

COUNCIL REGULATION (EC) No 1172/95

of 22 May 1995

on the statistics relating to the trading of goods by the Community and its Member States with non-member countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Whereas Community statistics on external trade are an indispensable tool for the purposes of the common commercial policy and must be drawn up on the basis of a methodology common to all the Member States;

Whereas, however, in accordance with the principle of subsidiarity, the Member States are, for reasons of efficiency, to make the necessary arrangements for the collection and analysis of the data, while the Commission is to handle the integration and dissemination of Community results;

Whereas Council Regulation (EEC) No 1736/75 of 24 June 1975 on the external trade statistics of the Community and statistics of trade between Member States ⁽²⁾, laid down the methodological bases for all such statistics;

Whereas since the adoption of Council Regulation (EEC) No 2954/85 of 22 October 1985 laying down certain measures for the standardization and simplification of the statistics on trade between Member States ⁽³⁾ and of Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States ⁽⁴⁾, certain provisions of Regulation (EEC) No 1736/75 are no longer sufficiently clear;

Whereas statistics on the trading of goods by the Community and its Member States with non-member countries must continue to be compiled on the basis of customs procedures; whereas the provisions already in force should simply be adjusted in line with the amendments in customs legislation introduced with a view to the proper functioning of the internal market;

Whereas, amongst those statistics, those on transit, customs warehouses and free zones and free warehouses have not yet been the subject of harmonized regulations;

Whereas it is preferable that the technical provisions relating to the compiling of external trade statistics be incor-

porated in the implementing provisions of this Regulation;

Whereas it appears advisable to replace the relevant legislation in order to increase transparency via consolidation of the texts in force and the clarification of certain terms;

Whereas it is important to guarantee the uniform application of this Regulation and to provide, to that end, for a Community procedure which enables procedures for its implementation to be adopted within a suitable time; whereas a committee should be set up in order to ensure close and effective cooperation between the Member States and the Commission in this field,

HAS ADOPTED THIS REGULATION:

Article 1

The Community and its Member States shall compile statistics relating to the trading of goods by the Community and its Member States with non-member countries in accordance with the rules laid down in this Regulation.

CHAPTER I

General provisions

Article 2

For the purposes of this Regulation and without prejudice to any individual provisions:

- (a) 'trading of goods with non-member countries' means any movement of goods between a non-member country and a Community country or vice versa;
- (b) 'goods' means all moveable property, including electric current;
- (c) 'Community goods' means goods as referred to in Article 4 (7) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽⁵⁾;
- (d) 'non-Community goods' means goods as referred to in Article 4 (8) of Regulation (EEC) No 2913/92;
- (e) 'non-member country' means any country or territory which does not form part of the statistical territory of the Community within the meaning of Article 3.

⁽¹⁾ OJ No C 5, 7. 1. 1994, p. 8.

⁽²⁾ OJ No L 183, 14. 7. 1975, p. 3. Regulation as last amended by Regulation (EEC) No 1629/88 (OJ No L 147, 14. 6. 1988, p. 1).

⁽³⁾ OJ No L 285, 25. 10. 1985, p. 1.

⁽⁴⁾ OJ No L 316, 16. 11. 1991, p. 1.

⁽⁵⁾ OJ No L 302, 19. 10. 1992, p. 1.

Article 3

1. The statistical territory of the Community and of its Member States shall correspond to the customs territory of the Community as defined in Article 3 of Regulation (EEC) No 2913/92.

2. By way of derogation from paragraph 1, the statistical territory of the Community shall include Heligoland, but it shall not include the French overseas departments or the Canary Islands.

Article 4

1. Statistics relating to the trading of goods by the Community and its Member States with non-member countries shall be compiled for all goods which, after entering or before leaving the statistical territory of the Community, are subject to customs-approved treatment or use within the meaning of Article 4 (15) of Regulation (EEC) No 2913/92.

The said statistics shall also include goods which, being unable to undergo customs-approved treatment or use, are the subject of trade between parts of the statistical territory of the Community and the French overseas departments or the Canary Islands.

The said statistics shall also include, in accordance with rules which the Commission shall determine in accordance with the procedure laid down in Article 21, certain goods which are not moved or which are not subject to customs-approved treatment or use.

However, the goods referred to in the second subparagraph of Article 3 (1) of Regulation (EEC) No 3330/91 shall be excluded from these statistics.

