

## COMMISSION REGULATION (EC) No 1949/2005

of 28 November 2005

## amending Regulation (EC) No 1917/2000 with regard to specific movements and the exclusion of trade relating to repair transactions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 <sup>(1)</sup>, and in particular Articles 4(1), 6(2), 9(1), 10(4) and 15 thereof,

Whereas:

(1) Commission Regulation (EC) No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade <sup>(2)</sup>, specifies the data elements to be collected for statistics on external trade and enumerates the goods and movements which should be exempted or which need particular provisions for methodological reasons.

(2) Whenever appropriate, common definitions and concepts should be applied in respect of data relating, respectively, to the trading of goods between Member States and to the trading of goods with non-member countries. Since 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 <sup>(3)</sup> revised the framework for the production of Community statistics on the trading of goods between Member States, it has become necessary to adapt accordingly the implementing rules on statistics on the trading of goods by the Community and its Member States with non-member countries.

(3) According to international recommendations and the provisions in force concerning Community statistics relating to the trading of goods between Member States, goods undergoing repair are to be excluded from statistics relating to the trading of goods. Consequently, it is also necessary to exclude goods undergoing repair from Community statistics on the trading of goods with non-member countries.

(4) In order to ensure the comparability of information on specific goods traded within the Community and those traded with non-member countries, adjustments have to be made to provisions for industrial plants, vessels and aircraft, ships and aircraft stores and supplies, staggered consignments, offshore installations, spacecraft, electricity, gas and sea products.

(5) Additional specifications should be provided on goods which are subject of temporary use in order to harmonise the way these goods are excluded from Community statistics on the trading of goods with non-member countries.

(6) The coding system serving to describe the nature of the transaction should be aligned on the provisions applicable within the framework of statistics on the trading of goods between Member States.

(7) Regulation (EC) No 1917/2000 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the statistics relating to the trading of goods with third countries,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1917/2000 is amended as follows:

1. Article 2 is replaced by the following:

*'Article 2*

Pursuant to Article 6(2) of the Basic Regulation, external trade statistics transmitted to the Commission shall not cover goods:

— released for free circulation after being subject to inward processing or processing under customs control,

— contained in the list of exemptions set out in Annex 1.'

<sup>(1)</sup> OJ L 118, 25.5.1995, p. 10. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 229, 9.9.2000, p. 14.

<sup>(3)</sup> OJ L 102, 7.4.2004, p. 1.

2. In Article 15(2) the following point (m) is added:

'(m) Electricity and gas.'

3. In Article 16, paragraphs 2 and 3 are replaced by the following:

'2. Member States may apply a simplified declaration procedure for recording exports of complete industrial plant.

3. The simplified procedure may be applied only to the export of complete industrial plants the total statistical value of each of which exceeds EUR 3 million, unless they are complete industrial plants for re-use; in this case, Member States shall inform the Commission of the criteria used.

The statistical value of an industrial plant shall be calculated by adding the statistical values of its component parts and the statistical values of the goods referred to in the second subparagraph of paragraph 1.'

4. Article 17 is replaced by the following:

'Article 17

1. For the purposes of this Chapter, component parts falling within a given chapter of the Combined Nomenclature shall be classified under the relevant complete industrial plant subheading of Chapter 98 of that Nomenclature.

2. Where Member States do not allow a simplified declaration procedure for recording component parts of complete industrial plant under the subheadings provided for in Chapter 98, the goods shall be classified under the relevant subheadings, as provided in the other chapters of the Combined Nomenclature.'

5. Article 18 is replaced by the following:

'Article 18

In accordance with the Combined Nomenclature, the code numbers for complete industrial plant subheadings shall be composed in conformity with the following rules:

(a) the code shall comprise eight digits;

(b) the first four digits shall be 9880;

(c) the fifth and the sixth digits shall correspond to the chapter of the Combined Nomenclature to which the goods of the component part belong;

(d) the seventh and the eighth digits shall be 0.'

6. Article 19(3) is deleted.

7. Article 20 is amended as follows:

(a) point (c) is replaced by the following:

'(c) "ownership of a vessel or an aircraft" means the fact of a natural or legal person's registration as owner of a vessel or an aircraft.;

(b) point (d) is deleted.

8. Article 21 is replaced by the following:

'Article 21

1. External trade statistics to be transmitted to the Commission shall cover the following transactions:

(a) the transfer of ownership of a vessel or aircraft from a natural or legal person established in a non-member country to a natural or legal person established in the reporting Member State and registered in the national ships or aircraft register; this transaction shall be treated as an import;

(b) the transfer of ownership of a vessel or aircraft from a natural or legal person established in the reporting Member State and registered in the national ships or aircraft register to a natural or legal person established in a non-member country; this transaction shall be treated as an export;

(c) the entry of a vessel or aircraft in the statistical territory of the Community or the leaving of the statistical territory of the Community because of operations with a view to or following processing under contract.

