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 and repealing Council Regulation (EEC) No 2186/93

REGULATION (EC) No 177/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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,

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

Whereas:

(1) Council Regulation (EEC) No 2186/93[(2)] established a common framework for setting up business registers for statistical purposes with harmonised definitions, characteristics, scope and updating procedures. In order to maintain the development of business registers in a harmonised framework a new regulation should be adopted.

(2) Council Regulation (EEC) No 696/93 on the statistical units for the observation and analysis of the production system in the Community[(3)] contains the definitions of the statistical unit to be used. The internal market requires improved statistical comparability to meet Community requirements. In order to achieve that improvement, common definitions and descriptions should be adopted for enterprises and other relevant statistical units to be covered.

(3) Council Regulation (EC, Euratom) No 58/97 of 20 December 1996 concerning structural business statistics[(4)] and Council Regulation (EC) No 1165/98 of 19 May 1998 concerning short-term statistics[(5)] established a common framework for the collection, compilation, transmission and evaluation of Community statistics on the structure, activity, competitiveness and performance of businesses in the Community. Business registers for statistical purposes represent a basic element of such a common framework, making it possible to organise and coordinate statistical surveys by providing a harmonised sampling frame.

(4) Business registers are one method by which to reconcile the conflicting requirements for collating increased information on enterprises on the one hand and lightening their administrative burden on the other, in particular by using existing information in administrative and legal files, especially in the case of micro, small- and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC of 6 May 2003[(6)].

(5) Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics[7] set the framework for establishing a Community statistical programme and established a common framework for statistical confidentiality.

(6) The specific rules for processing data within the framework of the Community statistical programme do not affect Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[8].

(7) Business registers for statistical purposes are the main source for business demography, as they keep track of business creations and closures as well as the structural changes in the economy by concentration or de-concentration, brought about by operations such as mergers, takeovers, break ups, split offs and restructuring.

(8) Business registers provide the basic information that is required to meet a strong policy interest in rural development, not only as regards agriculture but also as regards its increasing combination with other activities not covered by product-based agricultural statistics.

(9) Public enterprises play an important role in the national economies of the Member States. Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings[9] covers particular categories of public undertaking. Public enterprises and public corporations should therefore be identified in business registers and this can be done by the institutional sector classification.

(10) Information on links of control between legal units is needed in order to define enterprise groups, delineate the enterprises correctly, profile large and complex units and study the level of concentration on particular markets. Enterprise group information improves the quality of the business registers and can be used to reduce the risk of disclosure of confidential data. Certain financial data are often more meaningful at the level of the group or subgroup than at that of the individual enterprise; indeed, they may be available only at the level of the group or subgroup. Recording enterprise group data makes possible, when necessary, surveys of the group rather than of the group's enterprises, and this may reduce the response burden significantly. In order to register enterprise groups, business registers should be further harmonised.

(11) Increasing economic globalisation challenges the current production of several statistics. By recording data from multinational enterprise groups, business registers form a basic tool for the improvement of many statistics related to globalisation: international trade in goods and services, balance of payments, foreign direct investment, foreign affiliates, research, development and innovation, and the international labour market. The majority of these statistics cover the whole economy and thus require that business registers cover all sectors of the economy.

(12) Pursuant to Article 3(2) of Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities[10], national rules on statistical confidentiality may not be invoked to prevent the transmission of confidential statistical data to the

Community authority (Eurostat) where an act of Community law provides for the transmission of such data.

(13) In order to guarantee the fulfilment of the obligations laid down in this Regulation, Member States' institutions responsible for the collection of the data may need access to administrative data sources such as registers held by tax and social security authorities, central banks, other public institutions, and other data bases containing information on cross-border transactions and positions, wherever such data are necessary for the production of Community statistics.

(14) Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment[(11)] established a common framework for the compilation, transmission and evaluation of relevant Community statistics.

(15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(12)].

(16) In particular, the Commission should be empowered to decide on the coverage of the smallest enterprises and all-resident enterprise groups, update the list, definitions and continuity rules of the register characteristics in the Annex, establish common quality standards as well as the content and periodicity of the quality reports, and adopt the rules for updating registers. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Council Decision 1999/468/EC.