2. Paragraph 1 shall apply to both non-Community and Community goods, whether or not they are the subject of a commercial transaction.

Article 5

1. Statistics relating to the trading of goods by the Community and its Member States with non-member countries shall include the following specific statistics:

- statistics relating to external trade,
- statistics relating to transit,
- statistics relating to customs warehouses,
- statistics relating to free zones and free warehouses.

2. Among the goods referred to in Article 4, the same goods may be the subject of more than one set of special statistics.

In accordance with the procedure laid down in Article 21, the Commission shall adopt provisions making it possible to quantify the extent to which each statistic overlaps with the others.

CHAPTER II

External trade statistics*Article 6*

1. Among the goods referred to in Article 4, external trade statistics shall be compiled on:

- (a) those goods which, having entered the statistical territory of the Community:
 - are placed there under the customs procedure of release for free circulation, inward processing or processing under customs control,
 - are referred to the second subparagraph of Article 4 (1);
- (b) those goods which, being due to leave the statistical territory of the Community:
 - are placed there under customs export or outward processing arrangements,
 - have as their customs destination re-exportation following inward processing or, where appropriate, processing under customs control,
 - are referred to in the second subparagraph of Article 4 (1);
- (c) the goods referred to in the third subparagraph of Article 4 (1).

2. The Commission may adopt supplementary provisions, in accordance with the procedure laid down in Article 21, to maintain the scope of the provisions referred to in paragraph 1, taking account of changes in Community customs legislation and of provisions deriving from international conventions concluded by the Community and its Member States which affect statistics or which have an impact on statistical matters.

Article 7

Without prejudice to Article 23, the Single Administrative Document which, pursuant to Article 205 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾, is used to make the declaration regarding one of the customs-approved treatments or uses referred to in Article 6, shall be used as the statistical data medium.

Article 8

1. On the statistical data medium, and without prejudice to Article 23, goods shall be designated by type in accordance with customs legislation.

2. For each type of goods, mention shall be made, on importation, of the Taric code number provided for in Article 3 of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the Tariff and Statistical Nomenclature and the Common Customs Tariff⁽²⁾ and, on exportation, of the combined nomenclature code number.

⁽¹⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽²⁾ OJ No L 256, 7. 9. 1987, p. 1.

3. The goods shall be designated in accordance with paragraphs 1 and 2, even when other Community legislation requires that they be designated simultaneously in accordance with other classification.

Article 9

1. Without prejudice to customs legislation or to Article 23, countries shall be designated on the statistical data medium in such a way as to permit classification in the nomenclature of countries under the relevant heading which the Commission is introducing, in accordance with the procedure laid down in Article 21, for statistics on external trade and trade between Member States.

2. The code number provided for in the nomenclature of countries referred to in paragraph 1 must be mentioned for each country.

3. Member States may dispense with the application of paragraphs 1 and 2 only at the stage of data collection.

Article 10

1. Without prejudice to the provisions regarding the Single Administrative Document, for each type of goods classified pursuant to Article 8 (1), the following data shall be given on the statistical data medium :

- (a) either the customs-approved treatment or use, or the statistical procedure ;
- (b) for the imported goods referred to in Article 6 (1), the country of origin or, in the cases to be determined by the Commission by the procedure laid down in Article 21, the country of consignment ;
- (c) for the exported goods referred to in Article 6 (1) (b), the country of destination ;
- (d) the quantity of goods, in net mass and in supplementary units ;
- (e) the statistical value of the goods ;
- (f) the mode of transport at the frontier ;
- (g) as from 1 January 1996, the internal mode of transport ;
- (h) the preference, according to the classification laid down by customs legislation ;
- (i) the nationality of the means of transport crossing the frontier ;
- (j) the container.

2. Without prejudice to customs legislation, the Commission may, in accordance with the procedure laid down in Article 21, add the following data to the list in paragraph 1, deciding in each case the date from which it shall be entered on the statistical data medium :

- (a) the amount invoiced ;
- (b) the nature of the transaction ;
- (c) the delivery terms.

3. In order to meet national requirements the Member States may require that the following be entered on the statistical data medium :

- in the case of the goods referred to in Article 6 (1) (a), the Member State of destination, and in the case of the goods referred to in Article 6 (1) (b), the actual Member State of export,
- data other than those referred to in paragraph 1, insofar as the supply of such data is compatible with the provisions regarding the Single Administrative Document.