For the purposes of point (b), the export shall be recorded in the Member State of construction if the vessel or aircraft is new.

For the purposes of point (c), "processing" shall be considered to cover only operations aiming to produce a new or really improved vessel or aircraft.

2. The statistics on the transactions referred to in paragraph 1 which the Member States transmit to the Commission shall include the following data:

- (a) the code corresponding to the subdivision of the Combined Nomenclature;
- (b) the statistical procedure;
- (c) the partner country, namely:
  - in the case of transactions referred to in paragraph 1(a), the non-member country of construction if the vessel or aircraft is new; in other cases, the non-member country where the natural or legal person transferring the ownership of the vessel or aircraft is established;
  - in the case of transactions referred to in paragraph 1(b) the non-member country where the natural or legal person to whom the ownership of the vessel or aircraft is transferred is established;
  - in the case of transactions referred to in paragraph 1(c) the non-member country of consignment for vessels and aircraft entering the statistical territory of the Community and the country of destination for vessels and aircraft leaving the statistical territory of the Community;
- (d) the quantity, as a number of items and in any other supplementary units laid down in the Combined Nomenclature, for vessels, and the quantity, in net mass and in supplementary units, for aircraft;
- (e) the statistical value, meaning the total amount which would be invoiced in the case of sale or purchase of the whole vessel or aircraft, after exclusion of any transport and insurance costs.

3. The reference period shall be the month in which either the transfer of ownership takes place, in the case of transactions referred to in paragraph 1(a) or 1(b), or in which the movement takes place, in the case of transactions referred to in paragraph 1(c).'

9. Article 22 is replaced by the following:

*'Article 22*

National authorities shall have access to data sources in addition to those laid down in Article 7 of Regulation

(EC) No 1172/1995, including access to information contained in national shipping and aircraft registers which may be required in order to identify the transfer of ownership of such goods.'

10. In Article 24(2), point (b) is replaced by the following:

'(b) the country code of the partner country or the simplified country code QS;'

11. Article 25 is replaced by the following:

*'Article 25*

For the purposes of this Chapter, "staggered consignments" means imports or exports of components of complete goods in an unassembled or disassembled state over several deliveries for commercial or transport-related reasons.'

12. Article 29(2) is replaced by the following:

'2. The monthly returns covering the transactions referred to in paragraph 1, which are transmitted to the Commission by the Member States, shall include the following data:

- (a) the code corresponding to the subdivision of the Combined Nomenclature;
- (b) the country code of the partner country or the simplified country code QW;
- (c) the statistical procedure;
- (d) the quantity in net mass;
- (e) the statistical value.

For the purposes of point (a), the following simplified codes shall be used for goods destined for the operators of the offshore installation or for the operation of the engines, machines and other equipment of the offshore installation:

— 9931 24 00: goods from CN Chapters 1 to 24;

— 9931 27 00: goods from CN Chapter 27;

— 9931 99 00: goods classified elsewhere.

Without prejudice to the customs regulations, in the case of goods coming from or destined for installations, the “partner country” referred to in point (b) shall be understood to be the country where the natural or legal person responsible for the commercial use of the installation in question is established.’

13. Article 31 is replaced by the following:

*‘Article 31*

1. Statistics on trade with non-member countries covering the following shall be transmitted to the Commission:

- (a) the entry of a spacecraft into the statistical territory of the Community or the leaving of the statistical territory of the Community because of operations with a view to, or following, processing under contract;
- (b) the space launch of a spacecraft which was the subject of a transfer of ownership between a natural or legal person established in a non-member country and a natural or legal person established in a Member State;
- (c) the space launch of a spacecraft which was the subject of a transfer of ownership from a natural or legal person established in a Member State to a natural or legal person established in a non-member State.

The operations referred to in point (b) shall be recorded as an import in the Member State where the new owner is established.

The operation referred to in point (c) shall be recorded as an export by the Member State of construction of the finished spacecraft.

For the purposes of this paragraph, “processing” shall be considered to cover only operations aiming to produce a new or really improved spacecraft.

2. The monthly returns on the operations referred to in paragraph 1, which Member States shall transmit to the Commission, shall include the following data:

- (a) the code corresponding to the subdivision of the Combined Nomenclature;
- (b) the code of the partner country;

- (c) the statistical procedure;
- (d) the quantity in net mass and in supplementary units;
- (e) the statistical value as the value of the spacecraft “ex-works” in accordance with the delivery terms specified in Annex III to this Regulation.

