Commission indicate that agreement can be reached on this text.

On the basis of this information, the Presidency has drawn up a compromise text which is annexed hereto.

- (3) At the Working Party meeting on 11 July, the invitation to delegations to state their positions on the points not explicitly dealt with in the Presidency note of 3 July 2008 (11418/08 STATIS 99 CODEC 919) resulted in a single response; this is the reason for the proposals in 2(c) and 2(d) below.

Three delegations responded to the Presidency's request on 11 July to forward any comments by 21 July. The passages in the draft Regulation to which they refer are all dealt with in the points in section 2 below.

Accordingly, in view of the European Parliament's schedule (vote by the Committee on Economic Affairs on 10 September and reading in plenary session on 18 November) and given delegations' wish for this text to enter into force as soon as possible, we propose below that only those points amended in relation to the Slovenian Presidency compromise of 19 June 2008 be discussed.

2. Points in the compromise text for discussion on 3 September 2008

- (a) Addition of a recital (3a) The wording proposed below is a combination of the version adopted by the Working Party on Statistics on 11 July and the European Parliament's amendment No 6.

"For the long-term efficiency and the reduction of the statistical burden, the future introduction of a single flow system could be another step forward. To this end, the value and viability of the introduction of a single flow system should be investigated by the Commission."

- (b) Article 1, point (4)(a) The word "*indirectly*" has been removed to align it on the equivalent text in the draft Regulation amending the Extrastat system (proposal for

a Regulation of the European Parliament and of the Council on Community statistics relating to external trade in goods with non-member countries and repealing Council Regulation No 1172/95).

- (c) Addition of an Article 1, point (2a) This amends Article 7, point 1, of the Intrastat Regulation currently in force (No 638/2004) by rewording the definition of those responsible for providing information.

"The parties responsible for providing the information for the Intrastat system shall be:

- (a) *the taxable person according to Title III of the Council Directive 2006/112/EC 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 that,*
 - (ii) *dispatches or provides for the dispatch of the goods or, failing that,*
 - (iii) *is in possession of the goods which are the subject of the dispatch;*
- (b) *the taxable person according to Title III of the Council Directive 2006/112/EC 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 that,*
 - (ii) *takes delivery or provides for delivery of the goods or, failing that,*
 - (iii) *is in possession of the goods which are the subject of the delivery."*

- (d) Addition of an Article 1, point (2b) This makes a minor change to Article 8, point 1(a), of the current Intrastat Regulation (No 638/2004). It involves using the term "*taxable persons*" for the sake of consistency with the abovementioned amendment of Article 7 (of Regulation No 638/2004).

"at least once a month, with the lists of taxable 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 taxable person for fiscal purposes;"

- (e) Amendment of Article 1, point (4)(a) The wording suggested by the Commission at the Working Party meeting on 11 July 2008 was approved by a majority of delegations. The proposal below slightly amends the Commission suggestion.

"The thresholds below which parties are exempted from providing any Intrastat information shall be set at a level which would ensure that at least 97% of total dispatches and at least 95% of total arrivals of the relevant Member States are covered. The Commission may adapt these coverage rates to technical and economic developments. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3)."

- (f) Amendment of Article 1, point (4)(b) The technical formulation has been clarified.

"[...] The conditions for defining these thresholds shall be specified by the Commission. Those 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 14(3)."

- (g) Remark concerning Article 2 This Article has not been amended. In particular, the date of entry into force (1 January 2009) is unchanged. Discussions on 11 July revealed that delegations were keen to retain that date (rather than defer entry into force until 1 January 2010).

The Presidency would draw delegations' attention to the fact that, if all goes well, the text will be officially adopted by the European Parliament on 18 November. However, Member States are required to publish on 31 October at the latest the reporting exemption thresholds to apply for the following year. In any event, Member States will have to make the necessary arrangements to comply with the Regulation, which will officially enter into force on 1 January 2009.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States

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,

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

Whereas:

- (1) Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91¹ lays down the basic provisions for Community statistics relating to the trading of goods between Member States.
- (2) In the framework of the Commission Communication on the reduction of the response burden, on simplification and priority setting in the field of Community statistics², Intrastat, the system for collecting Community statistics relating to the trading of goods between Member States, was identified as an area where simplification is possible and desirable.

¹ OJ L 102, 7.4.2004, p.1.

² COM (2006) 693 of 14.11.2006.

- (3) Immediate action to reduce the statistical burden can be taken by lowering the coverage rate of data collected through Intrastat. This can be done by raising the thresholds below which parties are exempted from providing Intrastat information. As a consequence, the share of statistics based on estimations made by the national authorities will increase.

(3a) For the long-term efficiency and the reduction of the statistical burden, the future introduction of a single flow system could be another step forward. To this end, the value and viability of the introduction of a single flow system should be investigated by the Commission.

- (4) Member States should provide Eurostat with annual aggregated data on trade broken down by business characteristics. Users will thus be provided with new statistical information on relevant economic issues, and a new type of analysis will become possible, for example the analysis of how European companies operate in the context of globalisation, without this imposing new statistical requirements on reporting companies. The link between business and trade statistics should be established by merging the information from the register of intra-Community operators with information requested by Council Regulation (EEC) No 177/2008 of 20 February 2008 establishing a common framework for business registers for statistical purposes and repealing Council Regulation (EEC) No 2186/93³.
- (5) The implementing powers for lowering the minimum trade coverage should be conferred on the Commission. This will ensure flexibility for possible future changes based on regular assessment of the thresholds in close collaboration with the national authorities so as to find an optimal trade-off between the statistical burden and the accuracy of data.
- (6) Lowering the minimum trade coverage calls for measures to compensate for the less complete collection of data and hence the negative impact on quality, especially the accuracy of data. Power should be conferred on the Commission to tighten the quality arrangements of the Member States and in particular to define the criteria for estimating the trade not collected through Intrastat.

