Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements (Text with EEA relevance)

COMMISSION REGULATION (EU) No 113/2010

of 9 February 2010

implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95[(1)], and in particular Article 3(2), (3) and (4), Article 4(5), Article 5(2) and (4), Article 6(2) and (3) and Article 8(1) and (2) thereof,

Whereas:

(1) Regulation (EC) No 471/2009 establishes a common framework for the systematic production of European statistics relating to the trading of goods with non-member countries.

(2) It is necessary to align the scope of external trade statistics with specific customs procedures in order to avoid double counting of trade flows, and to specify the goods or movements exempted from external trade statistics for methodological reasons.

(3) For the purpose of harmonised compilation of external trade statistics, the data from records on imports and exports, including the codes to be used, should be specified.

(4) Provisions applicable to specific goods or movements should be established for methodological reasons.

(5) In order to ensure harmonised compilation of statistics on trade by business characteristics and aggregated statistics on trade broken down by invoicing currency, the methodology for production of these statistics should be defined.

(6) Provisions relating to the transmission of data by Member States to the Commission (Eurostat) and to the revision of statistics should be laid down in order to ensure comparable and accurate figures.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 113/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) The codes of nature of transaction should be amended in order to identify goods for processing under contract returning to the initial country of exports.

(8) Measures should be adopted which ensure the provision of statistical data when further simplifications of customs formalities and controls would lead to non-availability of customs data, in particular simplifications pursuant to Article 116 of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code)[(2)].

(9) 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[(3)] should consequently be repealed.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee on statistics relating to the trading of goods with non-member countries,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Excluded goods and movements

The goods and movements listed in Annex I shall be excluded from external trade statistics.

CHAPTER 2

DATA DEFINITION AND SPECIFICATION

Article 2

Trade flow codes

The following codes shall be used for data derived from customs records on the trade flow:

1 — when an import is recorded,
2 — when an export is recorded.

Article 3

Reference period

1 The reference period shall indicate the calendar year and month in which the goods are imported or exported.

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When the customs declaration is the source for records on imports and exports, the reference period shall indicate the calendar year and month when the declaration is accepted by customs authorities.

2 The data on the reference period shall be a six-digit numerical code, where the first four digits indicate the year and the last two digits indicate the month.

Article 4

Statistical value

1 **[**[F1]The statistical value shall be based on the value of the goods at the time and place they cross the border of the Member State where the goods are located at the time of release into the customs procedure, by entering it (imports) or by leaving it (exports).**]**

The statistical value shall be calculated on the basis of the value of the goods referred to in paragraph 2 and, where necessary, adjusted for the costs of transport and insurance according to paragraph 4.

2 With respect to the valuation principles laid down in the agreement on the implementation of Article VII of the General Agreement on Tariffs and Trade (WTO customs valuation agreement), the value of the goods for imports or exports shall be:

a in the event of a sale or purchase, the price actually paid or payable for the imported or exported goods, excluding arbitrary or fictitious values;

b in other cases, the price which would have been paid in the event of sale or purchase.

The customs value shall be used if determined according to the Customs Code for goods released for free circulation.

3 The value of goods involved in processing operations shall be determined on a gross basis as follows:

a the value of the unprocessed goods shall be established for goods with a view to processing;

b the value of the unprocessed goods plus the added value of the processing activity shall be established for goods following processing.

[[F1]4 The value as referred to in paragraphs 2 and 3 shall be adjusted, where necessary, in such a way that the statistical value contains solely and entirely the costs of transport and insurance performed to deliver the goods from the place of their departure to the border of the Member State where the goods are located at the time of release into the customs procedure (CIF-type value on imports, FOB-type value on exports).**]**

5 The statistical value shall be expressed in the national currency of the Member State where the customs declaration is lodged. Where a conversion of currency is necessary for expressing the statistical value in the national currency, the rate of exchange to be used shall be:

a the rate applicable according to the provisions on currency conversion laid down in the Customs Code at the time the customs declaration is accepted; or failing this

b the reference rate applicable at the time the goods are imported or exported set by the European Central Bank for Member States belonging to the euro area or the official rate set by Member States not belonging to the euro area.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 113/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2016/2119 of 2 December 2016 amending Regulation (EC) No 471/2009 of the European Parliament and of the Council and Commission Regulation (EU) No 113/2010 as regards the adaptation of the list of customs procedures and the definition of the data (Text with EEA relevance).