For the purposes of point (b), “partner country” shall be determined according to the following criteria:

- for the operations referred to in paragraph 1(a) “partner country” shall mean the non-member country of origin for spacecraft entering the statistical territory of the Community and the country of destination for spacecraft leaving the statistical territory of the Community;
- for the operations referred to in paragraph 1(b) “partner country” shall mean the country of construction of the finished spacecraft;
- for the operations referred to in paragraph 1(c) “partner country” shall mean the country where the natural or legal person to whom the ownership of the spacecraft is transferred is established.

3. The reference period shall be the month in which either the movement takes place, in the case of operations referred to in paragraph 1(a), or in which the transfer of ownership takes place, in the case of operations referred to in paragraph 1(b) and (c).’

14. In Title II, after Article 31, the following Chapters 9 and 10 are added:

‘CHAPTER 9

**Electricity and gas**

*Article 31a*

In addition to the data sources laid down in Article 7 of Regulation (EC) No 1172/95, national authorities may require that relevant information for the monitoring of trade flows on electricity and gas between the reporting Member State and non-member countries be provided directly by operators established in the reporting Member State which own or operate the national transmission network for electricity or gas.

## CHAPTER 10

**Sea products***Article 31b*

1. For the purposes of this Article, "sea products" means fishery products, minerals, salvage and all other products which have not yet been landed by seagoing vessels.

2. External trade statistics to be transmitted to the Commission shall cover the following transactions:

(a) the landing of sea products in the reporting Member State's ports, or their acquisition by vessels registered in a Member State from vessels registered in a non-member country, these transactions being treated as imports;

(b) the landing of sea products in a non-member country's ports from a vessel registered in the reporting Member State, or their acquisition by vessels registered in a non-member country from vessels registered in a Member State, these transactions being treated as exports.

3. The monthly returns on the transactions referred to in paragraph 2, which the Member States shall transmit to the Commission, shall include the following data:

(a) the code corresponding to the subdivision of the Combined Nomenclature;

(b) the code of the partner country, namely:

— on import, the non-member country where the vessel capturing the sea product is registered;

— on export, the non-member country where the sea product is landed or where the vessel acquiring the sea product is registered;

(c) the statistical procedure;

(d) the quantity in net mass;

(e) the statistical value.

4. National authorities shall have access to data sources in addition to those laid down in Article 7 of Regulation (EC) No 1172/95, including access to information on declarations of national registered vessels on sea products landed in non-member countries.'

15. Annexes I and II are replaced by the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2006.

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

Done at Brussels, 28 November 2005.

*For the Commission*  
Joaquín ALMUNIA  
*Member of the Commission*

## ANNEX

Annexes I and II to Regulation (EC) No 1917/2000 are replaced by the following:

## 'ANNEX I

**List of goods referred to in Article 2 excluded from statistics relating to the trading of goods with non-member countries to be transmitted to the Commission (Eurostat)**

Data shall not be compiled for the following goods:

- (a) means of payment which are legal tender, and securities;
- (b) monetary gold;
- (c) emergency aid for disaster areas;
- (d) because of the diplomatic or similar nature of their intended use:
  - 1. goods benefiting from diplomatic consular or similar immunity;
  - 2. gifts to a Head of State or to members of a government or parliament;
  - 3. items being circulated within the framework of administrative mutual aid;
- (e) provided that they are not the subject of a commercial transaction:
  - 1. decorations, honorary distinctions and prizes, commemorative badges and medals;
  - 2. travel equipment, provisions and other items, including sports equipment, intended for personal use or consumption which accompany, precede or follow the traveller;
  - 3. bridal outfits, items involved in moving house, or heirlooms;
  - 4. coffins, funerary urns, ornamental funerary articles and items for the upkeep of graves and funeral monuments;
  - 5. printed advertising material, instructions for use, price lists and other advertising items;
  - 6. goods which have become unusable, or which cannot be used for industrial purposes;
  - 7. ballast;
  - 8. postage stamps;
  - 9. pharmaceutical products used at international sporting events;
- (f) products used as part of exceptional common measures for the protection of persons or of the environment;
- (g) goods which are the subject of non-commercial traffic between persons resident in the frontier zones defined by the Member States (frontier traffic); products obtained by agricultural producers on properties located outside, but adjacent to, the statistical territory within which they have their principal undertaking;

