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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) NO 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures

- Working Party meeting on Statistics, 28 April 2014 - Outcome of proceedings

Delegations will find attached a Presidency document setting out the outcome of the examination of the draft Regulation by the Working Party on Statistics meeting on 28 April 2014.

Compiled table of comments following the Presidency hearing on Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures

COMMISSION PROPOSAL	Text agreed in Council Working Party
<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</p> <p>amending Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures</p> <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national Parliaments,</p> <p>Acting in accordance with the ordinary legislative procedure,</p> <p>Whereas:</p> <p>(1) As a consequence of the entry into force of the Treaty on the Functioning of the European Union ('the Treaty'), the powers conferred upon the Commission should be aligned with Articles 290 and 291 of the Treaty.</p>	
	<p>Agreed in principle</p>

<p>(2) In connection with the adoption of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹, the Commission has committed itself² to reviewing, in the light of the criteria laid down in the Treaty, legislative acts which currently contain references to the regulatory procedure with scrutiny.</p>	<p>Agreed in principle</p>
<p>(3) Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95³ confers powers upon the Commission in order to implement some of the provisions of this Regulation.</p>	<p>Agreed in principle</p>
<p>(4) In the context of the alignment of Regulation (EC) No 471/2009 with the new rules of the Treaty, implementing powers currently conferred upon the Commission should be provided for by conferring powers on the Commission to adopt delegated and implementing acts.</p>	<p>Agreed in principle</p>

¹ OJ L 55, 28.2.2011, p.13.

² OJ L 55, 28.2.2011, p. 19.

³ OJ L 152,16.6.2009, p.23.

<p>(5) In order to take into account changes in the Customs Code or provisions deriving from international conventions, changes necessary for methodological reasons and the necessity to set up an efficient system for the collection of data and the compilation of statistics, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the adaptation of the list of customs procedures or customs-approved treatment or use, specific goods or movements and different or specific provisions applicable to them, the exclusion of goods or movements from external trade statistics, the data collection according to paragraphs 2 and 4 of Article 4, the further specification of the statistical data, the requirement for limited sets of data for specific goods or movements and data provided in accordance with Article 4(2), the characteristics of the sample, the reporting period and the level of aggregation for partner countries, goods and currencies for statistics on trade by invoicing currency, the adaptation of the deadline for transmitting statistics and of the content, coverage and revision conditions for statistics already transmitted, the deadline for transmitting statistics on trade by business characteristics and statistics on trade broken down by invoicing currency.</p>	<p>Agreed in principle</p> <p>5) In order to take into account changes in the Customs Code or provisions deriving from international conventions, changes necessary for methodological reasons (...), the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the adaptation of the list of customs procedures or customs-approved treatment or use, specific goods or movements and different or specific provisions applicable to them, the exclusion of goods or movements from external trade statistics, (...) the further specification of the statistical data, the requirement for limited sets of data for specific goods or movements and data provided in accordance with Article 4(2), (...) the level of aggregation for partner countries, goods and currencies for statistics on trade by invoicing currency (...).</p>
<p>(6) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.</p>	<p>Agreed in principle</p>
<p>(7) The Commission should ensure that these delegated acts do not impose a significant additional administrative burden on the Member States and on the respondent units.</p>	<p>Agreed in principle</p> <p>(7) The Commission should also ensure that the (...) delegated acts provided for in the legislative acts do not impose a significant additional (...) burden on the Member States (...) or on the respondents (...) and that they remain as economical as possible.</p>

<p>(8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 471/2009, implementing powers should be conferred upon the Commission enabling it to adopt measures relating to the codes to be used for data referred to in Article 5(1) of that Regulation and measures relating to the linking of the data on business characteristics with data recorded in accordance with the same Article. These powers should be exercised in accordance with Regulation (EU) No 182/2011.</p>	<p>Agreed in principle</p> <p>(8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 471/2009, implementing powers should be conferred upon the Commission enabling it to adopt measures relating to the codes to be used for data referred to in Article 5(1) of that Regulation, the data collection according to paragraphs 2 and 4 of Article 4, the characteristics of the sample and the reporting period for partner countries, goods and currencies for statistics on trade by invoicing currency, the deadline for transmitting statistics on trade by business characteristics and statistics on trade broken down by invoicing currency and measures relating to the linking of the data on business characteristics with data recorded in accordance with Article 5(1). These powers should be exercised in accordance with Regulation (EU) No 182/2011.</p>
<p>(9) The Committee on statistics relating to the trading of goods with non-member countries (Extrastat Committee) referred to in Article 11 of Regulation (EC) No 471/2009 provides advice to the Commission and assists it in exercising its implementing powers.</p>	<p>Agreed in principle</p>
<p>(10) Under the strategy for a new European Statistical System (hereinafter referred to as 'ESS') structure intended to improve coordination and partnership in a clear pyramid structure within the ESS, the European Statistical System Committee (hereinafter referred to as 'ESSC'), established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics⁴, should have an advisory role and assist the Commission in exercising its implementing powers.</p>	<p>Agreed in principle</p>

⁴ OJ L 87, 31.3.2009, p. 164.

(11) Regulation (EC) No 471/2009 should be amended by replacing the reference to the Extrastat Committee with a reference to the ESSC.	Agreed in principle
(12) To ensure legal certainty, procedures for adopting measures that have been initiated but not completed before the entry into force of this Regulation should not be affected by this Regulation.	Agreed in principle
(13) Regulation (EC) No 471/2009 should therefore be amended accordingly.	Agreed in principle
HAVE ADOPTED THIS REGULATION:	
<i>Article 1</i>	
Regulation (EC) No 471/2009 is amended as follows:	
(1) Article 3 is amended as follows:	Agreed in principle
a) Paragraph 2 is replaced by the following: ‘2. In order to take into account changes in the Customs Code or provisions deriving from international conventions, the Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts, to adapt the list of customs procedures or customs-approved treatment or use referred to in paragraph 1.’	Agreed in principle
b) In paragraph 3, the second subparagraph is replaced by the following: ‘The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to specific goods or movements and to different or specific provisions applicable to them.’	Agreed in principle
c) In paragraph 4, the second subparagraph is replaced by the following: ‘The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts, relating to the exclusion of goods or movements from external trade statistics.’	Agreed in principle

<p>(2) In Article 4, paragraph 5 is replaced by the following: ‘5. The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to the data collection according to paragraphs 2 and 4.’</p>	<p>Agreed in principle</p> <p>(2) In Article 4, paragraph 5 is replaced by the following: ‘5. The Commission shall (...) adopt, by means of implementing acts, measures relating to the data collection according to paragraphs 2 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’</p>
<p>(3) Article 5 is amended as follows: a) Paragraph 2 is replaced by the following: ‘2. The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to the further specification of the data referred to in paragraph 1. The Commission shall adopt, by means of implementing acts, measures relating to the codes to be used for these data. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’</p>	<p>Agreed in principle</p> <p>a) Paragraph 2 is replaced by the following: ‘2. The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to the further specification of the data referred to in paragraph 1. The Commission shall adopt, by means of implementing acts, measures relating to the codes to be used for these data and their format. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’</p>
<p>b) Paragraph 4 second subparagraph is replaced by the following: ‘The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to these limited sets of data.’</p>	<p>Agreed in principle</p>
<p>(4) Article 6 is amended as follows:</p>	
<p>a) In paragraph 2, the last subparagraph is replaced by the following: ‘The Commission shall adopt, by means of implementing acts, measures relating to the linking of the data and these statistics to be compiled. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’</p>	<p>Agreed in principle</p>

<p>b) In paragraph 3, the last subparagraph is replaced by the following: ‘The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to the characteristics of the sample, the reporting period and the level of aggregation for partner countries, goods and currencies.’</p>	<p>Agreed in principle</p> <p>b) In paragraph 3, the last subparagraph is replaced by the following: ‘a. The Commission shall adopt, by means of implementing acts, measures relating to the characteristics of the sample and the reporting period for partner countries, goods and currencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).</p> <p>b. The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to (...) the level of aggregation for partner countries, goods and currencies.’</p>
<p>(5) Article 8 is amended as follows:</p>	
<p>a) In paragraph 1, the last subparagraph is replaced by the following: ‘The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts to adapt the deadline for transmitting statistics, content, coverage and revision conditions for the statistics already transmitted.’</p>	<p>Agreed in principle</p> <p>a) In paragraph 1, the last subparagraph is deleted (...).</p>
<p>b) Paragraph 2 is replaced by the following: ‘2. The Commission shall be empowered to adopt, in accordance with Article 10a, delegated acts relating to the deadline for transmitting statistics on trade by business characteristics referred to in Article 6(2) and statistics on trade broken down by invoicing currency referred to in Article 6(3).’</p>	<p>Agreed in principle</p> <p>b) Paragraph 2 is replaced by the following: ‘2. The Commission shall (...) adopt, by means of implementing acts, business characteristics relating to the deadline for transmitting statistics on trade by business characteristics referred to in Article 6(2) and statistics on trade broken down by invoicing currency referred to in Article 6(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).’</p>

