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PROPOSAL

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 26 November 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance
between the administrative authorities of the Member States and cooperation
between the latter and the Commission to ensure the correct application of the
law on customs and agricultural matters

Delegations will find attached Commission document COM(2013) 796 final.

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EUROPEAN
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2013/0410 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters

{ SWD(2013) 482 final }

{ SWD(2013) 483 final }

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context

Action against breach of customs legislation is integral to the protection of the Union's financial interests and to the development of customs cooperation.

Customs legislation may be breached by various practices such as misdescription of imported goods so as to take advantage of lower duties, or by misdeclaration of the origin of the goods in order to circumvent anti-dumping levies and/or to avoid quantitative import limitation quotas, or by misuse of the transit system, when the goods effectively imported are declared as being in transit in order to evade the applicable customs duties.

To combat these breaches of customs legislation extensive exchange of information is required in the framework of cooperation both between Member States and between the Member States and the Commission. While such cooperation has already been successful, a number of areas have been identified where further action is necessary, mainly as regards the functioning of the antifraud system in the customs field and the improvement of customs risk management at national and Union levels¹.

1.2. Legal context

The main legal instruments applying to breaches of customs legislation in this context are Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, and Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes.

Regulation (EC) No 515/97 governs issues relating to the customs union which is an area of the exclusive EU competence according to Article 3(1)(a) of the Treaty on the Functioning of the European Union (TFEU).

Council Decision 2009/917/JHA addresses matters relating to the area of freedom, security and justice which according to Article 4(2)(j) of TFEU is an area of shared competence between the Union and the Member States.

On this basis, the Commission created an IT structure, the Anti-Fraud Information System (AFIS), for the implementation of the relevant legislation, which includes databases for customs issues and for issues related to cooperation in the law enforcement field.

1.3. Specific issues

1.3.1. The need to address loopholes in the existing systems for the detection of customs-related fraud

There are various duties, taxes, rates and quantitative limits which have to be respected by traders operating legitimately in the EU. The financial gains to be had from avoidance of these charges constitute an incentive to commit fraud such as misdeclaration of origin,

¹ Having regard in particular to Commission Communication COM (2012) 793 of 8th January 2013 on Customs Risk Management and Supply Chain Security

misdescription of goods and misuse of the transit system. This risk is even greater since the existing systems for the detection of customs fraud are still not sufficiently developed and the means of checking the true origin of imported goods are currently limited. In particular, it is not possible for customs officers to verify whether the declared origin of goods is consistent with the route followed by the container transporting the goods. The information on container movements (Container Status Messages - CSMs) is considered crucial for detecting cases of misdeclaration of origin. The current system for the detection of misdescription of goods is also unsatisfactory. In this context, the identification of suspicious cases by customs authorities is based on notifications that may be received from various sources (for example other customs authorities or economic operators) and risk analysis based on limited data. The main drawback of this procedure is that the controls are still not sufficiently targeted as they are based on analyses of limited data. Similarly, gaps exist in the system for the detection of misuse of the transit system. The procedure currently used for the verification of goods in transit consists of document checking and physical controls. However, the effectiveness and efficiency of these methods are limited by the available resources and by limitations in the scope and quality of data available for automated risk analysis and targeting of controls. To effectively target instances of misdeclaration of origin, misdescription of goods and misuse of the transit system, it is appropriate to use automated and scientific risk analysis methods for identification of suspect shipments. The Commission believes that these methods can be more effectively and efficiently implemented when supported by systematic availability of high-quality and timely data on CSMs, imports, exports and transit at national and EU levels.

1.3.2. The need to enhance customs risk management and supply chain security at national and EU levels

The need to establish an equivalent level of customs controls for goods brought into/ taken out of the customs territory of the Union is recognised, alongside the need to introduce a Union-wide risk management framework to support a common approach. In that context, Regulation (EC) No 648/2005 amending the Community Customs Code provides for the common risk management framework which has been implemented by the Commission and the Member States. In its Communication on Customs Risk Management and Security of the Supply Chain², the Commission identified a number of strategic implementation challenges. Of particular importance are the difficulties caused by gaps in the availability and quality of data for pre-arrival screening for safety and security risks. The Communication emphasises that 'provision by traders of quality data and its availability to the authorities involved in risk management at the appropriate level is a major priority'. In this context, the collection of CSMs and their integration in pre-arrival risk analysis can make a vital contribution to enhancing the supply chain security in general and to the work of the Commission and the Member States in managing the risks identified in Article 4 (25) of the Community Customs Code, including the threats posed to the Union's security and safety, to public health, to the environment and to consumers.

1.3.3. The need to address delays in OLAF investigations

As a result of the recent introduction of e-Customs, the documents supporting import and export declarations (invoice, certificate of origin, etc.) are kept by the economic operators and no longer by the customs administrations. Importantly, these documents are often necessary for OLAF to conduct its investigations. The current procedure used by OLAF to obtain those documents is to send a request to the Member States. However, such a system is inefficient

² COM (2012)793.

because, as previously mentioned, the Member States are no longer in possession of relevant information and thus they have to request it from the economic operators before forwarding it to the Commission. This causes a loss of time before the documents become available to OLAF. There is currently no provision in the legal framework which could be used to accelerate procedures relating to OLAF investigations.

1.3.4. The need for clarification on the possibility to restrict visibility of data

The AFIS IT system is currently underused because Member States are not able to select the potential users of the information they insert in the system. Consequently, protection of the Union's financial interests and customs cooperation are sub-optimal and unnecessarily obstructed. There is thus a need for technical clarification that data inserted by the owners can be restricted to particular users. A provision in the Regulation clearly enabling data owners to restrict visibility to specific users would considerably increase the exchange of information and improve further the possibility to prevent, detect and investigate customs-related fraud. In addition, restricted visibility protects confidentiality and therefore improves the level of confidence in the system. The ability to shield sensitive data would lead to increased willingness to share information within the AFIS system. Moreover the restricted visibility feature would enable the Commission to improve data management, making it possible to store, update and search for information thus far only exchanged.

1.3.5. The need for streamlined data protection supervision

In line with the current legislation, two different bodies (i.e. European Data Protection Supervisor – EDPS and Customs Joint Supervisory Authority – CJSA) carry out audits. There are cases where a lack of coordination between these bodies leads to diverging recommendations causing inefficient use of resources in the Commission and Member States. The implementation process is prolonged because it is necessary to accommodate the recommendations of both the EDPS and CJSA. This causes inefficiency and generates additional costs in terms of time and resources. Carrying out the recommendations can continue even one year after the audit took place. Closer collaboration between the two supervisory bodies is therefore necessary.

Another issue in the area of data protection which needs to be further clarified is the responsibility for the technical systems established by the Commission on the basis of Regulation (EC) No 515/97. Currently, the Commission is providing Member States with technical assistance, training, communication activity and other operational support by means of technical systems. However, the responsibility for data protection supervision with regard to those technical systems has not been specifically assigned. For this reason, the proposal clarifies the EDPS' competence.

1.3.6. The need for clarification on the admissibility of evidence collected under mutual assistance

Currently, national prosecutors are reluctant to use documents obtained via mutual assistance channels as evidence in criminal proceedings because the provisions of Regulation (EC) No 515/97 are not sufficiently clear on such a possibility. This inevitably causes delays in national criminal proceedings or may even result in the dismissal of a case due to time barring. Importantly, it also undermines the principle of legal certainty, given that relevant provisions of Regulation (EC) No 515/97 are subject to differing interpretations. It appears necessary to clarify that the evidence obtained via mutual assistance may be used by prosecutors in the national criminal proceedings. The proposal does not oblige national courts to accept such evidence automatically as it still has to satisfy the national procedural rules.

1.3.7. *The European Public Prosecutor's Office*

The Commission recently proposed the setting up of the European Public Prosecutor's Office³. Given the associated changes in the investigation and prosecution of crimes affecting the Union's financial interests, the Commission should assess the need for revision of the current Regulation once the European Public Prosecutor's Office is established. In that event, all national authorities of the Member States and all institutions, bodies, offices and agencies of the Union must immediately inform the European Public Prosecutor's Office of any conduct which might constitute an offence within its competence. In accordance with the draft Regulation establishing the European Public Prosecutor's Office, the latter will have access to the databases operated by the Commission or the Member States under this Regulation.

1.4. **Proposed solution**

In order to address the above shortcomings, it appears necessary to amend Regulation (EC) No 515/97.

2. **RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

2.1. **Consultations with stakeholders**

The Commission has consulted stakeholders on a number of occasions and has taken into account the comments received.

2.1.1. *Member States' customs authorities*

Member States were consulted by means of a *questionnaire* in February 2012. Member States expressed their needs for access to customs-related data (import, transit and export) regarding transactions in another Member State and the perceived usefulness of information on container movements. They also provided their views on the best way of collecting, storing and analysing such information.

In May 2012, the Commission organised a *conference* to gather feedback and suggestions from Member State experts on the overall functioning of the Anti-Fraud Information System (AFIS), as well as on the implementation of and prospects for Regulation (EC) No 515/97. The conference consisted of a plenary session and four specific workshops on legal issues, Joint Customs Operations, applications, and technical and IT security aspects of the current status and future evolution of AFIS.

On a number of occasions, the Commission consulted the '*Mutual Assistance Committee*', established on the basis of Article 43 of Regulation (EC) No 515/97, consisting of the representatives of the Member States responsible for mutual administrative assistance matters. Recent discussions took place during the meetings on 24 May 2012 and on 25 September 2012.