Article 5

Quantity

The data on the quantity shall be indicated as follows:

(a) the net mass expressed in kilograms, which is the mass of the goods excluding all packaging; and

(b) where applicable, the supplementary unit expressed in the respective measurement unit, according to the Combined Nomenclature in force.

Article 6

Importing and exporting Member States

1 The data on the importing or exporting Member States shall be coded in accordance with the nomenclature of countries and territories for the external trade statistics of the European Union and statistics of trade between Member States as laid down by the Commission, hereinafter referred to as the 'Geonomenclature'.

2 The data on the Member State where the customs declaration is lodged shall indicate the Member State with whose customs administration the customs declaration is lodged, or if a simplified procedure as defined in the Customs Code is used, to whose customs administration the supplementary declaration is submitted, including, if allowed by the customs authorities, the respective entry in the declarant's records.

[F1 3 The following shall apply on import:

Where the goods are released for free circulation or placed under the end-use procedure the Member State of destination shall be the Member State where the goods are located at the time of release into the customs procedure. However, where it is known at the time of drawing up the customs declaration, that the goods will be dispatched to another Member State after the release, this latter Member State shall be Member State of destination.

Where goods are placed under the customs inward processing procedure, the Member State of destination shall be the Member State where the first processing activity is carried out.

Without prejudice to subparagraphs 1 and 2 of this paragraph for the purpose of the data transmission referred to in Article 7(2) of Regulation (EC) No 471/2009, Member State of destination for the data exchange shall be the Member State where the goods are located at the time of release into the customs procedure.

4 The following shall apply on export:

Member State of actual export shall be the Member State where the goods are located at the time of release into the customs procedure.

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However, where it is known that the goods were brought from another Member State to the Member State in which the goods are located at the time of their release into the customs procedure, that other Member State shall be Member State of actual export, on condition that

(i) the goods were brought from that other Member State only for the purpose of declaring them for export, and

(ii) the exporter is not established in the Member State in which the goods are located at the time of their release into the customs procedure and

(iii) the entry into the Member State in which the goods are located at the time of their release into the customs procedure was not an intra-Union acquisition of goods or transaction treated as such as referred to in Council Directive 2006/112/EC[(4)].

Where goods are exported subsequent to a customs inward processing procedure, the Member State where the last processing activity was carried out shall be the Member State of actual export.

Without prejudice to subparagraphs 1, 2 and 3 of this paragraph for the purpose of the data transmission referred to in Article 7(2) of Regulation (EC) No 471/2009, Member State of actual export for the data exchange shall be the Member State where the goods are located at the time of release into the customs procedure.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2016/2119 of 2 December 2016 amending Regulation (EC) No 471/2009 of the European Parliament and of the Council and Commission Regulation (EU) No 113/2010 as regards the adaptation of the list of customs procedures and the definition of the data (Text with EEA relevance).

Article 7

Partner countries

1 The data on the partner countries shall be coded in accordance with the Geonomenclature in force.

2 On import, the data on the country of origin shall indicate the country in which the goods are wholly produced or the last substantial transformation took place in accordance with the provisions of the Customs Code laying down the rules on non-preferential origin.

[[F1]On import, the data on the country of consignment/dispatch shall indicate the Member State or non-member country from which the goods were initially dispatched to the Member State in which the goods are located at the time of their release into the customs procedure, if neither a commercial transaction (e.g. sale or processing), nor a stoppage unrelated to the transport of goods has taken place in an intermediate Member State or non-member country. If such a stoppage or commercial transaction has taken place, the data shall indicate the last intermediate Member State or non-member country.**]**

3 On export, data on the country of last known destination shall indicate the last non-member country to which it is known at the time of release into the customs procedure or customs approved treatment that the goods are to be delivered.