



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 October 2012

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NOTE

from:	General Secretariat
to	Working Party on Customs Union
on	7 November 2012

No. Cion prop.:	13265/12 UD 221 AELE 61
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Subject:	Amended proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC
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Delegations will find attached a compromise text on the above proposal prepared by the Presidency in the light of the comments received at the occasion of the Working Party meetings on 26 September, 2 and 16 October 2012.

Changes compared to doc. 13265/12 are in Track changes.

2011/0341/a (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC

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 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The multi-annual action programme for customs which applied before 2014 has significantly contributed to facilitating and enhancing cooperation between customs authorities within the Union. Many of the activities in the customs area are of a cross-border nature, involving and affecting all 27 Member States, and therefore they cannot be effectively and efficiently delivered by individual Member States. The Customs 2020 programme, implemented by the Commission, offers Member States a Union framework to develop these cooperation activities, which is more cost efficient than if each Member State would set up its individual cooperation framework on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of this programme by establishing a new programme in the same area.

- (2) The programme activities, i.e. the European Information Systems, the joint actions for customs officials and the common training initiatives, are expected to contribute to the realisation of the Europe 2020 Strategy for smart, sustainable and inclusive growth¹. In providing a framework for activities which strive for more efficient customs authorities, strengthen the competitiveness of businesses, promote employment and contribute to the protection of the Union's financial and economic interests, the programme will actively strengthen the functioning of the customs union.
- (3) To support the process of accession and association by third countries, the programme should be open for the participation of acceding and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy² if certain conditions are fulfilled. Considering the increasing interconnectivity of the world economy, the programme continues to provide the possibility to involve external experts, such as officials of third countries, representatives of international organisations or economic operators in certain activities. The setting up of EEAS under the authority of the High Representative Vice-President (HRVP) may facilitate policy coordination and coherence in an area which is a relevant component of EU external strategies and actions, both on bilateral and multilateral basis.
- (4) The programme objectives take into account the problems and challenges identified for customs in the next decade. The programme should continue to play a role in vital areas like the coherent implementation of Union customs and related law. Moreover, the focus of the programme will be on protecting the financial and economic interests of the Union, safeguarding safety and security, trade facilitation, among others through collaborative efforts to fight fraud and increasing the administrative capacity of customs authorities.

¹ COM(2010) 2020.

² COM(2004)373

- (5) The programme tools which applied before 2014 have proven to be adequate and have therefore been retained. In view of the need for more structured operational cooperation, additional tools have been added, namely expert teams composed of the Union and national experts to perform jointly tasks in specific domains and public administration capacity building actions which should provide specialised assistance to those participating countries needing administrative capacity building.
- (6) The European information systems play a vital role in reinforcing the customs systems within the Union and should therefore continue to be financed under the programme. In addition, it should be made possible to include in the programme new customs related information systems established under Union legislation. European Information Systems should, where appropriate, be based upon shared development models and IT architecture.
- (7) Human competency building in the form of common training should also be realised through the programme. Customs officials need to build up and update their knowledge and skills required to serve the needs of the Union. The programme should be essential to strengthen the human capacities through enhanced training support that targets customs officials as well as economic operators. To this end, the current common training approach of the Union which was mainly based on central eLearning development should develop into a multi-faceted training support programme for the Union.
- (8) The programme should cover a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU) N° xxx of xxx laying down the multiannual financial framework for the year 2014-2020³.

³ *To be completed*

- (9) For the entire duration of the programme, a financial envelope should be laid down constituting the prime reference, within the meaning of point [17] of the Interinstitutional Agreement of XX/YY/201Z between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management, for the budgetary authority during the annual budgetary procedure.
- (10) In line with the Commission's commitment set out in its Communication on the Budget Review of 2010⁴ to coherence and simplification of funding programmes, resources should be shared with other Union funding instruments if the envisaged programme activities pursue objectives which are common to various funding instruments excluding however double financing. Actions within this programme should ensure coherence in the use of the Union's resources supporting the functioning of the customs union.
- (11) The measures necessary for the financial implementation of this Regulation shall be adopted in accordance with Council Regulation (EC, Euratom) No xxx/20xx of xxx on the Financial Regulation applicable to the general budget of the European Communities, and with Commission Regulation (EC, Euratom) No xxx/20xx of xxx laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No xxx/20xx of xxx (*references of new financial regulation and implementing act to be added*).
- (12) The financial interests of the Union should be protected through appropriate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties.