(17) Regulation (EEC) No 2186/93 should therefore be repealed.

(18) The Statistical Programme Committee established by Council Decision 89/382/EEC, Euratom[(13)] has been consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

This Regulation establishes a common framework for business registers for statistical purposes in the Community.

Member States shall set up one or more harmonised registers for statistical purposes, as a tool for the preparation and coordination of surveys, as a source of information for the statistical analysis of the business population and its demography, for the use of administrative data, and for the identification and construction of statistical units.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(a) 'legal unit', 'enterprise', 'local unit' and 'enterprise group' shall be as defined in the Annex to Regulation (EEC) No 696/93;

(b) 'national authorities' shall be as defined in Article 2 of Regulation (EC) No 322/97;

(c) 'statistical purposes' shall be as described in Article 2(4) of Regulation (EEC) No 1588/90;

(d) 'multinational enterprise group' shall mean an enterprise group which has at least two enterprises or legal units located in different countries;

(e) 'truncated enterprise group' shall mean the enterprises and the legal units of a multinational enterprise group, which are resident in the same country. It may comprise only one unit, if the other units are non-resident. An enterprise may be the truncated enterprise group or part thereof.

Article 3

Scope

1 In accordance with the definitions given in Article 2 and subject to the limitations specified in this Article, registers shall be compiled of:

a all enterprises carrying on economic activities contributing to the gross domestic product (GDP), and their local units;

b the legal units of which those enterprises consist;

c truncated enterprise groups and multinational enterprise groups; and

d all-resident enterprise groups.

2 The requirement in paragraph 1 shall not, however, apply to households insofar as the goods and services they produce are for their own consumption, or involve the letting of own property.

3 Local units not constituting separate legal entities (branches), which are dependent on foreign enterprises, and classified as quasi-corporations in accordance with the European System of Accounts 1995 set up by Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community[(14)] and the United Nation's 1993 System of National Accounts, shall be deemed to be enterprises for the purposes of the business registers.

4 Enterprise groups can be identified through the links of control between their legal units. In order to delineate enterprise groups, the definition of control set out in point 2.26 of Annex A to Regulation (EC) No 2223/96 shall be used.

5 This Regulation shall apply only to units which, wholly or partially, exercise an economic activity. Any activity comprising the offer of goods and services on a given market shall be regarded as an economic activity. In addition, non-market services contributing to the GDP, as well as direct and indirect holdings of active legal units shall be regarded as economic

activities for the purposes of business registers. Economically inactive legal units are part of an enterprise only in combination with economically active legal units.

6 The measures designed to amend non-essential elements of this Regulation concerning the extent to which enterprises with less than half a person employed and all-resident enterprise groups of no statistical importance to the Member States are to be included in the registers, and the definition of units consistent with those for agricultural statistics, shall be decided in accordance with the regulatory procedure with scrutiny referred to in Article 16(3).

Article 4

Data sources

1 While complying with conditions as to quality referred to in Article 6, Member States may collect the information required under this Regulation using any sources that they consider relevant. National authorities shall be authorised, within their sphere of competence, to collect, for statistical purposes, information covered by this Regulation contained in administrative and legal files.

2 Where the required data cannot be collected at a reasonable cost, national authorities may use statistical estimation procedures, while respecting the need for accuracy and quality.

Article 5

Register characteristics

1 The units listed in the registers shall be characterised by an identity number and the descriptive details specified in the Annex.

2 The measures concerning the updating of the list of characteristics and the definition of the characteristics and continuity rules, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(3).

Article 6

Quality standards and reports

1 Member States shall take all measures necessary to ensure the quality of the business registers.

2 Member States shall provide the Commission (Eurostat), on its request, with a report on the quality of the business registers (hereinafter referred to as quality reports).

3 The measures relating to common quality standards as well as the content and periodicity of the quality reports, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(3), and taking into account the cost of compiling the data.

4 Member States shall inform the Commission (Eurostat) of major methodological or other changes that would influence the quality of the business registers as soon as they become known and not later than six months after any such change enters into force.