- (h) provided that the trade is temporary, goods imported and exported for the repair of means of transport, containers and related transport equipment, but which are not placed under processing arrangements, and parts replaced during the repairs;
- (i) goods exported to national armed forces stationed outside the statistical territory as well as imported goods which had been conveyed outside the statistical territory by the national armed forces, as well as goods acquired or disposed of on the statistical territory of a Member State by the foreign armed forces which are stationed there;
- (j) goods used as carriers of information such as floppy disks, computer tapes, films, plans, audio- and videotapes, and CD-ROMs which are traded in order to provide information, where developed to order for a particular client or where they are not the subject of a commercial transaction, as well as goods which complement a previous delivery, e.g. an update, and for which the consignee is not invoiced;
- (k) satellite launchers:
  - on export and import pending their launching into space;
  - at the time of launching into space;
- (l) goods for and after repair and the incorporated replacement parts. A repair entails the restoration of goods to their original function or condition. The objective of the operation is simply to maintain the good in working order; this may involve some rebuilding or enhancements but does not change the nature of the good in any way;
- (m) goods for and following temporary use, provided all the following conditions are met:
  1. no processing is planned or made;
  2. the expected duration of the temporary use is not longer than 24 months.

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## ANNEX II

## List of transactions referred to in Article 13(2)

A	B
1. Transactions involving actual or intended transfer of ownership against compensation (financial or otherwise) (except the transactions listed under 2, 7, 8) <sup>(a)</sup> <sup>(b)</sup> <sup>(c)</sup>	1. Outright/purchase/sale <sup>(b)</sup> 2. Supply for sale on approval or after trial, for consignment or with the intermediation of a commission agent 3. Barter trade (compensation in kind) 4. Personal purchases by travellers 5. Financial leasing (hire-purchase) <sup>(c)</sup>
2. Return of goods after registration of the original transaction under code 1 <sup>(d)</sup> ; replacement of goods free of charge <sup>(d)</sup>	1. Return of goods 2. Replacement for returned goods 3. Replacement (e.g. under warranty) for goods not being returned
3. Transactions (not temporary) involving transfer of ownership but without compensation (financial or other)	1. Goods delivered under aid programmes operated or financed partly or wholly by the European Community 2. Other general government-aid deliveries 3. Other aid deliveries (individuals, non-governmental organisations) 4. Others
4. Operations with a view to processing under contract <sup>(e)</sup> (except those recorded under 7)	<sup>(h)</sup>
5. Operations following processing under contract <sup>(e)</sup> (except those recorded under 7)	<sup>(h)</sup>
6. Particular transactions coded for national purposes <sup>(f)</sup>	<sup>(h)</sup>
7. Operations under joint defence projects or other joint intergovernmental production programs (e.g. Airbus)	<sup>(h)</sup>
8. Supply of building materials and equipment for works that are part of a general construction or engineering contract <sup>(g)</sup>	<sup>(h)</sup>
9. Other transactions	<sup>(h)</sup>

<sup>(a)</sup> This item covers most exports and imports, i.e. transactions in respect of which:

- ownership is transferred from resident to non-resident, and
- payment or compensation in kind is or will be made.

Note that this also applies to movements between entities belonging to the same enterprise or to the same group of enterprises and to movements to/from central distribution depots, unless no payment or other compensation is made (otherwise they are covered by code 3).

<sup>(b)</sup> Including spare parts and other replacements made against payment.

<sup>(c)</sup> Including financial leasing: the lease instalments are calculated in such a way as to cover all or virtually all of the value of the goods. The risks and rewards of ownership are transferred to the lessee. At the end of the contract the lessee becomes the legal owner of the goods.

<sup>(d)</sup> Return and replacement dispatches of goods originally recorded under items 3 to 9 of column A should be registered under the corresponding items.

<sup>(e)</sup> Processing covers operations (transformation, construction, assembling, enhancement, renovation, ...) with the objective of producing a new or really improved item. This does not necessarily involve a change in the product classification. Processing activities on a processor's own account are not covered by this item and should be registered under item 1 of column A.

Goods for or following processing have to be recorded as imports and exports.

However, a repair should not be recorded under this position. A repair entails the restoration of goods to their original function or condition. The objective of the operation is simply to maintain the goods in working order; this may involve some rebuilding or enhancements but does not change the nature of the goods in any way.

Goods for and after repair are excluded from external statistics see Annex I (l).

<sup>(f)</sup> Transactions recorded under this position could be e.g. transactions not involving transfer of ownership, e.g. repair, hire, loan, operational leasing and other temporary uses, except processing under contract (delivery or return). Transactions recorded with this code shall not be transmitted to the Commission.

<sup>(g)</sup> The transactions recorded under item 8 of column A involve goods which are not separately invoiced, but for which a single invoice is made covering the total value of the works. Where this is not the case, the transactions should be recorded under item 1.

<sup>(h)</sup> Code numbers for national purposes may be collected in column B provided that only the code numbers of column A are transmitted to the Commission.'