<p>(6) The following Article 10a is inserted:</p> <p style="text-align: center;"><i>Article 10a</i></p> <p style="text-align: center;">Exercise of the delegation</p> <p>1) The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p>	
<p>2) When exercising the powers delegated in Articles 3(2), (3) and (4), 4(5), 5(2) and (4), 6(3) and 8(1) and (2), the Commission shall ensure that the delegated acts do not impose a significant additional administrative burden on the Member States and on the respondents.</p>	<p>Agreed in principle</p> <p>Agreed in principle</p> <p>2) When exercising the powers delegated in Articles 3(2), (3) and (4), (...) 5(2) and (4), 6(3.b) (...) the Commission shall (...) act in accordance with Article 14(3) of Regulation (EC) No 223/2009 in ensuring, inter alia, that the delegated acts do not impose a significant additional (...) burden on the Member States and on the respondents. It is of particular importance that the Commission carries out consultations with experts, including Member States' experts, before adopting those delegated acts.</p>
<p>3) The power to adopt delegated acts referred to in Articles 3(2), (3) and (4), 4(5), 5(2) and (4), 6(3) and 8(1) and (2), shall be conferred on the Commission for an indeterminate period of time from ((Publication office: please insert the exact date of the entry into force of this Regulation).</p>	<p>Agreed in principle</p> <p>3) The power to adopt delegated acts referred to in Articles 3(2), (3) and (4), (...) 5(2) and (4), 6(3.b) (...), shall be conferred on the Commission for (...) a period of five years from [Publication office: please insert the exact date of the entry into force of (...) the amending Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</p>

<p>4) The delegation of powers referred to in Articles 3(2), (3) and (4), 4(5), 5(2) and (4), 6(3) and 8(1) and (2), may be revoked at any time by the European Parliament or by the Council.</p>	<p>Agreed in principle</p> <p>4) The delegation of powers referred to in Articles 3(2), (3) and (4), (...), 5(2) and (4), 6(3.b) (...), may be revoked at any time by the European Parliament or by the Council.</p>
<p>A decision to revoke shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p>	<p>Agreed in principle</p>
<p>5) As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p>	<p>Agreed in principle</p>
<p>6) A delegated act adopted pursuant to Articles 3(2), (3) and (4), 4(5), 5(2) and (4), 6(3) and 8(1) and (2), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.</p>	<p>Agreed in principle</p> <p>6) A delegated act adopted pursuant to Articles 3(2), (3) and (4), (...), 5(2) and (4), 6(3.b) (...), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of (...) three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by (...) three months at the initiative of the European Parliament or the Council.'</p>
<p>(7) Article 11 is replaced by the following: '<i>Article 11</i> Committee</p>	

<p>1) The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics (*) This committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (*).</p>	<p>Agreed in principle</p>
<p>2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. (*) OJ L 87, 31.3.2009, p. 164. (*) OJ L 55, 28.2.2011, p. 13.'</p>	<p>Agreed in principle</p> <p>2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.</p> <p>(*) OJ L 87, 31.3.2009, p. 164. (*) OJ L 55, 28.2.2011, p. 13.'</p>
<p style="text-align: center;"><i>Article 2</i></p>	
<p>This Regulation shall not affect the procedures for the adoption of measures provided for in Regulation (EC) No 471/2009 that have been initiated but not completed before the entry into force of this Regulation.</p>	<p>Agreed in principle</p>
<p style="text-align: center;"><i>Article 3</i></p>	
<p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p>Agreed in principle</p>
<p style="text-align: center;">END</p>	