Commission Regulation (EU) No 96/2010 of 4 February 2010 amending Regulation (EC) No 1982/2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States, as regards the simplification threshold, trade by business characteristics, specific goods and movements and nature of transaction codes

COMMISSION REGULATION (EU) No 96/2010

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THE EUROPEAN COMMISSION,

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

Having regard to 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 3330/91[(1)], and in particular Articles 3(4), 9(1), 10(4), 12(1), 12(2), 12(4) and 13(4) thereof,

Whereas:

(1) Regulation (EC) No 638/2004 was implemented by Commission Regulation (EC) No 1982/2004[(2)].

(2) A simplification threshold below which parties may benefit from providing a limited data set should be defined in order to reduce the reporting burden on providers of statistical information.

(3) In order to ensure harmonised compilation of statistics on trade by business characteristics, the methodology for production of these statistics should be defined.

(4) Provisions for specific goods and movements should be adjusted for methodological reasons.

(5) In order to ensure completeness of data in terms of quantity, the statistical results transmitted to the Commission (Eurostat) should contain estimates of the net mass where data are not collected.

(6) Revised nature of transaction codes should be established in order to identify goods for processing under contract returning to the initial Member State of dispatch.

(7) Regulation (EC) No 1982/2004 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the statistics on the trading of goods between Member States,

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 96/2010. 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*

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1982/2004 is amended as follows:

1. In Article 13, the following paragraph 3a is inserted:

3a. Member States applying the thresholds in accordance with the simplified rules of Article 10(4) of Regulation (EC) No 638/2004 shall ensure that the value of the trade of the parties benefiting from the simplification shall amount to a maximum of 6 % of the value of their total trade.

2. The following Chapter 4a is inserted:

CHAPTER 4a

TRADE BY BUSINESS CHARACTERISTICS

Article 13a

Compilation of statistics on trade by business characteristics

1 National authorities shall compile annual statistics on trade by business characteristics.

2 The statistical units shall be enterprises as defined in the Annex to Council Regulation (EEC) No 696/93[(3)].

3 Statistical units are constructed by linking the identification number allocated to the party responsible for providing information pursuant to Article 9(1)(a) of Regulation (EC) No 638/2004 with the legal unit of the Business Register in accordance with the variable 1.7a referred to in the Annex to Regulation (EC) No 177/2008 of the European Parliament and of the Council[(4)].

4 The following characteristics shall be compiled:

a trade flow;

b statistical value;

c partner Member State;

d commodity code, according to the section or two-digit level as defined in the Annex to Regulation (EC) No 451/2008 of the European Parliament and of the Council[(5)];

e number of enterprises;

f activity carried out by the enterprise according to the section or two-digit level of the statistical classification of economic activity (NACE) as laid down in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council[(6)];

g size class, measured in terms of the number of employees according to the definitions of characteristics for structural business statistics as laid down in Annex I to Commission Regulation (EC) No 250/2009[(7)].

5 The following datasets shall be compiled:

a matching rates between trade and business registers;

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b trade by activity and enterprise size class;

c share of largest enterprises in terms of value of trade by activity;

d trade by partner Member State and activity;

e trade by number of partner Member States and activity;

f trade by commodity and activity.

6 The first reference year for which annual statistics are to be compiled shall be 2009. Member States shall provide data for every calendar year thereafter.

7 Statistics shall be transmitted within 18 months of the end of the reference year.

8 Member States shall ensure that statistics are provided in such a way that dissemination by the Commission (Eurostat) does not make it possible to identify an enterprise or trader. National authorities shall specify what data are affected by confidentiality provisions.

3. In Article 16, paragraph 2 is replaced by the following:

2. The reference period for arrivals or dispatches of staggered consignments may be adjusted so that data are reported only once, in the month when the last consignment is received or dispatched.

4. Article 17 is replaced by the following:

Article 17

Vessels and aircraft

1 For the purposes of this Article:

a "vessel" means vessels considered as seagoing in accordance with CN Chapter 89, tugs, warships and floating structures;

b "aircraft" means aeroplanes falling within CN codes 8802 30 and 8802 40;

c "economic ownership" means the right of a taxable person to claim the benefits associated with the use of a vessel or aircraft in the course of an economic activity by virtue of accepting the associated risks.