⁴ COM(2010)700

- (13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes. 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 the Member States of the Commission's exercise of implementing powers⁵.
- (14) Since the objectives of the action to be taken, namely establishing a multi-annual programme to improve the functioning of the customs union, cannot be sufficiently achieved by the Member States which cannot efficiently perform the cooperation and coordination necessary to carry out the programme, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (15) The Commission should be assisted by the Customs 2020 Committee for the implementation of the programme.
- (16) Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data governs the processing of personal data carried out in the Member States in the context of this Regulation and under the supervision of the Member States competent authorities, in particular the public independent authorities designated by the Member States. Regulation (EU) 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 EU institutions and bodies and on the free movement of such data, governs the processing of personal data carried out by

⁵ OJ 28.2.2011 L 55-13

Commission within the framework of this Regulation and under the supervision of the European Data Protection Supervisor. Any exchange or transmission of information by competent authorities should be in accordance with the rules on the transfer of personal data as laid down in Directive 95/46/EC and any exchange or transmission of information by the Commission should be in accordance with the rules on the transfer of personal data as laid down in Regulation (EC) No 45/2001.

- (17) This Regulation should replace Decision N°624/2007/EC of the European Parliament and the Council of 23 May 2007 establishing an action programme for customs in the Community (Customs 2013)⁶. That Decision should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

1. A multi-annual action programme "Customs 2020" ("the programme") is hereby established to support the functioning of the customs union.
2. The programme shall cover the period 1 January 2014 to 31 December 2020.

⁶ OJ L 154, 14.6.2007, p. 25

Article 2
Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) "customs authorities" means the authorities responsible for applying rules on customs;
- (2) "External experts" means:
 - (a) representatives of governmental authorities including from countries not participating in the programme according to article 3(2)1 and 3(2)2;
 - (b) economic operators and their organisations;
 - (c) representatives of international and other relevant organisations.

Article 3
Participation in the programme

- 1. Participating countries shall be the Member States and the countries referred to in paragraph 2 provided the conditions set out in that paragraph are met.
- 2. The programme shall be open to the participation of any of the following countries:
 - (1) acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective Framework Agreements, Association Council Decisions or similar Agreements;

- (2) partner countries of the European Neighbourhood Policy provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union. The partner countries concerned shall participate to the programme in accordance with provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Union programmes.

Article 4

Contribution to programme activities

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External experts may be invited to contribute to selected activities organised under the programme wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6. These experts shall be selected by the Commission together with Participating Countries on the basis of their skills, experience and knowledge relevant to the specific activities.

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Article 5

General objective and specific objective

1. The general objective of the programme shall be to strengthen the internal market through an efficient and effective customs union.
2. The specific objective of the programme shall be to support the functioning of the customs union and to reinforce it to react efficiently and effectively to a changing customs environment, in particular through cooperation between participating countries, their customs authorities, other competent authorities and their officials.
3. The achievement of this objective shall be measured on the basis of the following indicators:

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- (1) the availability of the Common Communication Network for the European Information Systems;

- (2) the feedback from participating countries with regard to the results of programme actions in programme actions;

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Article 5 a

Operational objectives

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The operational objectives of the programme shall be the following:

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- (1) to support the preparation, coherent application and effective implementation of Union law and policy in the field of customs;

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- (2) to develop, improve, operate and support the European Information Systems for customs;

- (3) to identify, develop and apply best working practices.

- (1) to reinforce skills and competences of customs officials.

Article 6

Activity areas

The activity areas of the programme shall be:

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- (1) To support the preparation, coherent application and effective implementation of Union law, with a view of strengthening the customs union in terms of efficiency, effectiveness and uniformity.

- (2) to strengthen the competitiveness of European businesses through the facilitation of legitimate trade, the reduction of compliance costs and administrative burden, and the protection against unfair competition,
- (3) to support customs in protecting citizens, safety and security and the environment.
- (4) to ensure the protection of the financial and economic interests of the European Union and the Member States;
- (5) to contribute to the efficient functioning of customs authorities by improving their administrative capacity,
- (6) to support the fight against fraud and to enhance competitiveness, safety and security by enhancing cooperation with international organisations, third countries, other governmental authorities, economic operators and their organisations.