2.1.2. *Shipping companies - World Shipping Council*

A major consultation of the shipping industry took place on 15 March 2012, with participation of private sector companies and the World Shipping Council (WSC)⁴. The aim was to inform carriers about the proposed initiative and to obtain their feedback on the envisaged provision

³ COM(2013) 534, 17 July 2013

⁴ WSC members provide transport services accounting for about 60 per cent of the value of global seaborne trade. The WSC generally provides a coordinated voice for the liner shipping industry.

of CSMs to the Commission. The Commission also proposed a pilot exercise in this area. Discussion focused on the type of data that container carriers must provide to the Commission and how this should be done, as well as the methods of transmission, etc. The Commission did its utmost to involve the industry in the preparations, so as to ensure easy implementation of its proposal.

In addition, several meetings were held between the Commission and representatives of the WSC.

Based on these consultations, the type of information to be submitted by the companies was established. The most cost-effective method of transmitting this information is through a 'global dump', i.e. a daily copy of all container movements. Alternatively, companies may opt for selective submission of data. Remaining modalities will need to be further specified.

The shipping industry has underlined the need to ensure that data provided by the companies should be transmitted only once. The Commission should then be responsible for communicating these data to international and/or European institutions, as well as Member States, for the purposes for which the database is established.

2.1.3. Data Protection Supervisors

In the course of the preparations for this proposal, meetings with the EDPS and CJSA were organised in May and June 2012.

2.2. Impact assessment

The Commission carried out an impact assessment of policy options, taking into account the consultations of the interested parties. The conclusion was that, amongst other things, the solutions sought by the main amendments of the Regulation would comprise the following:

- Create conditions for improved fighting of customs fraud related to **misdeclaration of goods origin** through the submission of Container Status Messages by the deep sea carriers to the Commission. The recommended submission method is global reporting ('global dump') involving near zero costs. An alternative submission method is also possible.
- Create conditions for improved fighting of customs fraud related to **misdescription of goods** through the creation of a central database for import and export data. A legal basis for the supply of such data would need to be created. This measure will not impose any additional costs on Member States because the information that is required already exists in electronic format, namely in respective databases operated by the Commission. Therefore, only consent of the Member States to copy these data is required.
- Create conditions for improved fighting of customs fraud related to **misuse of the transit system** through the creation of a centralised repository for transit-related data.
- **Speed up OLAF investigations** by enabling direct access to documents supporting import and export declarations. Expected costs for private sector operators are near zero, since the obligation already exists (businesses are required by national law and also the Customs Code to keep the relevant documentation). Importantly, the expected volume of requests addressed to economic operators that would be necessary for OLAF investigations is expected to be very small (a few cases per year).

The Impact Assessment concluded that the proposed options are in line with the fundamental rights. In this context it is important to note that the envisaged CSM database would contain no personal data. Databases on import, export and transit would contain personal data and protection of this data is to be monitored by the EDPS according to already applicable standards laid down in Regulation (EC) No 515/97.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. The legal basis

The proposal to amend Regulation (EC) No 515/97 should be based on Articles 33 and 325 of the Treaty on the Functioning of the European Union (TFEU).

Article 33 TFEU provides the basis to cover most of the scope of exchanges of information between customs authorities and between the customs authorities and the Commission for the purpose of customs cooperation. Article 325 TFEU sets out the EU's competence to enact the necessary measures in the fields of prevention of and fight against fraud and any other illegal activities affecting the Union's financial interests which 'act as a deterrent'. Article 325(4) and Article 33 of the TFEU provide for the legislative procedure to adopt the necessary measures with a view to affording effective and equivalent protection.

3.2. Subsidiarity, proportionality and respect for fundamental rights

3.2.1. Subsidiarity and proportionality

The need for EU-level legislation on mutual administrative assistance and customs cooperation stems from the following facts:

- The need for EU legislation on mutual administrative assistance and customs cooperation has already been recognised by the European legislator with the adoption of Regulation (EC) No 515/97 and Council Decision 2009/917/JHA.
- It is acknowledged that many customs risks manifest themselves on a transnational basis. Illicit supply chains can quickly adapt to improvements in the risk management environment at a given point of entry and focus on other points with lower levels of protection. Action at EU level is necessary to ensure an equivalent level of protection against customs risks at all points of the external borders, as envisaged in Regulation (EC) No 648/2005.
- Given that trade is global, Member States alone cannot efficiently observe, detect and mitigate risks entailing breach of customs legislation and other customs-related risks; complementary action at EU level would substantially facilitate the work of Member States in pursuing investigations, especially in cases where cross-border transfer of goods is involved. Organising activities in the area of customs cooperation at EU level would create significant added value, with a coherent approach and coordination of the activities.
- The EU has exclusive competence in the areas of fraud prevention and the Customs Union.
- It is clear from consultation with trade stakeholders that a single central submission of CSMs will have lower costs than submission only to the Member State through which the container enters or leaves the customs territory of the Union.

- The EU is best placed to drive such collective action because it already possesses the necessary experience, systems and expertise to guarantee the rapid and cost-efficient gathering, communication and sharing of data.
- National customs authorities alone cannot effectively share information and conduct a large-scale fight against breach of customs legislation and other customs risks at reasonable cost. Systematic collection of the data required to analyse customs risks which pose a threat to the EU and its Member States would constitute a disproportionate effort for 28 individual Member States and can be achieved more effectively and efficiently by action at EU level.

It can thus be concluded that EU action to collect, store, process, use and make available to the Member States the data identified in this Regulation in pursuit of the fight against fraud and other customs risks is necessary and proportionate to the nature and scale of the risks concerned, and satisfies the principle of subsidiarity.

3.2.2. *Relation with fundamental rights*

This initiative concerns in particular the fundamental right to protection of personal data. This right is enshrined in Article 8 of the Charter of Fundamental Rights and Article 16 TFEU, based on Directive 95/46/EC, as well as in Article 8 of the ECHR.

The respect of personal data protection rights has already been duly considered in Regulation (EC) No 515/97 and Council Decision 2009/917/JHA through rigorous rules as regards the content coverage of data, data preservation and data protection supervision. In this context, it is important to note that the envisaged CSM database would contain no personal data. Databases on import, export and transit would contain personal data and protection of those data is to be ensured by the EDPS according to already applicable standards laid down in Regulation (EC) No 515/97.

3.2.3. *Value added*

The proposed action at EU level would significantly improve the detection, investigation and prevention of customs-related fraud, by increasing the exchange of information and the available evidence, and improving the functioning of the established system, thus rendering the action more efficient and effective. It would also significantly enhance the capacity of the EU to identify and mitigate the risks identified in Article 4 (25) of the Community Customs Code, including the threats posed to the Union's security and safety, to public health, to the environment and to consumers. Consequently, the envisaged action will strengthen the protection of the Union's financial interests, improve risk management, and further promote customs cooperation.

To guarantee that full value can be delivered, the Commission will ensure that the governance and administration of the future databases and information concerning CSMs, transit, import and export is formally shared between its services for the purposes indicated in the Regulation. It will ensure that the databases are available for seamless incorporation in risk management activities of the Commission and the Member States, including systematic real-time pre-arrival and pre-departure risk analysis. An appropriate inter-service governance structure will be provided to streamline operational management and the allocation of responsibilities for data protection and security.

3.3. **Choice of instruments**

The instrument proposed is a Regulation, corresponding to the instrument being amended.

3.4. Specific provisions

3.4.1. Definitions – Article 2

The definition of the concept of customs legislation is updated, in order to have the terminology aligned with the customs field, namely adding references to entry and exit of goods. A definition of service providers active in the international supply chain in order to clarify to whom the obligation laid down in Article 18c(1) shall apply.

3.4.2. Admissibility of evidence – Article 12

The proposed amendment of Article 12 aims at removing legal uncertainty that currently exists in relation to the possible use of information collected through mutual assistance as evidence in national criminal proceedings.

3.4.3. Information related to movements of containers – Article 18a and new Articles 18c, 18d, 18e and 18f

Article 18a of Regulation (EC) No 515/97 provides for the establishment of a directory to collect data on container movements and to analyse these data. However, the wording of this article does not oblige the relevant economic operators (i.e. carriers) to supply the Commission with the information to be inserted in the directory (i.e. Container Status Messages — CSMs). Consequently, while the Commission has tested the effectiveness of such a directory and the analysis system is of proven quality, it is limited in quantity due to insufficient access to necessary data.

The proposed amendments aim to ensure that the necessary data are provided, by creating an obligation in a new Article 18c for the relevant service providers to supply the information in question. This information can substantially contribute to the fight against various types of customs fraud including misdeclaration of origin, and to the management of other customs risks identified in Article 4(25) of the Community Customs Code.

Article 18d specifies that for containers destined to be brought into the customs territory of the Union, the time period of reporting is delimited by the empty status of the container. In practice, this means that carriers will have to report the CSMs for containers imported into the EU from the most recent moment when the container was empty before being brought into the customs territory of the Union until the moment the container is again reported empty after leaving the customs territory of the Union. For containers leaving the customs territory of the Union the time period of reporting is limited to the moment the container is reported empty outside the customs territory of the Union. If it is not possible to determine specific empty container events, carriers may report CSMs according to the following time periods:

- (a) for containers destined to arrive in the customs territory of the Union: 3 months prior to arrival in the customs territory of the Union and 1 month after the arrival in the customs territory of the Union or when a non-EU location is reached (whichever comes first).
- (b) for containers leaving the customs territory of the Union: during 3 months after the container has left the customs territory of the Union.