4. With prejudice to customs legislation, the following shall be decided by the Commission in accordance with the procedure laid down in Article 21 :

- the definition of the data referred to in paragraphs 1 and 2 and the first indent of paragraph 3,
- the rules for entering them on the statistical data medium.

Article 11

The Community and its Member States shall compile external trade statistics from the data referred to in Article 10 (1), pursuant to the provisions adopted by the Commission in accordance with the procedure laid down in Article 21.

Article 12

1. The statistical threshold shall be defined as the limit expressed in value or net mass below which results are not compiled.

2. The statistical threshold shall be fixed by the Commission in accordance with the procedure laid down in Article 21.

Article 13

1. Member States shall forward on a monthly basis the monthly statistics on their trade with non-member countries, compiled as provided for in Article 11, including data declared confidential pursuant to national legislation or practices governing statistical confidentiality, in accordance with the provisions 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⁽¹⁾. The said Regulation shall govern the confidential treatment of information.

2. Where necessary, the technical procedures for such transmission shall be fixed by the Commission in accordance with the procedure laid down in Article 21.

⁽¹⁾ OJ No L 151, 15. 6. 1990, p. 1.

Article 14

The Commission shall compile the results of the external trade statistics of the Community and of its Member States on the basis of the results transmitted to it by the Member States and shall make them available to users broken down by Combined Nomenclature subheadings.

Article 15

Without prejudice to customs legislation, provisions regarding the simplification of statistical information shall be adopted by the Commission in accordance with the procedure laid down in Article 21.

CHAPTER III

Statistics relating to transit, customs warehouses, free zones and free warehouses*Article 16*

1. The compilation by Member States of the statistics referred to in Articles 17 to 19 shall be optional.
2. In the absence of harmonization at Community level, Member States' provisions in this respect shall remain applicable.

Article 17

Among the goods referred to in Article 4, those which enter the statistical territory of a Member State, remain there for some time or are subject to transport-related stoppages before leaving it under a customs transit procedure shall be covered by transit statistics.

Article 18

Among the goods referred to in Article 4, those which are placed under customs warehouse procedure or for which the said procedure has been discharged pursuant to Regulation (EEC) No 2913/92 shall be covered by customs warehouse statistics.

Article 19

Among the goods referred to in Article 4, those which enter or leave the free zones and free warehouses pursuant to Regulation (EEC) No 2913/92 shall be covered by free zones and free warehouse statistics.

CHAPTER IV

Committee on statistics relating to the trading of goods with third countries*Article 20*

1. A Committee on statistics relating to the trading of goods with third countries (hereinafter called 'the

Committee') is hereby set up, composed of representatives of the Member States and chaired by a representative of the Commission.

2. The Committee shall draw up its rules of procedure.
3. The Committee may examine any matter relating to the implementation of this Regulation raised by its Chairman, either on his own initiative or at the request of the representative of a Member State.

Article 21

1. The measures necessary for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time-limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.
3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith.

In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time-limit referred to in the second subparagraph.

CHAPTER V

Final provisions*Article 22*

1. The statistical results compiled pursuant to this Regulation shall be disseminated. However, on a request by the exporter or importer to the competent national authorities, statistical results that enable him to be identified indirectly shall not be disseminated or shall be re-arranged so that their dissemination is not prejudicial to the maintenance of statistical confidentiality.
2. The measures necessary to ensure uniform standards for the application of paragraph 1 shall be adopted by the Commission in accordance with the procedure laid down in Article 21.

Article 23

1. In accordance with the procedure laid down in Article 21, the Commission may, without prejudice to customs legislation, establish simplified data collection procedures creating, in particular, the conditions for increased use of automatic data processing and electronic data transmission.

2. However, Member States' provisions in this field shall continue to apply until the introduction of the procedures referred to in paragraph 1 or in order to take account of their particular administrative organization.

Article 24

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

It shall apply from the date of entry into force of the implementing provisions referred to in Article 21. On that date Regulation (EEC) No 1736/75 and Council Regulation (EEC) No 200/83 of 24 January 1983 on the adaptation of the external trade statistics of the Community to the Directives concerning the harmonization of procedures for the export of goods and for the release of goods for free circulation⁽¹⁾ shall be repealed. References to those Regulations in current Community legislation shall be understood as being made to this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 May 1995.

For the Council

The President

A. MADELIN

⁽¹⁾ OJ No L 26, 28. 1. 1983, p. 1.