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► **B** 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 1172/95

(Text with EEA relevance)

(OJ L 152, 16.6.2009, p. 23)

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► <u>M1</u>	Regulation (EU) 2016/1724 of the European Parliament and of the Council of 14 September 2016	L 266	1	30.9.2016
► <u>M2</u>	Commission Regulation (EU) 2016/2119 of 2 December 2016	L 329	66	3.12.2016

▼B**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 1172/95****(Text with EEA relevance)***Article 1***Subject matter**

This Regulation establishes a common framework for the systematic production of Community statistics relating to trade in goods with non-member countries (hereinafter referred to as external trade statistics).

*Article 2***Definitions**

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

- (a) ‘goods’ means all movable property, including electricity;
- (b) ‘statistical territory of the Community’ means the ‘customs territory of the Community’ as defined in the Customs Code with the addition of the Island of Heligoland in the territory of the Federal Republic of Germany;
- (c) ‘national statistical authorities’ means the national statistical institutes and other bodies responsible in each Member State for producing external trade statistics;
- (d) ‘customs authorities’ means the ‘customs authorities’ as defined in the Customs Code;
- (e) ‘customs declaration’ means the ‘customs declaration’ as defined in the Customs Code;
- (f) ‘decision by customs’ means any official act by customs authorities relating to accepted customs declarations and having legal effect on one or more persons.

*Article 3***Scope****▼M2**

1. External trade statistics shall record imports and exports of goods.

An export shall be recorded by Member States in the event that goods leave the statistical territory of the Community

- (a) in accordance with one of the following customs procedures laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽¹⁾ (‘the Union Customs Code’):

- export;
- outward processing;

⁽¹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

▼ M2

- (b) in application of Article 258 of the Union Customs Code;
- (c) in application of Article 269(3) of the Union Customs Code;
- (d) in application of Article 270 of the Union Customs Code to discharge an inward processing procedure.

An import shall be recorded by Member States in the event that goods enter the statistical territory of the Community in accordance with one of the following customs procedures laid down in of the Union Customs Code:

- (a) release for free circulation including end-use;
- (b) inward processing.

▼ M1

2. In order to take account of changes in the Customs Code and provisions deriving from international conventions, the Commission is empowered to adopt delegated acts in accordance with Article 10a adapting the list of customs procedures or customs-approved treatment or use referred to in the second subparagraph of paragraph 1 of this Article.

▼ B

3. For methodological reasons, certain goods or movements call for specific provisions. This concerns industrial plants, vessels and aircraft, sea products, goods delivered to vessels and aircraft, staggered consignments, military goods, goods to or from offshore installations, spacecraft, electricity and gas and waste products (hereinafter referred to as specific goods or movements).

▼ M1

The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to specific goods or movements and to different or specific provisions applicable to them.

▼ B

4. For methodological reasons, certain goods or movements shall be excluded from external trade statistics. This concerns monetary gold and means of payment which are legal tender; goods the intended use of which is diplomatic or similar nature; movements of goods between the importing and exporting Member State and their national armed forces stationed abroad as well as certain goods acquired and disposed of by foreign armed forces; particular goods which are not the subject of a commercial transaction; movements of satellite launchers before their launching; goods for and after repair; goods for or following temporary use; goods used as carriers of customised information and downloaded information; and goods declared orally to customs authorities which either are of a commercial nature, provided that their value does not exceed the statistical threshold of EUR 1 000 in value or 1 000 kg in net mass, or are of a non-commercial nature.

▼ M1

The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to the exclusion of goods or movements from external trade statistics.

▼ M1

5. When exercising the powers delegated in paragraphs 2, 3 and 4, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents.

▼ B*Article 4***Data source**

1. The data source for records on the imports and exports of goods referred to in Article 3(1) shall be the customs declaration, including possible amendments or changes to statistical data resulting from decisions by customs pertaining to it.

2. Where the further simplification of customs formalities and controls pursuant to Article 116 of the Modernised Customs Code results in records on the imports and exports of goods not being available at customs authorities, the economic operator to whom the simplification was granted shall provide the statistical data defined in Article 5 of this Regulation.

3. Member States may continue to use other data sources for the compilation of their national statistics until the date of implementation of a mechanism for mutual data exchange by electronic means referred to in Article 7(2).

4. For specific goods or movements as referred to in Article 3(3), data sources other than the customs declaration can be used.

▼ M1

5. The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to the data collection referred to in paragraphs 2 and 4 of this Article. When exercising those powers, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents.