Without prejudice to the outcome of the ongoing analysis, it may be envisaged that the main elements of the future delegated acts would be as follows:

The delegated act envisaged in Article 18f(1) will set out, inter alia, the exact events for which CSMs will have to be reported to the Commission. These may include the following: confirmation of booking, arrival at a loading or unloading facility, departure from a loading or

unloading facility, loading on or unloading from a conveyance, instruction of stuffing or stripping, confirmation of stuffing or stripping, intra-terminal movements, terminal gate inspection and sending for heavy repair.

As far as the frequency of reporting is concerned, each carrier may choose either:

- (a) to submit, on a daily basis, all new CSMs generated or collected in the carrier's electronic equipment tracking system within the previous 24 hours, regardless of whether the CSMs concern containers which are destined to be brought in/taken out of the customs territory of the Union or not ('data dump'); or
- (b) to submit, on a daily basis, CSMs specifically related to containers (whether laden or not) destined to be brought into/taken out of the customs territory of the Union, generated or collected in the carrier's electronic equipment tracking system within the previous 24 hours.

The minimum data elements of the CSM messaging will also be determined by means of delegated acts. The message formats and methods of transmission of the CSMs will be determined by means of implementing acts.

3.4.4. Data related to import, export and transit – new Article 18g

With a view to achieving more targeted controls and increasing the effectiveness of the fight against customs fraud, it is proposed to introduce a legal basis for the processing of import and export data.

With regard to data related to transit, an administrative arrangement on the Anti-Fraud Transit Information System was put in place in 2011 between the Commission and the Member States⁵. Under this arrangement OLAF automatically receives the information on the movement of goods placed in transit. OLAF analyses these data and provides reports that are regularly shared with the Member States and the interested Commission services. However, while acknowledging the Commission's efforts, several Member States feel that the Commission should define a clear legal basis for this activity replacing the present arrangement. The proposal introduces the appropriate legal basis. This does not put any additional reporting burden on the Member States, as the electronic data are already circulated and exchanged among Member States in an electronic system operated by the Commission. The proposal involves replicating the data from the systems operated by the Commission and analysing these data in order to trace fraudulent cases and build patterns useful for identifying potential instances of customs fraud and protecting the financial interests of the European Union. The proposed database will be available for use by the Commission and the customs administrations of the Member States. The Commission is the responsible data controller for this directory.

Article 13(2) of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code requires that customs controls (other than spot checks) be based on risk analysis using automated data processing techniques, and provides for the establishment of a common risk management framework in that context. Article 4(25) defines the risks concerned, and Article 4(26) provides for risk management activities to include 'collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international, Community and national sources and

⁵ The ATIS administrative arrangement was adopted in Brussels on 6 July 2011, between the Committee on Mutual Assistance, covered by Art.43 of Regulation 515/97 and the EC/EFTA Working Group on Common Transit and the Simplification of Formalities in Trading in Goods.

strategies.’ It is appropriate therefore to ensure that the data collected can be used in risk management for all customs risks and to provide for their availability to the relevant authorities at EU and Member State level for this purpose in appropriate circumstances.

3.4.5. Supporting documents – new Article 18h

In cases where OLAF requires customs-related supporting documents for the purposes of its investigations, it cannot request them directly from the economic operators but needs the intermediation of national authorities. This leads to delays in investigations and, frequently, to failure of investigations due to time barring. This is particularly problematic in customs-related cases where the limitation period of three years applies. The situation has worsened since 1 January 2011 with the introduction of e-Customs, as the documents supporting import and export declarations (invoice, certificate of origin, etc.) are no longer kept by the customs administrations but by the economic operators.

With a view to accelerating investigation procedures, a new provision is proposed to empower the Commission to obtain directly from private sector companies, the documents supporting import and export declarations, for purposes of the investigations based on Regulation (EC) No 515/97.

3.4.6. Restricted visibility and publication of the authorities – Articles 29 and 30

It is expected that introduction of the possibility to select the potential users of data (restricted visibility) would significantly increase the use of databases by Member States and consequently contribute to efficiency. Therefore, it is proposed to amend Article 29 accordingly. The proposed amendment also includes a more flexible way of publishing the updates of the lists of the relevant authorities mentioned in Articles 29 and 30.

3.4.7. Data protection – Articles 18b, 33, 37 and 38

The complex structure of the supervision of data protection rules results from the dual legal structure of the customs information system: Regulation (EC) No 515/97, Article 37(3)(a); and Council Decision 2009/917/JHA, Article 25(2) which reflect the pre-Lisbon structure. Hence, two separate bodies have been established: CJSA and EDPS ensure that data protection rules are implemented according to the legislation. However, as recommendations are applicable to both parts of the IT system, it is clearly difficult to implement different opinions and recommendations. This creates redundancies in the use of resources.

To address this problem, the proposal introduces a provision which aims at simplifying and harmonising the rules for the supervision of data protection rules applicable to each of the systems. The objective is to ensure coherence during the supervision process and encourage the use of common audits, leading to joint reports.

In addition, the proposal clarifies that the EDPS is responsible for data protection supervision of the technical systems established by the Commission on the basis of this Regulation.

The proposal also introduces a maximum retention period of ten years for data stored in the CIS, stipulating additionally that in cases where personal data are stored for a period exceeding five years, the EDPS should be informed accordingly.

Finally, in order to safeguard the rules governing data protection, a specific provision is introduced in Article 38 on the security of processing.

3.4.8. Consistency with the Lisbon Treaty – Article 23(4), Article 25(1), Article 33, Article 38, Article 43 and Article 43a

In order to ensure increased consistency of Regulation (EC) No 515/97 with the Treaty on the Functioning of the European Union, the proposed amendment takes account of the necessary adjustments as regards granting the Commission delegated powers (Article 290 TFEU) or implementing powers (Article 291 TFEU).

3.5. Entry into force

The proposed Article 18c(1) introduces an obligation for public or private sector operators active in the international chain to send to the Commission data on container movements. Given that this provision may conflict with contractual obligations between companies and their clients relating to non-disclosure and confidentiality, the Article concerning entry into force provides for an appropriate transitional period, during which carriers should renegotiate their private law contracts in order to comply with the amended Regulation.

4. BUDGETARY IMPLICATION

The budgetary effort concerns mainly the IT costs to maintain and further develop the existing AFIS system. The costs related to the implementation of this proposal will be handled within the framework of the existing forecast in the context of Multiannual Financial Framework and therefore no additional request for budgetary allocation is required. The overall costs of the proposal are comparable to those of the previous period and are considered as a mere continuation of recurrent costs. The budgetary development related to this proposal is in line with the Multiannual Financial Framework.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33 and 325 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

After having consulted the European Data Protection Supervisor,

After having consulted the Court of Auditors,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In order to ensure that Regulation (EC) No 515/97 covers all possible movements of goods in relation to the customs territory of the Union, it is appropriate to clarify the definition of customs legislation with regard to the concepts of entry and exit of goods.
- (2) With a view to further enhancing administrative and criminal procedures for dealing with irregularities, it is necessary to ensure that evidence obtained through mutual assistance can be considered as admissible in proceedings before the administrative and judicial authorities of the Member State of the applicant authority.
- (3) The Commission Communication on Customs Risk Management and Supply Chain Security COM(2012) 793 recognises an urgent need to improve the quality and availability of data for use in pre-arrival risk analysis, in particular for the effective identification and mitigation of safety and security risks at national and EU levels, within the Common Risk Management Framework established under Article 13(2) of Council Regulation (EEC) No 2913/92. The integration of data on container movements in pre-arrival risk management will greatly improve supply chain visibility and will significantly enhance the capacity of the EU and the Member States to target higher-risk consignments for controls, while facilitating the flow of legitimate trade.
- (4) With a view to increasing clarity, consistency and transparency, it is necessary to define in more concrete terms the authorities which should have access to the directories established on the basis of this Regulation; for that purpose a uniform reference to competent authorities will be established.
- (5) Data concerning container movements make it possible to identify fraud and risk trends with regard to goods that are moved in and out of the customs territory of the

Union. Such data serve to assist in preventing, investigating and prosecuting operations which are or appear to constitute breaches of customs legislation, and to assist the competent authorities in managing customs risks defined in Article 4 point 25 of Regulation (EEC) No 2913/92. In order to collect and use a set of data as complete as possible, while avoiding potential negative impacts on small and medium sized enterprises in freight forwarding sector, it is necessary that public or private sector providers active in the international supply chain submit to the Commission data concerning container movements in so far as they collect such data in electronic formats via their equipment tracking systems or have access to such data.