³ **[...] OJ L 61, 5.3.2008, p. 6.**

- (7) Regulation (EC) No 638/2004 provides that certain measures are to 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 Commission⁴.
- (8) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.
- (9) In accordance with the joint statement of the European Parliament, the Council and the Commission⁵ on Decision 2006/512/EC, for this new procedure to be applicable to instruments that have been adopted in accordance with the procedure laid down in Article 251 of the Treaty and are already in force, those instruments must be adjusted in accordance with the applicable procedures.
- (10) As regards Regulation (EC) No 638/2004, power should be conferred on the Commission in particular to define the conditions under which the Commission may adopt different or specific rules applying to specific goods or movements, adapt the reference period to take into account the linkage with value added tax and customs obligations, determine the arrangements for the collection of this information, particularly the codes to be employed, define the minimum Intrastat coverage, define the conditions and quality requirements under which Member States may simplify the information to be provided for small individual transactions, define the aggregated data to be transmitted and the criteria the results of the estimates are to comply with, adopt implementing provisions for compiling the statistics by linking data on business characteristics recorded under Regulation (EEC) No 177/2008 with

⁴ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁵ OJ C 255, 21.10.2006, p. 1.

the statistics on dispatches and arrivals of goods, and take any other steps necessary to ensure the quality of the data. Since these measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 638/2004 or to supplement 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.

(11) Regulation (EC) No 638/2004 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 638/2004 is amended as follows:

(1) In Article 3, paragraph 4 is replaced by the following:

"4. The Commission may adopt different or specific rules applying to specific goods or movements. Those 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 14(3)."

(2) In Article 6, paragraph 2 is replaced by the following:

"2. The reference period may be adapted by the Commission to take into account the linkage with value added tax (VAT) and customs obligations. Those 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 14(3)."

(2a) In Article 7, paragraph 1 is replaced by the following:

"1. The parties responsible for providing the information for the Intrastat system shall be:

(a) the taxable person according to Title III of the Council Directive 2006/112/EC 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 that;

(ii) dispatches or provides for the dispatch of the goods or, failing that;

(iii) is in possession of the goods which are the subject of the dispatch;

(b) the taxable person according to Title III of the Council Directive 2006/112/EC 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 that;

(ii) takes delivery or provides for delivery of the goods or, failing that;

(iii) is in possession of the goods which are the subject of the delivery."

(2b) In Article 8(1), paragraph (a) is replaced by the following:

"(a) at least once a month, with the lists of taxable 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 taxable person for fiscal purposes;"

- (3) In Article 9 (1), the second subparagraph is replaced by the following:

"Definitions of the statistical data referred to in points (e) to (h) are given in the Annex. Where necessary, the Commission shall determine the arrangements for the collection of this information, particularly the codes to be employed. Those 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 14(3)."

- (4) Article 10 is amended as follows:

- (a) Paragraph 3 is replaced by the following:

"3. **The thresholds below which parties are exempted from providing any intrastat information shall be set at a level which would ensure that at least 97% of total dispatches and at least 95% of total arrivals of the relevant Member States are covered. The Commission may adapt these coverage rates to technical and economic developments. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).**";

- (b) In paragraph 4, the second subparagraph is replaced by the following:

The conditions for defining these thresholds shall be specified by the Commission. Those 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 14(3).";

- (c) Paragraph 5 is replaced by the following:

"5. Member States may, under certain conditions that meet quality requirements, simplify the information to be provided for small individual transactions. The conditions shall be defined by the Commission. Those 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 14(3)."

(4a) Article 11 is replaced by the following:

"Article 11

Statistical confidentiality

Only where the parties who have provided information so request, the national authorities shall decide whether statistical results which make it possible [...] to identify the said provider(s) are to be disseminated or are to be amended in such a way that their dissemination does not prejudice statistical confidentiality."

(5) Article 12 is amended as follows:

(a) in paragraph 1, point (a) is replaced by the following:

"(a) 40 calendar days after the end of the reference month for the aggregated data to be defined by the Commission. Those 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 14(3).";

(b) in paragraph 2, the following sentences are added:

"The results of the estimates shall comply with criteria that shall be defined by the Commission. Those 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 14(3).";

(c) the following paragraph 4 is added:

"4. Member States shall transmit to the Commission (Eurostat) annual statistics on trade by business characteristics, namely economic activity carried out by the enterprise according to the section or 2-digit level of NACE and size-class measured in terms of number of employees.

These statistics shall be compiled by linking data on business characteristics recorded according to Council Regulation (EEC) No 177/2008 of 20 February 2008 establishing a common framework for business registers for statistical purposes and repealing Council Regulation (EEC) No 2186/93⁶ with the statistics referred to in Article 3 of this Regulation.

Implementing provisions for compiling the statistics shall be determined by the Commission. Those 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 14(3).".

(6) Article 13 is replaced by the following:

"Article 13

Quality assessment

⁶ **[...] OJ L 61, 5.3.2008, p. 6.**

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 and structure of the quality reports shall be defined in accordance with the procedure referred to in Article 14(2).

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

4. Any measures necessary to ensure the quality of the data transmitted according to the quality assessment dimensions shall be determined by the Commission. Those 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 14(3)."

(7) In Article 14, paragraph 3 is replaced by the following:

- "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 2

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 apply 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