▼ B*Article 5***Statistical data**

1. Member States shall obtain the following set of data from records on imports and exports referred to in Article 3(1):

- (a) the trade flow (import, export);
- (b) the monthly reference period;
- (c) the statistical value of the goods at the national border of the importing or exporting Member States;
- (d) the quantity expressed in net mass and in a supplementary unit if indicated on the customs declaration;
- (e) the trader, being the importer/consignee on import and the exporter/consignor on export;

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- (f) the importing or exporting Member State, being the Member State where the customs declaration is lodged, if indicated on the customs declaration:
 - (i) on import, the Member State of destination;
 - (ii) on export, the Member State of actual export;
- (g) the partner countries, that is:
 - (i) on import, the country of origin and the country of consignment/dispatch;
 - (ii) on export, the country of last known destination;
- (h) the goods according to the Combined Nomenclature, being:
 - (i) on import, the goods code of the TARIC subheading;
 - (ii) on export, the goods code of the Combined Nomenclature subheading;
- (i) the customs procedure code to be used for determining the statistical procedure;
- (j) the nature of the transaction if indicated on the customs declaration;
- (k) the preferential treatment on import where granted by customs authorities;
- (l) the invoicing currency if indicated on the customs declaration;
- (m) the mode of transport, detailing:
 - (i) the mode of transport at the frontier;
 - (ii) the internal mode of transport;
 - (iii) the container.

▼M1

2. The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to further specification of the data referred to in paragraph 1 of this Article.

2a. The Commission shall adopt, by means of implementing acts, measures relating to the codes and their format to be used in respect of the data referred to in paragraph 1 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

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3. Where not otherwise stated and without prejudice to customs legislation, the data shall be contained in the customs declaration.

4. For specific goods or movements as referred to in Article 3(3) and data provided in accordance with Article 4(2), limited sets of data may be required.

▼M1

The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to those limited sets of data.

▼ M1

5. When exercising the powers delegated in paragraphs 2 and 4, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents.

▼ B*Article 6***Compilation of external trade statistics**

1. Member States shall compile for each monthly reference period statistics on imports and exports of goods expressed in value and quantity by:

- (a) goods code;
- (b) importing/exporting Member States;
- (c) partner countries;
- (d) statistical procedure;
- (e) nature of the transaction;
- (f) preferential treatment on import;
- (g) mode of transport.

Implementing provisions for compiling the statistics may be determined by the Commission in accordance with the procedure referred to in Article 11(2).

2. Member States shall compile annual statistics on trade by business characteristics, namely the economic activity carried out by the enterprise according to the section or two-digit level of the common statistical classification of economic activities in the European Community (NACE) and size-class measured in terms of number of employees.

The statistics shall be compiled by linking data on business characteristics recorded according to Regulation (EC) No 177/2008 with the data recorded according to Article 5(1) of this Regulation on imports and exports. To this end, national customs authorities shall provide the relevant traders' identification number to national statistical authorities.

▼ M1

The Commission shall adopt, by means of implementing acts, measures relating to the linking of the data and the statistics to be compiled.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

3. Every two years Member States shall compile annual statistics on trade broken down by invoicing currency.

Member States shall compile the statistics using a representative sample of records on imports and exports from customs declarations which contain the data on the invoicing currency. If the invoicing currency for exports is not available on the customs declaration, a survey shall be carried out to collect the required data.

▼ M1

The Commission is empowered to adopt delegated acts in accordance with Article 10a relating to the level of aggregation for partner countries, goods and currencies. When exercising those powers, the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents.

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4. The compilation by Member States of additional statistics for national purposes may be determined where the data are available on the customs declaration.

5. Member States shall not be obliged to compile and transmit to the Commission (Eurostat) external trade statistics on statistical data which, according to the Customs Code or to national instructions, are not yet recorded nor can be straightforwardly deduced from other data on the customs declaration lodged at their customs authorities. The transmission of the following data is therefore optional for Member States:

- (a) on import, the Member State of destination;
- (b) on export, the Member State of actual export;
- (c) the nature of the transaction.

*Article 7***Data exchange**

1. Without delay and at the latest during the month following the month the customs declarations were accepted or were subject to decisions by customs pertaining to them, national statistical authorities shall obtain from customs authorities the records on imports and exports based on the declarations which are lodged with those authorities.

The records shall contain at least those statistical data listed in Article 5 which are, according to the Customs Code or to national instructions, available on the customs declaration.