Chapter II

Eligible actions

Article 7

Eligible actions

The programme shall provide, under the conditions set out in the annual work programme referred to in Article 14, financial support for the following types of action:

(1) Joint actions:

(a) seminars and workshops;

(b) project groups, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely described outcome;

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(c) working visits organised by the participating countries or a third country to enable officials to acquire or increase their expertise or knowledge in customs matters; for working visits organised within third countries only travel and subsistence (accommodation and daily allowance) costs are eligible under the programme;

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(d) monitoring activities carried out by joint teams made up of Commission officials and officials of the Participating Countries to analyse customs practices, identify any difficulties in implementing rules and, where appropriate, make suggestions for the adaptation of union rules and working methods;

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(e) expert teams, which are structured forms of cooperation, with a non-permanent or permanent character, pooling expertise to perform tasks in specific domains or carry out operational activities, possibly with support of online collaboration services, administrative assistance and infrastructure and equipment facilities;

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(f) customs, administration capacity building and supporting actions;

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(g) studies;

(h) jointly developed communication actions;

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(i) any other activity in support of the specific objective and priorities set out in Articles 5 and 6

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(2) IT capacity building: development, maintenance, operation and quality control of Union components of European Information Systems set out in point 1 of the Annex and new European Information Systems established under Union legislation

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(3) Human competency building: common training actions to support the necessary professional skills and knowledge relating to customs.

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Article 8

Specific implementation provisions for joint actions

1. Participation in joint actions referred to in Article 7(1) shall be on a voluntary basis.

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2. Participating countries shall ensure that officials with the adequate profile and qualifications are nominated to participate in the joint actions.

3. Participating countries shall take when appropriate, the necessary measures for the implementation of the joint actions, in particular by raising awareness on those actions and by ensuring an optimal use is made of the outputs generated.

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Article 9

Specific implementation provisions

for IT capacity building

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1. The Commission and the participating countries shall ensure that the European Information Systems referred to in point 1 of the Annex are developed, operated and appropriately maintained.
2. The Commission shall coordinate, in cooperation with the participating countries, those aspects of the establishment and functioning of the Union and non-Union components of the systems and infrastructure referred to in point 1 of the Annex which are necessary to ensure their operability, interconnectivity and continuous improvement.

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Article 10

Specific implementation provisions for human competency building

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1. Participating countries shall, where appropriate, integrate jointly developed training content, including e-learning modules, training programmes and commonly agreed training standards in their national training programmes.

2. Participating countries shall ensure that their officials receive the initial and continuing training necessary to acquire common professional skills and knowledge in accordance with the training programmes.
3. Participating countries shall provide the linguistic training necessary for officials to ascertain a sufficient level of linguistic competence for participation in the programme.

Chapter III

Financial Framework

Article 11

Financial framework

1. The financial envelope for the implementation of the programme shall be EUR 548.080.000 (in current prices).

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Article 12
Types of intervention

1. The Commission shall implement the programme in accordance with the Financial Regulation.
2. Union financial support for activities provided for in Article 7 shall take the form of:
 - (1) grants;
 - (2) public procurement contracts;
 - (3) reimbursement of costs incurred by external experts referred to in Article 4

3. The co-financing rate for grants shall be up to 100 % of the eligible costs where the latter are daily allowances, travel and accommodation costs and costs linked to organisation of events. The annual work programmes shall specify the applicable co-financing rate when actions require the awarding of grants.

4. The financial allocation for the programme may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the European Union as far as they are related to the objectives of this Regulation, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme.

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*Article 13**Protection of the financial interests of the Union*

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this programme.
3. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 and Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁷ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

⁷ OJ L 292, 15.11.1996, p. 2.

Chapter IV

Implementing powers

Article 14

Work programme

1. In order to implement the programme the Commission shall adopt annual work programmes which shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action type and an indicative implementation timetable. The work programmes shall include for grants the priorities, the essential evaluation criteria and the maximum rate of co-financing. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).
2. In preparing the annual work programme, the Commission shall take into account the common approach regarding the customs policy. That approach shall regularly be reviewed and established in a partnership between the Commission and the Member States in the Customs Policy Group, composed of the heads of customs administrations from the Member States or their representatives and the Commission.