- (6) The detection of fraud, identification of risk trends and the implementation of effective risk management procedures depend significantly on the identification and cross-analysis of relevant operational data sets. It is necessary therefore to establish, at European Union level, a directory containing data on import, export and transit of goods including transit of goods within the Member States and direct export. For that purpose, Member States should allow systematic replication of data on import, export and transit of goods from the systems operated by the Commission and should supply to the Commission data relating to transit of goods within a Member State and direct export.
- (7) For the implementation of Article 18b, the Commission has created a number of technical systems enabling the provision of technical assistance, training or communication activity and other operational activity to the Member States. These technical systems need to be explicitly referred to in this Regulation and covered by data protection requirements.
- (8) The introduction of the e-Customs in 2011, by which documents supporting imports and exports are no longer kept by the customs administrations but by the economic operators, has led to delays in the conduct of European Anti-fraud Office (OLAF) investigations in the customs area, as OLAF needs the intermediation of these administrations to obtain such documents. Moreover, the 3-year limitation period applicable to customs documents held by the administration, puts additional constraints to the successful conduct of investigations. In order to accelerate the conduct of investigations in the area of customs the Commission should therefore have the right to request documents supporting import and export declarations directly from the economic operators concerned. These economic operators should be obliged to provide the Commission with the requested documents.
- (9) In order to ensure confidentiality of the inserted data, provision should be made for limiting access to inserted data to specific users only.
- (10) In order to ensure up-to-date information and to secure transparency and information right of data subjects as enshrined in Regulation (EC) No 45/2001 and Directive 95/46/EC, the possibility of publishing on the internet updates of the lists of competent authorities designated by the Member States and the Commission departments to have access to the Customs Information System (CIS) should be introduced.
- (11) Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data applies to the processing of personal data by Union institutions, bodies, offices and agencies.

- (12) In order to improve consistency of data protection supervision, the European Data Protection Supervisor needs to cooperate closely with the Joint Supervisory Authority established under Council Decision 2009/917 JHA, with a view to achieving coordination of the audits of the CIS.
- (13) The provisions governing the storage of data in the CIS frequently result in unjustifiable loss of information; this is because Member States do not systematically carry out the yearly reviews due to the administrative burden involved. It is therefore necessary to simplify the procedure governing the storage of data in the CIS by removing the obligation to review data annually and by setting maximum retention period of ten years, corresponding to periods provided for the directories established on the basis of this Regulation. This period is necessary due to the long procedures for processing irregularities and because these data are needed for the conduct of joint customs operations and of investigations. Furthermore, to safeguard the rules governing data protection, the European Data Protection Supervisor should be informed about cases where personal data are stored in CIS for a period exceeding five years.
- (14) In order to further enhance the possibilities for analysis of fraud and facilitate the conduct of investigations, data concerning current investigation files stored in the Files Identification Database (FIDE) should be rendered anonymous, after one year since the last observation, and retained in a form in which identification of the data subject is no longer possible.
- (15) Since the objectives of enhancing customs risk management as defined in Article 4 points 25 and 26, and Article 13(2) of Regulation (EEC) No 2913/92 laying down the Community Customs Code, and of improving detection, investigation and prevention of customs-related fraud in the Union cannot be sufficiently achieved by the Member States themselves, the Union may act in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve the stated objectives.
- (16) Public or private service providers active in the international supply chain who, at the time of the entry into force of this Regulation, are bound by private contract obligations as regards the supply of data on container movements, should be entitled to benefit from a deferred application of Article 18c in order to renegotiate their contracts and ensure that future contracts are compatible with the obligation to provide data to the Commission.
- (17) Regulation (EC) No 515/97 confers powers on the Commission to implement some of the provisions of that Regulation; as a consequence of the entry into force of the Lisbon Treaty, the powers conferred on the Commission under this Regulation need to be aligned to Articles 290 and 291 of the Treaty.
- (18) In order to supplement certain non-essential elements of Regulation (EC) No 515/97 and in particular to create a streamlined and structured directory of CSMs, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the events for which CSMs should be reported, the minimum data elements to be reported in CSMs and the frequency of reporting.
- (19) In order to supplement certain non-essential elements of Regulation (EC) No 515/97 and in particular to specify the information to be inserted into the CIS, the power to

adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of determining the operations concerning the application of agricultural legislation for which information has to be introduced into the central database of the CIS.

- (20) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (21) In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the format of the data and method of transmission of CSMs. Those powers should be exercised in accordance with 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 examination procedure should be used for the adoption of implementing acts.
- (22) In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the specific elements to be included in the CIS under each of the categories referred to under items (a) to (h) in Article 24. Those powers should be exercised in accordance with 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 mechanism for control by Member States of the Commission's exercise of implementing powers². The examination procedure should be used for the adoption of implementing acts. The specific elements to be included in the CIS will be based on those listed in the Annex to the Commission Regulation (EC) No 696/98,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 515/97 is amended as follows:

1. Article 2(1), is amended as follows:
 - (a) The first indent is replaced by the following:

‘— ‘customs legislation’ means the body of Union provisions and the associated delegated and implementing acts governing the entry, exit, import, export, transit and presence of goods traded between Member States and third countries, and between Member States in the case of goods that do not have Union status within the meaning of Article 28(2) of the Treaty or goods subject to additional controls or investigations for the purposes of establishing their Union status,’
 - (b) The following indent is added:

¹ OJ L 55, 28.2.2011. p. 13.

² OJ L 55, 28.2.2011. p. 13.

‘—‘service providers active in the international supply chain’ means owners, shippers, consignees, freight forwarders, carriers and other intermediaries or persons involved in the international supply chain.’

2. Article 12 is replaced by the following:

‘Documents, certified true copies of documents, attestations, all instruments or decisions which emanate from the administrative authorities, reports, and any other intelligence obtained by the staff of the requested authority and communicated to the applicant authority in the course of the assistance provided for in Articles 4 to 11 may constitute admissible evidence in administrative and judicial proceedings of the applicant Member State in the same way as if they had been obtained in the Member State where the proceedings take place.’

3. Article 18a is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. Without prejudice to the competences of the Member States, for the purpose of risk management as set out in Article 4, points 25 and 26, and Article 13(2) of Regulation (EEC) No 2913/92, and with a view to assisting the authorities referred to in Article 29 to detect movements of goods that are the object of operations in potential breach of customs and agricultural legislation and means of transport, including containers, used for that purpose, the Commission shall establish and manage a directory of data received from public or private service providers active in the international supply chain. That directory shall be directly accessible to those authorities.’

(b) Paragraph 2 is replaced by the following:

‘2. In managing that directory, the Commission shall be empowered:

(a) to access or extract and store the contents of the data, by any means or in any form, and to use data for the purposes of an administrative or judicial procedure in compliance with legislation applicable to intellectual property rights. The Commission shall put in place adequate safeguards against arbitrary interference by public authorities including technical and organisational measures and transparency requirements towards the data subjects. Data subjects shall be provided with the right of access and correction in relation to data processed for this purpose;

(b) to compare and contrast data that are accessible in or extracted from the directory, to index them, to enrich them from other data sources and to analyse them in compliance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data³;

(c) to make the data in this directory available to the authorities referred to in Article 29, using electronic data-processing techniques.’

(c) The following paragraphs 5 and 6 are added:

³ OJ L 8, 12.1.2001, p. 1.

‘5. The European Data Protection Supervisor shall supervise compliance of this directory with Regulation (EC) No 45/2001.

The Commission shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing.

6. Without prejudice to Regulation 45/2001, the Commission may transfer, subject to the agreement of the public or private service providers active in the international supply chain, data referred to in Article 18a(3) to international organisations and/or EU institutions/agencies which contribute to the protection of the financial interests of the Union and correct application of customs legislation with which the Commission concluded a relevant arrangement or memorandum of understanding.

Data shall be transferred under this paragraph only for the general purposes of this Regulation also including the protection of the financial interests of the Union, and/or for the purpose of risk management as set out in Article 4 points 25 and 26 and Article 13(2) of Regulation (EEC) No 2913/92.

The arrangement or memorandum of understanding based on which the transfer of data may take place under this paragraph shall include, inter alia, data protection principles such as the possibility for data subjects to exercise their rights of access and correction and to seek administrative and judicial redress, as well as an independent oversight mechanism to ensure compliance with the data protection safeguards.

Data received from public or private service providers active in the international supply chain shall be kept only for the time necessary to achieve the purpose for which they were introduced and may not be stored for more than ten years. If personal data are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.’

4. Article 18b is amended as follows:

(a) Paragraph 2 is replaced by the following:

‘2. The Commission may make expertise, technical or logistical assistance, training or communication activity or any other operational support available to the Member States both for the achievement of the objectives of this Regulation and in the performance of Member States’ duties in the framework of the implementation of the customs cooperation provided for by Article 87 of the Treaty on the Functioning of the European Union. For that purpose, the Commission shall establish appropriate technical systems.’

(b) The following paragraph 3 is added:

‘3. The European Data Protection Supervisor shall supervise compliance of all the technical systems provided under this Article with Regulation (EC) No 45/2001.’

5. The following Articles are inserted:

‘Article 18c

1. The public or private service providers active in the international supply chain referred to in Article 18a(1) that store data on the movement and status of containers

or have access to such data shall report to the Commission Container Status Messages ('CSMs').

2. The required CSMs shall be reported in either of the following situations:

- (a) containers destined to be brought by vessel into the customs territory of the Union from a third country;
- (b) containers leaving the customs territory of the Union to a third country by vessel.

3. The required CSMs shall report the events referred to in Article 18f insofar as they are known to the reporting public or private service provider active in the international supply chain.

4. The Commission shall establish and manage a directory of reported CSMs, the 'CSM directory'.

Article 18d

1. Where a container, including containers which will not be discharged in the Union, is destined to be brought by vessel into the customs territory of the Union from a third country, the public or private service providers that are subject to the obligation in Article 18c(1) shall report CSMs for all events taking place from the moment when the container was reported empty before being brought into the customs territory of the Union until the container is again reported empty.

2. In cases where the specific CSMs needed to identify the relevant empty container events are not available in the provider's electronic records in any given case, the provider shall report CSMs for events taking place at least three months prior to physical arrival at the customs territory of the Union until one month after the entry into the customs territory of the Union or, if occurring first, until arrival at a destination outside the customs territory of the Union.

Article 18e

1. Where a container is leaving the customs territory of the Union to a third country by vessel, the public or private service providers that are subject to the obligation in Article 18c(1) shall report CSMs for all events taking place from the moment when the container was reported empty in the customs territory of the Union until the container is reported to be empty outside the customs territory of the Union.

2. In cases where the specific CSMs needed to identify the relevant empty container events are not available in the provider's electronic records in any given case, the provider may report CSMs for events taking place during at least three months after exit from the customs territory of the Union.

Article 18f

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 43 laying down the container status events for which CSMs are to be reported in accordance with Article 18c, the minimum data elements to be reported in the CSMs and the frequency of reporting.

2. The Commission shall adopt, by means of implementing acts, provisions regarding the format of the data in the CSMs and the method of transmission of the CSMs.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43a(2).

Article 18g

1. The Commission shall establish and manage a directory containing data on import, export and transit of goods, including transit within a Member State, as detailed in Annexes 37 and 38 of Commission Regulation (EEC) No 2454/93, the "Import, export, transit directory". The Member States shall authorise the Commission to systematically replicate data relating to import, export and transit from the sources operated by the Commission on the basis of Regulation (EEC) No 2913/92 establishing the Community Customs Code. The Member States shall supply to the Commission data concerning the transit of goods within a Member State and direct export.

2. The directory shall be used to assist in preventing, investigating and prosecuting operations which are, or appear to constitute, breaches of customs legislation and for the purpose of risk management including risk-based customs controls as defined in Article 4, points 25 and 26, and Article 13(2) of Regulation (EEC) No 2913/92 establishing the Community Customs Code.

3. The directory shall be accessible exclusively to the Commission departments and to the national authorities referred to in Article 29. Within the Commission and national authorities, only designated analysts shall be empowered to process personal data contained in this directory.

Without prejudice to Regulation (EC) No 45/2001, the Commission may transfer, subject to the agreement of the supplying Member State, selected data obtained in accordance with the procedure specified in paragraph 1 to international organisations and/or EU institutions/agencies which contribute to the protection of the financial interests of the Union and correct application of customs legislation with which the Commission concluded a relevant arrangement or memorandum of understanding.

Data shall be transferred under this paragraph only for the general purposes of this Regulation also including the protection of the financial interests of the Union, and/or for the purpose of risk management as set out in Article 4 points 25 and 26 and Article 13(2) of Regulation (EEC) No 2913/92.

The arrangement or memorandum of understanding based on which the transfer of data may take place under this paragraph shall include, inter alia, data protection principles such as the possibility for data subjects to exercise their rights of access and correction and to seek administrative and judicial redress, as well as an independent oversight mechanism to ensure compliance with the data protection safeguards.

4. Regulation (EC) No 45/2001 shall apply to the processing of personal data by the Commission in the context of data included in this directory.

The Commission shall be considered as data controller within the meaning of Article 2(d) of Regulation (EC) No 45/2001.

The import, export, transit directory shall be subject to prior checking by the European Data Protection Supervisor in accordance with Article 27 of Regulation (EC) No 45/2001.

Data contained in the import, export, transit directory shall be kept only for the time necessary to achieve the purpose for which they were introduced and may not be stored for more than ten years. If personal data are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.

5. The import, export, transit directory shall not include the special categories of data within the meaning of Article 10(5) of Regulation (EC) No 45/2001.

The Commission shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing.

Article 18h

1. The Commission may obtain directly from the economic operators documents supporting import and export declarations, with respect to investigations related to the implementation of customs legislation as defined in Article 2(1).

2. Within the time limits obliging economic operators to maintain the relevant documentation, economic operators shall provide the Commission upon request with the information mentioned in paragraph 1.'

6. Article 23(4) is amended as follows:

'The Commission shall be empowered to adopt delegated acts in accordance with Article 43 determining those operations in connection with the application of agricultural regulations which require the introduction of information into the CIS.'

7. Article 25(1) is amended as follows:

'The Commission shall adopt by means of implementing acts, provisions regarding the items to be included in the CIS relating to each of the categories referred to in Article 24(a) to (h) to the extent that this is necessary to achieve the aim of the System. Personal data may not appear in the category referred to in Article 24(e). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43a(2).'

8. Article 29 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'Access to data included in the CIS shall be reserved exclusively for the national authorities designated by each Member State and the departments designated by the Commission. These national authorities shall be customs administrations but may also include other authorities competent, according to the laws, regulations and procedures of the Member State in question, to act in order to achieve the aim stated in Article 23(2).

The supplying CIS partner shall have the right to determine which among those national authorities mentioned above may have access to data that it has included in the CIS.'

(b) Paragraph 2 is replaced by the following:

'Each Member State shall send the Commission a list of its designated competent national authorities which have access to the CIS stating, for each authority, to which data it may have access and for what purposes.

(d) to prevent data in the CIS from being accessed by unauthorised persons by means of data-transmission equipment;

(e) to guarantee that, with respect to the use of the CIS, authorised persons have right of access only to data for which they have competence;

(f) to guarantee that it is possible to check and establish to which authorities data may be transmitted by data-transmission equipment;

(g) to guarantee that it is possible to check and establish *ex post facto* what data have been introduced into the CIS, when and by whom, and to monitor interrogation;

(h) to prevent the unauthorised reading, copying, modification or deletion of data during the transmission of data and the transport of data media.'

(c) Paragraph 3 is replaced by the following:

'3. The Commission shall verify that the searches carried out were authorized and were carried out by authorised users. At least 1% of all searches made shall be verified. A record of such searches and verifications shall be entered into the system and shall be used only for the said verifications. It shall be deleted after six months.'

14. Article 41d is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. The period for which data may be stored shall depend on the laws, regulations and procedures of the Member State supplying them. The maximum and non-cumulative periods, calculated from the date of entry of the data in the investigation file, which may not be exceeded are as follows:

(a) data concerning current investigation files may not be stored for more than three years without any operation in breach of customs and agricultural legislation being observed; data must be anonymised before that time limit if one year has elapsed since the last observation;

(b) data concerning administrative enquiries or criminal investigations in which an operation in breach of customs and agricultural legislation has been established but which have not given rise to an administrative decision, a conviction or an order to pay a criminal fine or an administrative penalty may not be stored for more than six years;

(c) data concerning administrative enquiries or criminal investigations which have given rise to an administrative decision, a conviction or an order to pay a criminal fine or an administrative penalty may not be stored for more than ten years.'

(b) Paragraph 3 is replaced by the following:

'3. The Commission shall anonymise the data as soon as the maximum storage period provided for in paragraph 1 has elapsed.'

15. Article 43 is replaced by the following:

'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 18f(1) and 23(4) shall be conferred on the Commission for an indeterminate period of time from [dd/mm/yyyy] [*insert date of entry into force of this Regulation*].

3. The power to adopt delegated acts referred to in Articles 18f(1) and 23(4) 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 on the day following 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 18f(1) and 23(4) shall enter into force only if no objection has been expressed by either 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 of the Council.’

16. The following article is inserted after Article 43:

‘Article 43a

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

Article 2

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

For public or private service providers who, at the time of the entry into force of this Regulation, are bound by private contracts that prevent them from fulfilling their obligation stipulated in Article 18c(1), this shall take effect one year after the Regulation has entered into force.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on operational appropriations*
 - 3.2.3. *Estimated impact on appropriations of an administrative nature*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party participation in financing*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

FRAMEWORK OF THE PROPOSAL/INITIATIVE

Title of the proposal/initiative

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

Policy area(s) concerned in the ABM/ABB structure ⁹

Policy area: Fight against fraud

Activity : title 24

Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**¹⁰
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

Objectives

The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

The proposed amendment will contribute to the Union's commitment to fighting fraud and other illegal activities in the area of customs and to strengthening the protection of the financial interests of the European Union.

Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No 5: prevent, deter and combat fraud and corruption

Specific objective 5a. Develop anti-fraud policy and legislation

ABM/ABB activity concerned

24 04 Anti-fraud information system (AFIS)

⁹ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

¹⁰ As referred to in Article 54(2)(a) or (b) of the Financial Regulation No 966/2012.

Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

On the Commission: the proposed amendments will allow the Commission to improve risk management including risk-based customs controls and to make detection, investigation and analysis of customs fraud more effective. It is also expected that this proposal will contribute to greater efficiency in the area of data protection and will further enhance the cooperation by optimising systems and processes that should lead to better use of the existing tools.

On Member States: the proposed amendments will further facilitate customs cooperation between individual Member States and between Member States and the Commission.

In the long term, the revised Regulation presents an opportunity to significantly increase the number of detected fraud cases and other irregularities in relation to customs matters, thereby helping to protect the financial interests of the European Union and to guard against other risks as defined in the Community Customs Code.

Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

Export/import/transit data/CSMs:

- number of detected breaches of legislation
- number of investigations opened based on these data
- number of requests for use of data by investigators
- amounts recovered on the basis of such information

Duration of related OLAF investigations

- whether the change resulted in faster procedures
- whether it increased the number of investigations and the amounts recovered

Grounds for the proposal/initiative

Requirement(s) to be met in the short or long term

The objectives that are to be met in a short and long term include:

- creating conditions for improved fighting of customs fraud related to misdeclaration of goods origin
- creating conditions for improved fighting of customs fraud related to misdescription of goods
- creating conditions for improved fighting of customs fraud related **to misuse of the transit system**
- speeding-up OLAF investigations.

Added value of EU involvement

National customs authorities alone cannot effectively share information and conduct a large-scale fight against breach of customs legislation at reasonable cost. Systematic collection of the data required to analyse customs risks which pose a threat to the EU and its Member States would constitute a disproportionate effort for 28 individual Member States and can be achieved more effectively and efficiently by action at EU level.

The need for more efficient customs risk management, particularly in relation to safety and security risks, is recognised in the Commission Communication on Customs Risk Management and Supply Chain Security (COM (2012) 793).

Lessons learned from similar experiences in the past

The 'ConTraffic' pilot project developed by OLAF in collaboration with the Commission's Joint Research Centre demonstrates that by analysing container movements, it is possible to effectively identify inconsistencies between the origin declared by the importer and the geographical origin/dispatch country derived from the container routing data. Preliminary results have demonstrated that more than 50% of the cases identified using such indicators do indeed involve breach of customs legislation. This pilot project illustrates perfectly the added value of the data that are currently not available to the Commission.

ATIS, which is a joint project by OLAF and Member States, illustrates the importance of information on transit for detecting customs-related fraud. It is used for the analysis of transit-related data in order to detect abnormal patterns in a transit movement and diversion of destination.

Coherence and possible synergy with other relevant instruments

Enhanced synergy with Regulation (EU) No 883/2013 is expected, in particular, as regards access to supporting documents. Under the current regulatory set-up, if an investigation is based on either Regulation (EU) No 883/2013 or Regulation (EC) No 2185/96, economic operators are obliged to provide the Commission with the supporting documents. However, in cases where the investigation is premised on Regulation (EC) No 515/97 the Commission is required to request the supporting documents from the national authorities. The proposal aims to remove those inconsistencies in order to ensure a unified approach.

Provision for use of the new data collections in risk management will significantly support the agenda proposed in the Commission Communication on Customs Risk Management and Supply Chain Security and the Council Conclusions (8761/3/13) on the same subject.

Duration and financial impact

Proposal/initiative of **limited duration**

Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

Financial impact from YYYY to YYYY

■ Proposal/initiative of **unlimited duration**

Implementation with a start-up period from YYYY to YYYY,
followed by full-scale operation.

Management mode(s) envisaged¹¹

■ **Centralised direct management** by the Commission

Centralised indirect management with the delegation of implementation tasks to:

executive agencies

bodies set up by the Communities¹²

national public-sector bodies/bodies with public-service mission

persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

Joint management with international organisations (*to be specified*)

If more than one management mode is indicated, please provide details in the "Comments" section.

Comments

¹¹ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

¹² As referred to in Article 185 of the Financial Regulation.

MANAGEMENT MEASURES

Monitoring and reporting rules

Specify frequency and conditions.

Starting from the date of this Regulation's entry into force, the Commission will report every three years on the Regulation's application to the European Parliament, the Court of Auditors and the Council.

Management and control system

Risk(s) identified

- Expenses invoiced without contract:

As contracts are awarded after having completed a procurement process, this risk is narrowed since a large part of the expenditure will be legally and financially covered by a framework contract.

In line with the Commission requirements, a risk assessment exercise will be performed each year.

- Implementation of the transfer of data may turn out to be technically challenging.

Control method(s) envisaged

The control procedures of this initiative are in compliance with the Financial Regulation.

Ex-ante verifications on commitments & payments

OLAF has chosen a financial management plan which is a partially decentralised model, for which all of the ex-ante verification is done in the central Budget Unit. In OLAF, all files are verified by at least three agents (the file manager and financial verifying agent in the budget unit and the operational verifying agent in the unit responsible for the expenditure) before they are accepted by the Authorising Officer by sub-delegation.

Every head of unit has been granted a sub-delegation from the Director-General and consequently every head of unit is responsible for the implementation of his part of the programme.

- Ex-ante controls are carried out by the FVA on every transaction which requires approval of the AOSD.

- Controls are done on the sensitive variables following the results of the risk assessment carried out in the context of the Accounting Quality Report (such as: LE and BA, G/L accounts, budget lines, amounts and calculations, etc).

- Detailed terms of reference are drafted and form the basis of the specific contract. Anti-fraud measures are provided for in all contracts concluded between OLAF and the external party.

-OLAF performs controls of all deliverables and supervises all operations and services carried out by our frame work contractor.

Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

Audits may be carried out during the contract and for a period of five years following the last payment in order to lead, where appropriate, to recovery decisions by the Commission. The

rights of access of Commission staff as well as outside authorised personnel are defined and the Court of Auditors and OLAF will enjoy the same rights.

The controls established enable OLAF to have sufficient assurance of the quality and regularity of the expenditure and reduce the risk of non-compliance. The depth assessment reaches level four for all contracts and agreements signed. The above-mentioned controls reduce the potential risks virtually to zero and reach 100 % of the beneficiaries.

On-the-spot checks could be considered.

The programme control strategy is deemed efficient to limit the risk of non-compliance and is proportionate with the risk entailed.

ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

| Heading of multiannual financial framework | Budget line | Type of expenditure | Contribution | | | |
|--|---|-------------------------|--------------------------------------|---|-------------------------|---|
| | Number [Description.....] | Diff./non-diff. (13) | from EFTA ¹⁴ countries | from candidate countries ¹⁵ | from third countries | within the meaning of Article 18(1)(aa) of the Financial Regulation |
| 1A | 24.0401 Anti-fraud information system (AFIS) | Diff | NO | NO | NO | NO |

¹³ Diff. = Differentiated appropriations / Non-diff. = Non-Differentiated Appropriations

¹⁴ EFTA: European Free Trade Association.

¹⁵ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

Estimated impact on expenditure

Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

| Heading of multiannual financial framework: | | Number | 1A Smart and inclusive growth | | | | | | | | TOTAL |
|--|-----------------|-------------|-------------------------------|-------|-------|-------|-------|-------|-------|-------|---------------|
| DG: OLAF | | | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | |
| • Operational appropriations | | | | | | | | | | | |
| | Commitments | (1) | 6.423 | 6.922 | 6.629 | 7.151 | 7.664 | 7.195 | 7.454 | | 49.438 |
| 24.0401 | Payments | (2) | 5.800 | 6.200 | 6.000 | 6.400 | 6.900 | 6.500 | 6.700 | | 49.438 |
| Number of budget line | Commitments | (1a) | | | | | | | | | |
| | Payments | (2a) | | | | | | | | | |
| Appropriations of an administrative nature from the envelope for specific programmes ¹⁶ | nature financed | | | | | | | | | | |
| Number of budget line | | (3) | | | | | | | | | |
| | Commitments | =1+1a +3 | 6.423 | 6.922 | 6.629 | 7.151 | 7.664 | 7.195 | 7.454 | | 49.438 |
| | Payments | =2+2a +3 | 5.800 | 6.200 | 6.000 | 6.400 | 6.900 | 6.500 | 6.700 | 4.938 | 49.438 |
| TOTAL appropriations for DG OLAF | | | | | | | | | | | |

¹⁶ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

| | | | | | | | | | | |
|---|-------------|------|-------|-------|-------|-------|-------|-------|-------|--------|
| • TOTAL operational appropriations | Commitments | (4) | 6.423 | 6.922 | 6.629 | 7.151 | 7.664 | 7.195 | 7.454 | 49.438 |
| | Payments | (5) | 5.800 | 6.200 | 6.000 | 6.400 | 6.900 | 6.500 | 6.700 | 49.438 |
| • TOTAL appropriations of an administrative nature financed from the envelope for specific programmes | Commitments | (6) | | | | | | | | |
| | Payments | | | | | | | | | |
| TOTAL appropriations under HEADING 1A of the multiannual financial framework | Commitments | =4+6 | 6.423 | 6.922 | 6.629 | 7.151 | 7.664 | 7.195 | 7.454 | 49.438 |
| | Payments | =5+6 | 5.800 | 6.200 | 6.000 | 6.400 | 6.900 | 6.500 | 6.700 | 49.438 |

If more than one heading is affected by the proposal / initiative:

| | | | | | | | | | | |
|---|-------------|------|-------|-------|-------|-------|-------|-------|-------|--------|
| • TOTAL operational appropriations | Commitments | (4) | | | | | | | | |
| | Payments | (5) | | | | | | | | |
| • TOTAL appropriations of an administrative nature financed from the envelope for specific programmes | Commitments | (6) | | | | | | | | |
| | Payments | | | | | | | | | |
| TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount) | Commitments | =4+6 | 6.423 | 6.922 | 6.629 | 7.151 | 7.664 | 7.195 | 7.454 | 49.438 |
| | Payments | =5+6 | 5.800 | 6.200 | 6.000 | 6.400 | 6.900 | 6.500 | 6.700 | 49.438 |

| | | | | | | | | | | |
|--|----------|---------------------------------------|--|--|--|--|--|--|--|--|
| Heading of multiannual financial framework: | 5 | " Administrative expenditure " | | | | | | | | |
|--|----------|---------------------------------------|--|--|--|--|--|--|--|--|

EUR million (to 3 decimal places)

| | | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | TOTAL |
|------------------------------------|----------------|-------|-------|-------|-------|-------|-------|-------|---------------|
| DG: OLAF | | | | | | | | | |
| • Human resources | | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 7.098 |
| • Other administrative expenditure | | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 3.990 |
| TOTAL DG OLAF | Appropriations | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 11.088 |

| | | | | | | | | | |
|--|--------------------------------------|--|--|--|--|--|--|--|--|
| TOTAL appropriations under HEADING 5 of the multiannual financial framework | (Total commitments = Total payments) | | | | | | | | |
|--|--------------------------------------|--|--|--|--|--|--|--|--|

EUR million (to 3 decimal places)

| | | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | TOTAL |
|--|-------------|-------|-------|-------|-------|-------|-------|-------|-------|---------------|
| TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework | Commitments | 8.007 | 8.506 | 8.213 | 8.735 | 9.248 | 8.779 | 9.038 | | 60.526 |
| | Payments | 7.384 | 7.784 | 7.584 | 7.984 | 8.484 | 8.084 | 8.284 | 4.938 | 60.526 |

Estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

| Indicate objectives and outputs ↓ | Year 2014 ¹⁷ | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL |
|--|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---------------------|
| | OUTPUTS | | | | | | | |
| | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost |
| | Average cost of the output | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Total number output |
| OPERATIONAL OBJECTIVE No 1 | Create conditions for improved fighting of customs fraud related to mis-declaration of goods origin | | | | | | | |
| Action 1: Development, launch and maintenance of CSM database | | | | | | | | |
| Development and launch of | 2 | 0.100 | 1 | 0.050 | 1 | 0.050 | 0. | 0.025 |
| | 3 | 0.150 | 1 | 0.050 | 1 | 0.050 | 0. | 0.450 |

¹⁷ Year N is the year in which implementation of the proposal/initiative starts.

| | | | | | | | | | | | | | | | | | | | | |
|--|---|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|-----|-------|-----|--------|
| Maintenance of transit database | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 1 | 0.020 | 7 | 0.140 |
| Sub-total for Operational Objective 3 | 3 | 0.040 | 3 | 0.040 | 3 | 0.040 | 2 | 0.028 | 2 | 0.046 | 2 | 0.028 | 2 | 0.028 | 2 | 0.028 | 1.5 | 0.025 | 1.5 | 0.025 |
| OPERATIONAL OBJECTIVE No 4 | To support Mutual Assistance in Customs Matters | | | | | | | | | | | | | | | | | | | |
| Action 1: Development, launch and maintenance of new mutual assistance database with restricted visibility replacing the current CIS and FIDE | | | | | | | | | | | | | | | | | | | | |
| Development and launch of new mutual assistance database with restricted visibility | 5 | 0.600 | 5 | 0.500 | 4 | 0.400 | 3 | 0.300 | 3 | 0.300 | 3 | 0.300 | 3 | 0.300 | 3 | 0.300 | 3 | 0.300 | 26 | 2.700 |
| Maintenance of new mutual assistance database with restricted visibility | 4 | 0.400 | 4 | 0.400 | 3 | 0.300 | 2 | 0.200 | 2 | 0.300 | 2 | 0.200 | 2 | 0.200 | 2 | 0.200 | 2 | 0.200 | 20 | 2.000 |
| Action 2: Organisation of Joint Customs Operations (JCOs), EU wide and Regional. | | | | | | | | | | | | | | | | | | | | |
| Coordination, logistical, and technical support to Member States for the implementation of EU wide and Regional JCOs | 10 | 1.000 | 12 | 1.200 | 14 | 1.400 | 16 | 1.600 | 18 | 1.800 | 20 | 2.000 | 22 | 2.200 | 24 | 2.400 | 26 | 2.600 | 112 | 11.200 |
| Upgrade, Maintenance and operation of the v-OCU to support the secure exchange of information during JCOs | 5 | 0.500 | 6 | 0.600 | 7 | 0.700 | 8 | 0.800 | 9 | 0.900 | 10 | 1.000 | 11 | 1.100 | 12 | 1.200 | 13 | 1.300 | 55 | 5.600 |

| | | | | | | | | | | | | | | | |
|---|--|-------|----|-------|--------|-------|----|-------|--------|-------|----|------------|-------|----------|--------|
| Sub-total for Operational Objective 4 | 2 4 | 2.500 | 27 | 2.700 | 2 8 | 2.800 | 30 | 3.000 | 3 2 | 3.200 | 35 | 3.500 7 | 3.800 | 21 3 | 21.500 |
| OPERATIONAL OBJECTIVE No 5 | To facilitate secure electronic communication tools for the Member States to fulfil their obligation to report irregularities detected in agricultural, structural, cohesion and fisheries funds as well as pre-accession aid. | | | | | | | | | | | | | | |
| Action 1: Development, launch and maintenance of new irregularities reporting modules for the new programming period 2014-2020 | | | | | | | | | | | | | | | |
| Development and launch of new irregularities reporting modules for the new programming period 2014-2020 | 4 | 0.500 | 4 | 0.500 | 4 | 0.400 | 3 | 0.300 | 3 | 0.300 | 3 | 0.300 | 0.300 | 3 | 2.600 |
| Maintenance of new irregularities reporting modules for the new programming period 2014-2020 | 3 | 0.300 | 2 | 0.200 | 2 | 0.200 | 2 | 0.200 | 2 | 0.200 | 2 | 0.200 | 0.200 | 2 | 1.500 |
| Sub-total for Operational Objective 5 | 7 | 0.800 | 6 | 0.700 | 6 | 0.600 | 5 | 0.500 | 5 | 0.500 | 5 | 0.500 | 0.500 | 39. 0 | 4.100 |
| OPERATIONAL OBJECTIVE No 6 | To operate, maintain and evolve the AFIS service platform in order to guarantee technical readiness, information security and business continuity. | | | | | | | | | | | | | | |
| Action 1: Operate, maintain and upgrade the AFIS infrastructure and IT service platform | | | | | | | | | | | | | | | |
| Operate, maintain and upgrade the hardware, software, network and security equipment infrastructure. | 6 | 0.700 | 6 | 0.700 | 6 | 0.636 | 6 | 0.700 | 8 | 0.800 | 5 | 0.500 | 0.500 | 5 | 4.536 |

| | | | | | | | | | | | | | | | | | | |
|--|--|--|----|-------|----|-------|----|-------|----|-------|----|-------|------|-------|------|-------|-----|--------|
| Maintain and upgrade the AFIS Portal technical framework hosting the AFIS business applications. | | | 7 | 0.728 | 7 | 0.840 | 7 | 0.700 | 8 | 0.858 | 8 | 0.871 | 5 | 0.548 | 5 | 0.507 | 47 | 5,052 |
| Provide helpdesk services, e-Learning, training and technical assistance and business support to the AFIS end-users. | | | 7 | 0.700 | 8 | 0.800 | 8 | 0.800 | 8 | 0.800 | 10 | 1.000 | 9 | 0.900 | 9 | 0.900 | 59 | 5,900 |
| Sub-total for Operational Objective 6 | | | 26 | 2.728 | 28 | 3.040 | 29 | 2.936 | 32 | 3.358 | 36 | 3.671 | 29 | 2.948 | 29 | 2.907 | 209 | 21,588 |
| TOTAL COST | | | 66 | 6,423 | 72 | 6,922 | 69 | 6,629 | 73 | 7,151 | 79 | 7,664 | 73.5 | 7,195 | 75.5 | 7,454 | 508 | 49,438 |

Estimated impact on appropriations of an administrative nature

Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | TOTAL |
|--|------|------|------|------|------|------|------|-------|
|--|------|------|------|------|------|------|------|-------|

| HEADING 5 of the multiannual financial framework | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------|---------------|
| Human resources | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 1.014 | 7.098 |
| Other administrative expenditure | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 0.570 | 3.990 |
| Subtotal HEADING 5 of the multiannual financial framework | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 11.088 |

| Outside HEADING 5¹⁸ of the multiannual financial framework | | | | | | | | |
|--|--|--|--|--|--|--|--|--|
| Human resources | | | | | | | | |
| Other expenditure of an administrative nature | | | | | | | | |
| Subtotal outside HEADING 5 of the multiannual financial framework | | | | | | | | |

| | | | | | | | | |
|--------------|-------|-------|-------|-------|-------|-------|-------|---------------|
| TOTAL | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 1.584 | 11.088 |
|--------------|-------|-------|-------|-------|-------|-------|-------|---------------|

¹⁸ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------------------------------------|------------|------------|------------|------------|------------|------------|
| • Establishment plan posts (officials and temporary agents) | | | | | | | |
| 24 01 07 00 01 01 01 OLAF | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |
| XX 01 01 02 (Delegations) | | | | | | | |
| XX 01 05 01 (Indirect research) | | | | | | | |
| 10 01 05 01 (Direct research) | | | | | | | |
| • External personnel (in Full Time Equivalent unit: FTE)¹⁹ | | | | | | | |
| 24 01 07 00 01 02 01 (SNE) | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations) | | | | | | | |
| XX 01 04 yy 20 | - at Headquarters ²¹ | | | | | | |
| | - in delegations | | | | | | |
| XX 01 05 02 (CA, INT, SNE - Indirect research) | | | | | | | |
| 10 01 05 02 (CA, INT, SNE - Direct research) | | | | | | | |
| Other budget lines (specify) | | | | | | | |
| TOTAL | 8.5 | 8.5 | 8.5 | 8.5 | 8.5 | 8.5 | 8.5 |

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

¹⁹ CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

²⁰ Under the ceiling for external personnel from operational appropriations (former "BA" lines).

²¹ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

| | |
|---------------------------------------|---|
| <p>Officials and temporary agents</p> | <p>Management of the pilot project for data transfer from DG TAXUD's Surveillance 2 system to AFIS.</p> <p>Management of the IT development projects for the new AFIS databases for import and export-related data and container status messages.</p> <p>Responsibility for deploying the new databases on the AFIS platform into production</p> <p>Organisation of the Joint Customs Cooperation activities and trainings</p> <p>Secretarial tasks</p> |
| <p>External personnel</p> | <p>The SNE assigned to the task.</p> <p>The main responsibility will be the project management of the modifications to the Surveillance 2 system and the Export Control System (ECS) which will be required for the transfer of import and export-related data to the new AFIS databases.</p> |

Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the current multiannual financial framework.
- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework²².

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

Third-party contributions

The proposal/initiative does not provide for co-financing by third parties

²² See points 19 and 24 of the Interinstitutional Agreement.

Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

EUR million (to 3 decimal places)

| Budget revenue line: | Appropriations available for the ongoing budget year | Impact of the proposal/initiative ²³ | | | | | | |
|----------------------|--|---|----------|----------|----------|--|--|--|
| | | Year N | Year N+1 | Year N+2 | Year N+3 | ... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6) | | |
| Article | | | | | | | | |

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

²³ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.

ANNEX II.6.2
to the LEGISLATIVE FINANCIAL STATEMENT

Name of the proposal/initiative:

Amending Regulation (EC) No 515/97 of March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters

1. NUMBER and COST of HUMAN RESOURCES CONSIDERED NECESSARY
2. COST of OTHER ADMINISTRATIVE EXPENDITURE
3. METHODS of CALCULATION USED for ESTIMATING COSTS
 - 3.1. Human resources
 - 3.2. Other administrative expenditure

This annex must accompany the legislative financial statement when the inter-services consultation is launched.

The data tables are used as a source for the tables contained in the legislative financial statement. They are strictly for internal use within the Commission.

1. Cost of human resources considered necessary

The proposal/initiative does not require the use of human resources

The proposal/initiative requires the use of human resources, as explained below:

in EUR million (to 3 decimal places)

| HEADING 5 of the multiannual financial framework | 2014 | | 2015 | | 2016 | | 2017 | | 2018 | | 2019 | | 2020 | | TOTAL | |
|--|---|----------------|----------|----------------|----------|----------------|----------|----------------|----------|----------------|----------|----------------|----------|----------------|----------|----------------|
| | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations |
| | • Establishment plan posts (officials and temporary staff) | | | | | | | | | | | | | | | |
| 24 01 07 00 01 01 01 OLAF | 1 | 0.131 | 1 | 0.131 | 1 | 0.131 | 1 | 0.131 | 1 | 0.131 | 1 | 0.131 | 1 | 0.131 | 1 | 0.917 |
| XX 01 01 02 (Headquarters and Commission's Representation Offices) | | | | | | | | | | | | | | | | |
| | • External staff²⁴ | | | | | | | | | | | | | | | |
| 24 01 07 00 01 02 01 OLAF | | | | | | | | | | | | | | | | |
| | CA | | | | | | | | | | | | | | | |
| | SNE | 1 | 0.078 | 1 | 0.078 | 1 | 0.078 | 1 | 0.078 | 1 | 0.078 | 1 | 0.078 | 1 | 0.078 | 0.546 |
| | INT | | | | | | | | | | | | | | | |
| | CA | | | | | | | | | | | | | | | |
| | LA | | | | | | | | | | | | | | | |
| | SNE | | | | | | | | | | | | | | | |
| | INT | | | | | | | | | | | | | | | |
| | JED | | | | | | | | | | | | | | | |
| Other budget lines (specify) | | | | | | | | | | | | | | | | |
| Subtotal | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 1,463 |

²⁴

CA = Contract Staff; LA = Local Staff; SNE = Seconded National Expert; INT= agency staff; JED = junior experts in delegations.

| Outside HEADING 5 of the multiannual financial framework | | Year N | | Year N+1 | | Year N+2 | | Year N+3 | | ... enter as many years as necessary to show the duration of the impact (see point 1.6) | | TOTAL | | |
|---|----------------------|--------|----------------|----------|----------------|----------|----------------|----------|----------------|--|----------------|-------|----------------|--|
| | | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | FTE | Appropriations | |
| • Establishment plan posts (officials and temporary staff) | | AD | | | | | | | | | | | | |
| | | AST | | | | | | | | | | | | |
| | | AD | | | | | | | | | | | | |
| | | AST | | | | | | | | | | | | |
| • External staff²⁵ | | | | | | | | | | | | | | |
| XX 01 04 yy Sub-ceiling for external staff from operational appropriations (former "BA" lines). | - at Headquarters | CA | | | | | | | | | | | | |
| | - Delegations | SNE | | | | | | | | | | | | |
| | | INT | | | | | | | | | | | | |
| | | CA | | | | | | | | | | | | |
| | | LA | | | | | | | | | | | | |
| | | SNE | | | | | | | | | | | | |
| | | INT | | | | | | | | | | | | |
| | | JED | | | | | | | | | | | | |
| | | CA | | | | | | | | | | | | |
| XX 01 05 02 (Indirect research) | | SNE | | | | | | | | | | | | |
| | | INT | | | | | | | | | | | | |
| | | CA | | | | | | | | | | | | |
| 10 01 05 02 (Direct research) | | SNE | | | | | | | | | | | | |
| | | INT | | | | | | | | | | | | |
| Other budget lines (specify) | | | | | | | | | | | | | | |
| Sub-total – Outside HEADING 5 of the multiannual financial framework | | | | | | | | | | | | | | |

²⁵

CA = Contract Staff; LA = Local Staff; SNE = Seconded National Expert; INT= agency staff; JED = junior experts in delegations.

| | | | | | | | | | | | | | | |
|-------|---|-------|---|-------|---|-------|---|-------|---|-------|---|-------|---|-------|
| TOTAL | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 0.209 | 2 | 1,463 |
|-------|---|-------|---|-------|---|-------|---|-------|---|-------|---|-------|---|-------|

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

2. Cost of other administrative expenditure

- The proposal/initiative does not require the use of administrative appropriations
 The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to three decimal places)

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | TOTAL |
|---|------|------|------|------|------|------|------|-------|
| HEADING 5 of the multiannual financial framework | | | | | | | | |
| Headquarters: | | | | | | | | |
| 24 01 07 00 01 02 11 - Mission and entertainment expenses | | | | | | | | |
| XX 01 02 11 02 – Conference and meeting costs | | | | | | | | |
| 24 01 07 00 02 01 00 – Investigations | | | | | | | | |
| XX 01 02 11 04 – Studies and consultations | | | | | | | | |
| XX 01 03 01 03 – ICT ²⁶ equipment | | | | | | | | |
| XX 01 03 01 04 – ICT ⁴ services | | | | | | | | |
| Other budget lines (specify where necessary) | | | | | | | | |
| Delegations: | | | | | | | | |
| XX 01 02 12 01 – Mission, conference and entertainment expenses | | | | | | | | |
| XX 01 02 12 02 – Further training of officials | | | | | | | | |
| XX 01 03 02 01 – Acquisition, rental and related expenditure | | | | | | | | |
| XX 01 03 02 02 Equipment, furniture, supplies and services | | | | | | | | |
| Subtotal HEADING 5 of the multiannual financial framework | | | | | | | | |

XX is the policy area or budget title concerned.

²⁶

EUR million (to three decimal places)

| | Year N | Year N+1 | Year N+2 | Year N+3 | ... enter as many years as necessary to show the duration of the impact (see point 1.6) | TOTAL |
|---|-----------|-------------|-------------|-------------|--|-------|
| Outside HEADING 5 of the multiannual financial framework | | | | | | |
| XX 01 04 yy – Expenditure on technical and administrative assistance (not including external staff) from operational appropriations (former 'BA' lines) | | | | | | |
| - Headquarters | | | | | | |
| - Delegations | | | | | | |
| XX 01 05 03 - Other management expenditure - indirect research | | | | | | |
| 10 01 05 03 - Other management expenditure - direct research | | | | | | |
| Other budget lines (specify where necessary) | | | | | | |
| Sub-total – Outside HEADING 5 of the multiannual financial framework | | | | | | |
| XX is the policy area or budget title concerned. | | | | | | |
| TOTAL HEADING 5 and Outside HEADING 5 of the multiannual financial framework | | | | | | |

The administrative appropriations required will be met by the appropriations which are already assigned to management of the action and/or which have been redeployed, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of existing budgetary constraints.

3. Methods of calculation used to estimate costs

3.1. Human resources

This part sets out the method of calculation used to estimate the human resources considered necessary (workload assumptions, including specific jobs (Sysper 2 work profiles), staff categories and the corresponding average costs)

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| HEADING 5 of the multiannual financial framework |
| <u>NB:</u> The average costs for each category of staff at Headquarters are available on BudgWeb: http://www.cc.cec/budg/pre/legalbasis/pre-040-020_preparation_en.html#forms |
| <ul style="list-style-type: none">• Officials and temporary staff <u>AD: 1 FTE project leader - €131.000 overall average cost</u> |
| <ul style="list-style-type: none">• External staff <u>SNE: 1 FTE - €78.000 overall average cost</u> |

3.2. Other administrative expenditure

Give details of the method of calculation used for each budget line and in particular the underlying assumptions (e.g. number of meetings per year, average costs, etc.)

| |
|---|
| HEADING 5 of the multiannual financial framework |
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| Outside HEADING 5 of the multiannual financial framework |
| |