2. With effect from the date of implementation of a mechanism for mutual data exchange by electronic means, customs authorities shall ensure that records on imports and exports are transmitted to the national statistical authority of the Member State which is indicated on the record as:

- (a) on import, the Member State of destination;
- (b) on export, the Member State of actual export.

The mechanism for mutual data exchange shall be implemented at the latest when Title I, Chapter 2, Section 1 of the Modernised Customs Code is applicable.

3. Implementing provisions for determining the transmission referred to in paragraph 2 of this Article may be determined in accordance with the procedure referred to in Article 11(2).

▼B*Article 8***Transmission of external trade statistics to the Commission (Eurostat)****▼M1**

1. Member States shall transmit to the Commission (Eurostat) the statistics referred to in Article 6(1) no later than 40 days after the end of each monthly reference period. Member States shall ensure that the statistics contain information on all imports and exports in the reference period in question, making adjustments where records are not available.

Where the statistics transmitted are subject to revisions, Member States shall transmit the revised results no later than the last day of the month following the date on which the revised data became available.

Member States shall include in the results transmitted to the Commission (Eurostat) any statistical information which is confidential.

The Commission shall adopt, by means of implementing acts, measures relating to the uniform technical specifications for the content and coverage of the transmitted statistics. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

2. The statistics on trade by business characteristics referred to in Article 6(2) shall be transmitted to the Commission (Eurostat) within 18 months of the end of the reference year.

The statistics on trade broken down by invoicing currency referred to in Article 6(3) shall be transmitted to the Commission (Eurostat) within three months of the end of the reference year.

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3. Member States shall transmit the statistics in electronic form, in accordance with an interchange standard. The practical arrangements for the transmission of the results may be determined in accordance with the procedure referred to in Article 11(2).

*Article 9***Quality assessment**

1. For the purpose of this Regulation, the following quality criteria shall apply to the statistics to be transmitted:

- (a) ‘relevance’, which refers to the degree to which statistics meet current and potential needs of the users;
- (b) ‘accuracy’, which refers to the closeness of estimates to the unknown true values;
- (c) ‘timeliness’, which refers to the period between the availability of the information and the event or phenomenon it describes;
- (d) ‘punctuality’, which refers to the delay between the date of release of the data and the target date (the date by which the data should have been delivered);

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- (e) ‘accessibility’ and ‘clarity’, which refer to the conditions and modalities by which users can obtain, use and interpret data;
 - (f) ‘comparability’, which refers to the measurement of the impact of differences in applied statistical concepts, measurement tools and procedures when statistics are compared between geographical areas, sectoral domains or over time;
 - (g) ‘coherence’, which refers to the adequacy of the data to be reliably combined in different ways and for various uses.
2. Member States shall provide the Commission (Eurostat) with a report on the quality of the statistics transmitted every year.
 3. In applying the quality criteria laid down in paragraph 1 of this Article to the statistics covered by this Regulation, the modalities and structure of the quality reports shall be defined in accordance with the procedure referred to in Article 11(2).

The Commission (Eurostat) shall assess the quality of the statistics transmitted.

*Article 10***Dissemination of external trade statistics**

1. At Community level, external trade statistics compiled in accordance with Article 6(1) and transmitted by the Member States shall be disseminated by the Commission (Eurostat) by the Combined Nomenclature subheading at least.

Only where an importer or exporter so requests shall the national authorities of a given Member State decide whether the external trade statistics of that Member State which may make it possible to identify that importer or exporter are to be disseminated or are to be amended in such a way that their dissemination does not prejudice statistical confidentiality.

2. Without prejudice to data dissemination at national level, detailed statistics by the TARIC subheading and preferences shall not be disseminated by the Commission (Eurostat) if their disclosure would undermine the protection of the public interest as regards the commercial and agricultural policies of the Community.

▼M1*Article 10a***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3(2), (3) and (4), 4(5), 5(2) and (4), and 6(3) shall be conferred on the Commission for a period of five years from 20 October 2016. 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.

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3. The delegation of power referred to in Articles 3(2), (3) and (4), 4(5), 5(2) and (4), and 6(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 3(2), (3) and (4), 4(5), 5(2) and (4), and 6(3) 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 of the Council.

*Article 11***Committee procedure**

1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²⁾.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

▼B*Article 12***Repeal**

Regulation (EC) No 1172/95 shall be repealed with effect from 1 January 2010.

It shall continue to apply to data pertaining to reference periods before 1 January 2010.

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

⁽²⁾ 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 (OJ L 55, 28.2.2011, p. 13).

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Article 13

Entry into force

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 2010.

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