2 Statistics relating to the trading of goods between Member States on vessels and aircraft shall cover only the following dispatches and arrivals:

a the transfer of economic ownership of a vessel or aircraft from a taxable person established in another Member State to a taxable person established in the reporting Member State. This transaction shall be treated as an arrival;

b the transfer of economic ownership of a vessel or aircraft from a taxable person established in the reporting Member State to a taxable person established in another Member State. This transaction shall be treated as a dispatch. Where the vessel or aircraft is new the dispatch is recorded in the Member State of construction;

c the arrivals and dispatches of vessels or aircraft before or following processing under contract as defined in Annex III, footnote 2.

3 Member States shall apply the following specific provisions on statistics relating to the trading of goods between Member States on vessels and aircraft:

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a the quantity shall be expressed in number of items and any other supplementary units laid down in the CN, for vessels, and in net mass and supplementary units, for aircraft;

b the statistical value shall be the total amount that would be invoiced – transport and insurance costs excluded – in the event of sale or purchase of the whole vessel or aircraft;

c the partner Member State shall be:

(i) the Member State where the taxable person transferring the economic ownership of the vessel or aircraft is established, on arrival, or the taxable person to whom the economic ownership of the vessel or aircraft is transferred, on dispatch, for the movements referred to in paragraphs 2(a) and (b);

(ii) the Member State of construction, on arrival in the case of new vessels or aircraft;

(iii) the Member State where the taxable person who exercises economic ownership of the vessel or aircraft is established, on arrival, or the Member State undertaking the processing under contract, on dispatch, for movements referred to in paragraph 2(c);

d the reference period for arrivals and dispatches referred to in paragraphs 2(a) and (b) shall be the month when the transfer of economic ownership takes place.

4 At the request of the national authorities, the authorities responsible for managing the ships and aircraft registers shall provide all the information available to identify a change of economic ownership of a vessel or aircraft between taxable persons established in Member States of arrival and dispatch.

5. In Article 19(1), point (b) is replaced by the following:

(b) a vessel or aircraft shall be deemed to belong to the Member State where the taxable person who exercises economic ownership of the vessel or aircraft as defined in Article 17(1)(c) is established.

6. Article 20 is replaced by the following:

Article 20

Goods delivered to and from offshore installations

1 For the purposes of this Article:

a "offshore installation" means equipment and devices installed and stationary in the sea outside the statistical territory of any Member State;

b "goods delivered to offshore installations" means the delivery of products for the crew and for the operation of engines, machines and other equipment of offshore installation;

c "goods obtained from or produced by offshore installations" means products extracted from the seabed or subsoil, or manufactured by the offshore installation.

2 Statistics relating to the trading of goods between Member States shall record:

a an arrival, where goods are delivered from:

(i) another Member State to an offshore installation established in an area where the reporting Member State has exclusive rights to exploit that seabed or subsoil;

(ii) an offshore installation established in an area where another Member State has exclusive rights to exploit that seabed or subsoil to the reporting Member State;

(iii) an offshore installation established in an area where another Member State has exclusive rights to exploit that seabed or subsoil to an offshore installation in an area where the receiving Member State has exclusive rights to exploit that seabed or subsoil;

b a dispatch, where goods are delivered to:

(i) another Member State from an offshore installation established in an area where the reporting Member State has exclusive rights to exploit that seabed or subsoil;

(ii) an offshore installation established in an area where another Member State has exclusive rights to exploit that seabed or subsoil from the reporting Member State;

(iii) an offshore installation established in an area where another Member State has exclusive rights to exploit that seabed or subsoil from an offshore installation established in an area where the dispatching Member State has exclusive rights to exploit that seabed or subsoil.

3 Member States shall use the following commodity codes for goods delivered to offshore installations:

— 9931 24 00: goods from CN chapters 1 to 24,

— 9931 27 00: goods from CN chapter 27,

— 9931 99 00: goods classified elsewhere.

For those deliveries, except for goods belonging to CN chapter 27, the transmission of data on quantity is optional and the simplified partner Member State code "QV" may be used.

7. Article 21 is replaced by the following:

Article 21

Sea products

1 For the purposes of this Article:

a "sea products" means fishery products, minerals, salvage and all other products which have not yet been landed by seagoing vessels;

b a vessel shall be deemed to belong to the Member State where the taxable person who exercises the economic ownership of the vessel defined in Article 17(1)(c) is established.

2 Statistics relating to the trading of goods between Member States on sea products shall cover the following arrivals and dispatches: