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from: General Secretariat  
to: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring of delegated and implementing powers upon 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 - Outcome of the European Parliament's first reading (Strasbourg, 13 to 16 January 2014)

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#### **I. INTRODUCTION**

The Committee on Economic and Monetary Affairs submitted 22 amendments to the proposal for a Regulation (amendments 1 - 22). In addition, the S&D political group submitted two further amendments (amendments 23 - 24).

## II. DEBATE

The Rapporteur Mr Hans-Peter MARTIN (NA - AT) opened the debate, which took place on 14 January 2014, and:

- argued that delegated acts should be cost-efficient and not introduce additional administrative burden;
- stressed the need, when dealing with complicated issues, to avoid being seen to be adding red tape;
- called for data protection to be guaranteed. Data should not be passed to third parties. If data is published, it should be free of charge;
- stated that statistical authorities should not be saddled with excessive additional costs; and
- expressed his astonishment that, despite the intensive work that had been carried out at the committee stage, he had in recent days received an e-mail from the S&D political group stating that it could not support the Committee's report because it believed that further steps could be taken regarding the exchange of confidential data. He himself (the Rapporteur) did not believe this to be correct. Furthermore, no case had been made for this amendment at the time of the Committee's vote. He was very keen to hear what the S&D spokesman would have to say on the matter. He found the S&D's actions incomprehensible and rather regrettable. The other political groups were of the opinion that the S&D amendment was not sensible and that the substantial point had already been addressed.

Commissioner ŠEMETA:

- outlined the objectives of the proposed Regulation;
- stressed the fact that the exchanged data would be used only for the statistical needs outlined in the proposal. It is a matter of principle that respondents should continue to trust the European statistical system;
- broadly welcomed the Committee's draft report and the various amendments, particularly those improving or clarifying the proposal and ensuring trust in the European statistical system; and
- stated that a few of the proposed amendments required further elaboration and discussion (for example, the time-limitation for voluntary data-exchange or free-of-charge data transmission), but expressed his confidence that such issues could be successfully addressed during the trilogue phase.

Speaking on behalf of the EPP political group, Mr Alfredo PALLONE (EPP - IT):

- said that the proposal is very technical but not political. A lengthy debate was therefore unnecessary;
- underlined the need to ensure the correct framework of delegated and implementing acts and to avoid placing additional cost and administrative burdens on the Member States; and
- called for caution in addressing the issues of data confidentiality and the exchange thereof - lest problems be created that would then escalate out of control.

Speaking on behalf of the S&D political group, Mr Liem HOANG NGOC (S&D - FR):

- recalled that agreement had been reached in the Committee on the establishment of a consistent system to ensure that statistical data exchange is efficient and cost-free; and
- stated that, as regards the exchange of confidential data, the Rapporteur had kept in his text the idea of absolute confidentiality - which would mean that no confidential data should be used for other purposes. Whilst this principle is *prima facie* legitimate, it is also extremely important not to exclude exceptional cases with legislation that is too black-and-white and rigid. Article 20 of Regulation 223/2009 states that, in certain cases, statistical data can be diffused and used for other purposes. There could indeed be advantages in using this data for other purposes (for example, fiscal purposes - as a first step towards tax harmonisation at the European level). This technical point therefore has a significant political dimension. He questioned the Rapporteur's reluctance to introduce this principle of openness into the text - despite numerous attempts on his part to reach a compromise. He himself remained open to a compromise until the time of the vote, but he could not support the Committee's current text.

Speaking on behalf of the ALDE political group, Olle SCHMIDT (ALDE - SE):

- stressed the need for simplification in order to minimise the burden on small enterprises;
- argued that the provisions on exchange of confidential data should be limited to five years. This would allow time to see the results of the pilot study on the transfer of micro-data. The Commission should then prepare a report on these results;

- stated that there should be no increase in administrative burden and cost for either the Member States or the EU institutions;
- argued that exchange of information should be performed as cost-efficiently as possible. There is a need for better coordination between the EU and national statistical institutions;
- called for improvement in the quality of statistics;
- stressed the need to improve security in order to prevent data getting into the wrong hands and in order to reinforce confidence in the whole process of exchanging statistics - even if this widens the scope of the report. He would be waiting to hear from the Commissioner on this point and would also see how this issue would be addressed in trilogues; and
- stated that tax is a very sensitive issue, which should not be covered by this proposal.

Commissioner ŠEMETA once more took the floor and:

- noted that the proposed Regulation was very important in terms of the potential reduction of administrative burden on businesses, because Intrastat is probably the most burdensome area in terms of statistics. The Regulation would permit the introduction of new methods. The pilot study mentioned by Mr Schmidt would, if successful, permit very significant reductions in the administrative burden on businesses; and
- stated, with regard to the confidentiality issue, that the Commission's proposal would extend the scope for the possible exchange of statistical data among statistical authorities. It would for the first time allow for the voluntary exchange of statistical data between the Member States' statistical authorities. He nonetheless emphasised the fact that confidentiality is the fundamental principle of official statistics and that it is recognised globally as the most important element in ensuring that businesses and citizens trust statistics. The statistics in question relate to individual companies and are very sensitive. The Commissioner therefore believed that the exchange of information under this Regulation should be limited to statistical authorities and should not be extended to other fields, such as the fiscal field mentioned by Mr Ngoc.

The Rapporteur once more took the floor and:

- noted that, whilst Mr Ngoc had said that he had tried to raise the issue with him, this was in fact the first time that he had heard Mr Ngoc's position on this issue. It is important not to mix up apples and pears. Mr Hoang was trying to introduce the fiscal issue through the back door. The two issues should nonetheless be kept separate;
- agreed with the ALDE political group that high-quality data is needed on trade flows. Data-providers therefore need security so that they do not worry that their data will be used for different purposes. There are also legal aspects to this; and
- stated his intention to secure a postponement of the vote on the legislative resolution so that it would remain possible to enter into trilogue negotiations with a view to getting a first-reading agreement.

### **III. VOTE**

When it voted on 15 January 2014, the Parliament adopted the Committee's twenty-two amendments (amendments 1 - 22). No other amendments were adopted. The text of the Commission's proposal, as amended by these amendments, is annexed to the present note.

The vote on the legislative resolution was postponed to a later session, thereby not closing the first reading. The matter was instead referred back to the Committee on Economic and Monetary Affairs, pursuant to Rule 57(2) of the European Parliament's Rules of Procedure.

## Statistics relating to trading of goods between Member States \*\*\*I

Amendments adopted by the European Parliament on 15 January 2014 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring of delegated and implementing powers upon 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 (COM(2013)0578 – C7-0242/2013 – 2013/0278(COD))<sup>1</sup>

(Ordinary legislative procedure: first reading)

### Amendment 1

#### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) It is of particular importance that the Commission carries out the appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

##### *Amendment*

(6) It is of particular importance that the Commission carries out the appropriate consultations during its preparatory work, including at *the most efficient* expert level *after informing the Member States who is to be consulted and on what basis the respect of impartiality is to be ensured and possible conflicts of interest are to be avoided*. When preparing and drawing up delegated acts, the Commission should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

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<sup>1</sup> This matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0457/2013).

## Amendment 2

### Proposal for a regulation

#### Recital 7

##### *Text proposed by the Commission*

(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.

##### *Amendment*

(7) The Commission should ensure that these delegated acts do not impose a significant additional **cost or** administrative burden on the Member States and on the respondent units **and that they remain as economical as possible**.

## Amendment 3

### Proposal for a regulation

#### Recital 8

##### *Text proposed by the Commission*

(8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 638/2004, implementing powers should be conferred on the Commission enabling it to adopt the arrangements for collecting information, particularly concerning the codes to be used, technical provisions for compiling annual statistics on trade by business characteristics and any measures necessary to ensure that the quality of the statistics transmitted is according to the quality criteria. These powers should be exercised in accordance with Regulation (EU) No 182/2011.

##### *Amendment*

(8) In order to ensure uniform conditions for the implementation of Regulation (EC) No 638/2004, implementing powers should be conferred on the Commission enabling it to adopt the arrangements for collecting information, particularly concerning the codes to be used, technical provisions for compiling annual statistics on trade by business characteristics and any measures necessary to ensure that the quality of the statistics transmitted **free of charge** is according to the quality criteria. These powers should be exercised in accordance with Regulation (EU) No 182/2011.

## Amendment 4

### Proposal for a regulation

#### Recital 10

##### *Text proposed by the Commission*

(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

##### *Amendment*

(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 statistics**<sup>9</sup>, should have an advisory role and assist the Commission in exercising its implementing powers.

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<sup>9</sup> OJ L 87, 31.3.2009, p. 164.

(hereinafter referred to as ‘ESSC’), established by Regulation (EC) No 223/2009 of the European Parliament and of the Council<sup>9</sup>, should have an advisory role and assist the Commission in exercising its implementing powers. ***Improving coordination between national authorities and the Commission (Eurostat) is key to producing higher quality statistics in the Union.***

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<sup>9</sup> ***Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics*** (OJ L 87, 31.3.2009, p. 164).

## Amendment 5

### Proposal for a regulation

#### Recital 11

##### *Text proposed by the Commission*

(11) Regulation (EC) No 638/2004 should be amended by replacing the reference to the Intrastat Committee with a reference to the ESSC.

##### *Amendment*

(11) Regulation (EC) No 638/2004 should be amended by replacing the reference to the Intrastat Committee with a reference to the ESSC. ***The ESSC should have the same membership structure as that of the Intrastat Committee, namely one member from each Member State.***

## Amendment 6

### Proposal for a regulation

#### Recital 12

##### *Text proposed by the Commission*

(12) Simplifications of customs clearance schemes have led to the non-availability, at customs level, of statistical information about goods under customs processing procedures. To assure coverage of the data, movements of those goods should be included in the Intrastat system.

##### *Amendment*

(12) Simplifications of customs clearance schemes have led to the non-availability, at customs level, of statistical information about goods under customs processing procedures. To assure coverage of the data, movements of those goods should be included in the Intrastat system ***while any additional costs should be limited to the greatest extent possible. Information should follow the principle of "single-flow reporting", thus, in so far as the quality of***



*the data can be guaranteed, the data should only be collected by the exporting companies.*

## Amendment 7

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) The exchange of confidential data relating to intra-EU trade statistics should be allowed between Member States ***with a view to increasing*** the efficiency of the development, production and dissemination or to improving the quality of those statistics.

##### *Amendment*

(13) The exchange of confidential data relating to intra-EU trade statistics should be allowed between Member States ***and should be free of charge if necessary to increase*** the efficiency of the development, production and dissemination or to improving the quality of those statistics. ***Such exchanges should be voluntary and should be possible for a transitional period following the entry into force of this Regulation. Such exchange of confidential data should, however, be treated carefully and should not in itself entail increased administrative burden on companies.***

## Amendment 8

### Proposal for a regulation

#### Recital 14

##### *Text proposed by the Commission*

(14) The definition of statistical value should be clarified and aligned with the definition of this data element under the extra-EU trade statistics.

##### *Amendment*

(14) The definition of statistical value should be clarified and aligned with the definition of this data element under the extra-EU trade statistics ***in order to enable better comparability between intra-and extra-EU trade statistics. Uniform definitions are essential for the proper and frictionless functioning of cross-border trade and are especially important as a prerequisite for different national authorities to be able to make concordant interpretations of rules having an impact on the cross-border activities of businesses.***

## Amendment 9

### Proposal for a regulation

#### Recital 15

*Text proposed by the Commission*

(15) In accordance with the principle of proportionality, it is necessary and appropriate to lay down rules on the communication of information by the customs administration, the exchange of confidential data between MS and the definition of statistical value in the domain of intra-EU trade statistics. This Regulation does not go beyond what is necessary to achieve that objective, in accordance with Article 5(4) of the Treaty on the European Union.

*Amendment*

(15) In accordance with the principle of proportionality, it is necessary and appropriate to lay down **harmonised** rules on the communication of information by the customs administration, the exchange of confidential data between MS and the definition of statistical value in the domain of intra-EU trade statistics. This Regulation does not go beyond what is necessary to achieve that objective, in accordance with Article 5(4) of the Treaty on the European Union.

## Amendment 10

### Proposal for a regulation

#### Recital 15 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) Data transmission by the national authorities should be free of charge for the Member States and for the Union institutions or agencies.***

## Amendment 11

### Proposal for a regulation

#### Recital 17 a (new)

*Text proposed by the Commission*

*Amendment*

***(17a) Given the economic situation of the Member States and the stepping up of coordination measures at Union level, there is a need to develop an integrated approach and ever more reliable statistical indicators in order to implement policies more effectively.***

## Amendment 12

### Proposal for a regulation

#### Recital 17 b (new)

*Text proposed by the Commission*

*Amendment*

***(17b) Following the recent discovery of breaches of the protection of the data of Union citizens and Member States, there is a need to enhance the security of the modes of transmission of sensitive statistical data, including economic data,***

## Amendment 13

### Proposal for a regulation

#### Article 1 – point 2 – point b

Regulation (EC) No 638/2004

Article 5 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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.

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## Amendment 14

### Proposal for a regulation

#### Article 1 – point 5

Regulation (EC) No 638/2004

Article 9a – paragraph 1

*Text proposed by the Commission*

*Amendment*

The exchange of confidential data, as defined by Article 3(7) of Regulation (EC) No 223/2009 of the European Parliament and of the Council ***of 11 March 2009 on European statistics*** (\*), shall for statistical purposes only, be allowed between the respective national authorities of each Member State, where the exchange serves

The exchange, ***free of charge***, of confidential data as defined by Article 3(7) of Regulation (EC) No 223/2009 of the European Parliament and of the Council(\*), shall for statistical purposes only, be allowed between the respective national authorities of each Member State, where ***it is proven that*** the exchange serves

the efficient development, production and dissemination of European statistics relating to the trading of goods between Member States or improves their quality.

the efficient development, production and dissemination of European statistics relating to the trading of goods between Member States or **significantly** improves their quality. **Any additional administrative burden and costs for the Member States shall be kept to a minimum. Such exchange of confidential information shall be voluntary until ...\*\*.**

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(\*) **Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics** (OJ L 87, 31.3.2009, p. 164).

**\*\* OJ please insert date: five years after the date of entry into force of this Regulation.**

## Amendment 15

### Proposal for a regulation

#### Article 1 – point 5

Regulation (EC) No 638/2004

Article 9a – paragraph 2

#### *Text proposed by the Commission*

National authorities that have obtained confidential data shall treat this information confidentially and shall use it exclusively for statistical purposes.

#### *Amendment*

National authorities that have obtained confidential data shall treat this information confidentially and shall use it exclusively for statistical purposes.  
***National authorities shall not transmit such data to any international organisation other than as provided in this Regulation.***

## Amendment 16

### Proposal for a regulation

#### Article 1 – point 6 – point c

Regulation (EC) 638/2004

Article 10 – paragraph 5

#### *Text proposed by the Commission*

5. Member States may, under certain

#### *Amendment*

5. Member States may, under certain

conditions that meet quality requirements, simplify the information to be provided for small individual transactions. The Commission shall be empowered to adopt, in accordance with Article 13a, delegated acts to define these conditions.

conditions that meet quality requirements, simplify the information to be provided for small individual transactions *provided that such simplification has no detrimental effects on the quality of the statistics*. The Commission shall be empowered to adopt, in accordance with Article 13a, delegated acts to define these conditions.

## Amendment 17

### Proposal for a regulation

#### Article 1 – point 6 a (new)

Regulation (EC) No 638/2004

Article 11

#### *Present text*

Article 11

Statistical confidentiality

Only where the party or parties that have provided information so request shall the national authorities decide whether statistical results which may make it possible to identify the said provider(s) are to be disseminated or are to be amended in such a way that their dissemination does not prejudice statistical confidentiality.

#### *Amendment*

*(6a) Article 11 is replaced by the following:*

“Article 11

Statistical confidentiality

Only where the party or parties that have provided information so request shall the national authorities decide whether statistical results which may make it possible to identify the said provider(s) are to be disseminated or are to be amended in such a way that their dissemination does not prejudice statistical confidentiality. *The national authorities shall ensure that any detrimental effects on a party or parties providing information is clearly outweighed by statistical benefits.*”

## Amendment 18

### Proposal for a regulation

#### Article 1 – point 7 – point c

Regulation (EC) No 638/2004

Article 12 – paragraph 4 – subparagraph 3

#### *Text proposed by the Commission*

The Commission shall adopt, by means of implementing acts, technical provisions for

#### *Amendment*

The Commission shall adopt, by means of implementing acts, technical provisions for

compiling these statistics.

compiling these statistics *in the most economical way*.

## Amendment 19

### Proposal for a regulation

#### Article 1 – point 8

Regulation (EC) No 638/2004

Article 13 – paragraph 4 – subparagraph 1

#### *Text proposed by the Commission*

(4) The Commission shall adopt, by means of implementing acts, any measures necessary to ensure the quality of the statistics transmitted according to the quality criteria.

#### *Amendment*

(4) The Commission shall adopt, by means of implementing acts, any measures necessary to ensure the quality of the statistics transmitted according to the quality criteria, *avoiding excessive costs for the national authorities*.

## Amendment 20

### Proposal for a regulation

#### Article 1 – point 9

Regulation (EC) No 638/2004

Article 13a – paragraph 2

#### *Text proposed by the Commission*

(2) When exercising the powers delegated in Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) 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.

#### *Amendment*

(2) When exercising the powers delegated in Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) and (2), the Commission shall ensure that the delegated acts do not impose significant additional **costs or** administrative burden on the Member States and on the respondents. ***The Commission shall pursue reductions of costs and administrative burden where possible. In addition, the Commission shall duly justify the actions in those intended delegated acts and provide information, with input from Member States, on any associated burden and production costs in accordance with Article 14(3) of Regulation (EC) No 223/2009.***

## Amendment 21

### Proposal for a regulation

#### Article 1 – point 9

Regulation (EC) 638/2004

Article 13a – paragraph 3

#### *Text proposed by the Commission*

3. The power to adopt delegated acts referred to in Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) 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 the amending Regulation)].

#### *Amendment*

3. The power to adopt delegated acts referred to in Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) and (2) 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.***

## Amendment 22

### Proposal for a regulation

#### Article 1 – point 9

Regulation (EC) No 638/2004

Article 13a – paragraph 6

#### *Text proposed by the Commission*

6. A delegated act adopted pursuant to Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) 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

#### *Amendment*

6. A delegated act adopted pursuant to Articles 3(4), 6(2), 10(3) (4) and (5), 12(1)(a) 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 ***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 *two* months at the initiative of the European Parliament or the Council.

by *three* months at the initiative of the European Parliament or the Council.