The Commission shall keep the Customs Policy Group regularly informed of measures relating to the implementation of the programme.

Article 15

Committee procedure

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.

Chapter V

Monitoring and Evaluation

Article 16

Monitoring of programme actions

The Commission shall, in cooperation with the participating countries, monitor the programme and its actions in order to follow the implementation of actions carried out.

Article 17

Evaluation

1. The Commission shall ensure a midterm and final evaluation of the programme, regarding the aspects referred to in paragraph 2 and 3. The results shall be integrated into decisions on possible renewal, modification or suspension of subsequent programmes. An independent external evaluator shall carry out these evaluations.
2. The Commission shall establish a mid-term evaluation report on the achievement of the objectives of the programme actions, the efficiency of the use of resources and the European added value of the programme no later than mid 2018. This report shall additionally address the simplification, the continued relevance of the objectives, as well as the contribution of the programme to the Union priorities of smart, sustainable and inclusive growth.
3. The Commission shall establish a final evaluation report on the aspects referred to in paragraph 2 as well as on the long term impact and the sustainability of effects of the programme no later than end 2021.
4. The participating countries shall provide, on request of the Commission, all data and information relevant for the purpose of contributing to the mid term and final evaluation reports of the Commission.

Chapter VI

Final Provisions

Article 18

Repeal

Decision No 624/2007/EC is repealed with effect from 1 January 2014.

However, financial obligations related to actions pursued under this Decision shall continue to be governed by this Decision until their completion.

Article 19

Entry into force

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

It shall apply from 1 January 2014.

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

ANNEX

European Information Systems and their Union components

1. The European Information Systems are the following:
 - (1) the common communications network/common systems interface (CCN/CSI – CCN2), CCN mail3, the CSI bridge, the http bridge, CCN LDAP and related tools, CCN web portal, CCN monitoring;
 - (2) supporting systems, in particular the application configuration tool for CCN,, the activity reporting tool (ART2), Taxud electronic management of project online (TEMPO), service management tool (SMT), the user management system (UM), the BPM system, the availability dashboard and AvDB, IT service management portal, directory and user access management;
 - (3) Programme' information and communication space (PICS);
 - (4) the customs movement systems, in particular the (New) Computerised Transit System ((N)CTS), NCTS TIR for Russia, the Export Control System (ECS) and the Import Control system (ICS). The following applications/components are supporting these systems: the system to exchange data with third countries (SPEED bridge), the SPEED Edifact Converter Node (SPEED-ECN), the Standard SPEED Test Application (SSTA), the Standard Transit Test Application (STTA), the Transit Test Application (TTA), the Central Services/Reference Data (CSRD2), the Central Services/Management Information System (CS/MIS);
 - (5) the Community Risk Management System (CRMS) covering the Risk Information Forms (RIF) and the Common Profiles CPCA functional domains;
 - (6) the Economic Operators System (EOS) covering the Economic Operator Registration and Identification (EORI), the Authorised Economic Operators (AEO), the Regular Shipping Services (RSS) and the mutual recognition with partner countries functional domains. The Generic Web Service is a support component for this system;

- (7) the tariff system (TARIC3) which is a reference data system for other applications such as the quota management system (QUOTA2), the surveillance management and monitoring system (SURV2), the European Binding Tariff Information system (EBTI3) the European Customs Inventory of Chemical Substances (ECICS2). The Combined Nomenclature (CN) and the suspensions (Suspensions) applications are managing legal information with a direct link to the tariff system;
 - (8) the applications for control purposes, in particular the Specimen Management System (SMS) and the Information System for Processing Procedures (ISPP);
 - (9) the anti-COUNTERFEIT and anti-PIRACY System (COPIS);
 - (10) the Data Dissemination System (DDS2) managing all information which is accessible to the public via Internet;
 - (11) the Anti-Fraud Information System (AFIS);
2. The Union components of the European Information Systems are:
- (1) IT assets such as the hardware, the software and the network connections of the systems including the associated data infrastructure;
 - (2) IT services necessary to support the development, the maintenance, the improvement and the operation of the systems;
 - (3) and any other elements which, for reasons of efficiency, security and rationalisation, are identified by the Commission as common to participating countries.
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