Regulation (EC) No 222/2009 of the European Parliament and of the Council of 11 March 2009 amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States

REGULATION (EC) No 222/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(1)],

Whereas:

(1) Regulation (EC) No 638/2004 of the European Parliament and of the Council[(2)] 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 of 14 November 2006 on the reduction of the response burden, simplification and priority-setting in the field of Community statistics, 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.

(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 estimates made by the national authorities will increase.

(4) For long-term efficiency, other steps to reduce the statistical burden further, while maintaining statistics which meet the quality indicators and standards in force, should be considered. Such steps could include the further reduction of the compulsory minimum coverage rates of total dispatches and total arrivals, as well as the possible future introduction of a single flow system. For these purposes, the value, the viability and the impact on quality of such steps should be further investigated by the Commission.

(5) Member States should provide the Commission (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

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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 Regulation (EC) No 177/2008 of the European Parliament and of the Council of 20 February 2008 establishing a common framework for business registers for statistical purposes[(3)].

(6) The implementing powers for lowering the minimum trade coverage should be conferred on the Commission. Such implementing powers should ensure flexibility for possible future changes based on a regular assessment of the thresholds in close collaboration with the national authorities in order to find an optimal trade-off between the statistical burden and the accuracy of data.

(7) 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.

(8) 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 Commission[(4)].

(9) Decision 1999/468/EC has been amended by Decision 2006/512/EC[(5)], which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia,* by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(10) In accordance with the statement by the European Parliament, the Council and the Commission[(6)] concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(11) In particular, the Commission should be empowered to adopt different or specific rules applying to specific goods or movements; to adapt the reference period to take into account the linkage with value added tax and customs obligations; to determine the arrangements for the collection of the information to be collected by the national authorities, particularly the codes to be employed; to adapt the minimum Intrastat coverage to technical and economic developments; to define the conditions under which Member States may simplify the information to be provided for small individual transactions; to define the aggregated data to be transmitted and the criteria with which the results of the estimates are to comply; to adopt implementing provisions for compiling the statistics by linking data on business characteristics recorded under Regulation (EC) No 177/2008 with the statistics on dispatches and arrivals of goods; and to take any other steps necessary to ensure the quality of the data. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 638/2004, *inter alia,* by supplementing it with new non-essential

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elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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

HAVE ADOPTED THIS REGULATION:

Article 1

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

1. in Article 3, paragraph 4 shall be 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 shall be 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).;

3. in Article 7, paragraph 1 shall be replaced by the following:

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

a the taxable person as defined in Title III of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[7], 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;

or its tax representative in accordance with Article 204 of Directive 2006/112/EC; and

b the taxable person as defined in Title III of 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;

or its tax representative in accordance with Article 204 of Directive 2006/112/EC.;

4. in Article 8(2), point (a) shall be replaced by the following:

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(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;

5. Article 9(1) shall be amended as follows:

(a) point (a) of the first subparagraph shall be replaced by the following:

(a) the individual identification number allocated to the party responsible for providing information in accordance with Article 214 of Directive 2006/112/EC;

(b) the second subparagraph shall be 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 that 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).;

6. Article 10 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

3. The thresholds below which parties are exempted from providing any Intrastat information shall be set at a level that ensures that the value of at least 97 % of the total dispatches and at least 95 % of the total arrivals of the relevant Member State's taxable persons is covered.

The Commission shall adapt those Intrastat coverage rates to technical and economic developments, whenever it is possible to reduce them while maintaining statistics which meet the quality indicators and standards in force. 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 shall be replaced by the following:

The Commission shall specify the conditions for defining those thresholds. 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 shall be replaced by the following:

5. Member States may under certain conditions, which 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).;