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

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

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[(1)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States[(3)] introduced a completely new system of data collection, which has been simplified on two occasions. In order to improve the transparency of this system and to make it easier to understand, Regulation (EEC) No 3330/91 should be replaced by this Regulation.

(2) This system should be retained, as a sufficiently detailed level of statistical information is still required for the Community policies involved in the development of the internal market and for Community enterprises to analyse their specific markets. Aggregated data also need to be available quickly in order to analyse the development of the Economic and Monetary Union. Member States should have the possibility of collecting information which meets their specific needs.

(3) There is, however, a need to improve the wording of the rules on compiling statistics relating to the trading of goods between Member States so that they can be more easily understood by the companies responsible for providing the data, the national services collecting the data and users.

(4) A system of thresholds should be retained, but in a simplified form, in order to provide a satisfactory response to users' needs whilst reducing the burden of response on the parties responsible for providing statistical information, particularly small and medium-sized enterprises.

(5) A close link should be maintained between the system for collecting statistical information and the fiscal formalities which exist in the context of trade of goods

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 638/2004 of the European Parliament and of the Council. 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*

between Member States. This link makes it possible, in particular, to check the quality of the information collected.

(6) The quality of the statistical information produced, its evaluation by means of common indicators and transparency in this field are important objectives, which call for regulation at Community level.

(7) Since the objective of the planned action, namely the creation of a common legal framework for the systematic production of Community statistics relating to the trading of goods between Member States, cannot be sufficiently achieved at national level and can be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is required to achieve this objective.

(8) Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics[(4)] provides a reference framework for this Regulation. However, the very detailed level of information in the field of statistics relating to the trading of goods requires specific rules with regard to confidentiality.

(9) It is important to ensure the uniform application of this Regulation and, in order to do so, to make provision for a Community procedure to help determine the implementing arrangements within an appropriate timescale and to make the necessary technical adaptations.

(10) The measures necessary for implementation of this Regulation should 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[(5)],

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes a common framework for the systematic production of Community statistics relating to the trading of goods between Member States.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) ‘goods’: all movable property, including electric current;

(b) ‘specific goods or movements’: goods or movements which, by their very nature, call for specific provisions, and in particular industrial plants, vessels and aircraft, sea products, goods delivered to vessels and aircraft, staggered consignments, military goods, goods to or from offshore installations, spacecraft, motor vehicle and aircraft parts and waste products;

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(c) 'national authorities': national statistical institutes and other bodies responsible in each Member State for producing Community statistics relating to the trading of goods between Member States;

(d) 'Community goods':

(i) goods entirely obtained in the customs territory of the Community, without addition of goods from third countries or territories which are not part of the customs territory of the Community;

(ii) goods from third countries or territories which are not part of the customs territory of the Community, which have been released for free circulation in a Member State;

(iii) goods obtained in the customs territory of the Community either from the goods referred to exclusively in point (ii) or from the goods referred to in points (i) and (ii);

(e) 'Member State of dispatch': the Member State as defined by its statistical territory from which goods are dispatched to a destination in another Member State;

(f) 'Member State of arrival': the Member State as defined by its statistical territory in which goods arrive from another Member State;

(g) 'goods in simple circulation between Member States': Community goods dispatched from one Member State to another, which, on the way to the Member State of destination, travel directly through another Member State or stop for reasons related only to the transport of the goods.

Article 3

Scope

1 Statistics relating to the trading of goods between Member States shall cover dispatches and arrivals of goods.

2 Dispatches shall cover the following goods leaving the Member State of dispatch for a destination in another Member State:

a Community goods, except goods which are in simple circulation between Member States;

b goods placed in the Member State of dispatch under the inward processing customs procedure or the processing under customs control procedure.

3 Arrivals shall cover the following goods entering the Member State of arrival, which were initially dispatched from another Member State:

a Community goods, except goods which are in simple circulation between Member States;

b goods formerly placed in the Member State of dispatch according to the inward processing customs procedure or the processing according to customs control procedure, which are maintained according to the inward processing customs procedure or the processing according to customs control procedure or released for free circulation in the Member State of arrival.

[[F1]4 The Commission shall be empowered to adopt delegated acts in accordance with Article 13a relating to different or specific rules applying to specific goods or movements.**]**

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5 Some goods, a list of which shall be drawn up in accordance with the procedure referred to in Article 14(2), shall be excluded from the statistics for methodological reasons.

Textual Amendments

F1 Substituted by Regulation (EU) No 659/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring delegated and implementing powers on the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value.

Article 4

Statistical territory

1 The statistical territory of the Member States shall correspond to their customs territory as defined in Article 3 of Council Regulation (EEC) No 2913/92[(6)] of 12 October 1992 establishing the Community Customs Code.

2 By way of derogation from paragraph 1, the statistical territory of Germany shall include Heligoland.

Article 5

Data sources

1 A specific data collection system, hereinafter referred to as the 'Intrastat' system, shall apply for the provision of the statistical information on dispatches and arrivals of **[**[F2]Community**]** goods which are not the subject of a single administrative document for customs or fiscal purposes.

[[F1]2 The statistical information on dispatches and arrivals of goods which are the subject of a single administrative document for customs or fiscal purposes shall be provided directly by customs to the national authorities, at least once a month.**]**

[[F3]2a The customs administration responsible in each Member State shall, on its own initiative or at the request of the national authority, provide the national authority with any available information to identify the person who carries out dispatches and arrivals of goods covered by the customs procedures of inward processing or processing under customs control.**]**

3 For specific goods or movements, sources of information other than the Intrastat system or customs declarations may be used.

4 Each Member State shall organise the way Intrastat data is supplied by the parties responsible for providing information. To facilitate the task of these parties, the conditions for increased use of automatic data processing and electronic data transmission shall be promoted by the Commission (Eurostat) and the Member States.

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F2 Deleted by Regulation (EU) No 659/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring delegated and implementing powers on the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value.

F3 Inserted by Regulation (EU) No 659/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring delegated and implementing powers on the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value.

[F1 Article 6

Reference period

The reference period for the information to be provided in accordance with Article 5 shall be:

(a) the calendar month of dispatch or arrival of the goods;

(b) the calendar month during which the chargeable event occurs for the Community goods on which VAT becomes chargeable on intra-Community acquisitions and supplies; or

(c) the calendar month during which the declaration is accepted by customs where the customs declaration is used as data sources.**]**

Textual Amendments

F1 Substituted by Regulation (EU) No 659/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring delegated and implementing powers on the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value.

Article 7

Parties responsible for providing information

[F4 1 The parties responsible for providing the information for the Intrastat system shall be: