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from: General Secretariat
to: Permanent Representatives Committee/Council

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
- Outcome of the European Parliament's first reading
(Strasbourg, 14 to 17 April 2014)

I. INTRODUCTION

The Rapporteur, Mr Antonio Fernando CORREIA DE CAMPOS (S&D-PT), presented a report consisting of 53 amendments (amendments 1-53) to the proposal for a Regulation, on behalf of the Committee on Internal Market and Consumer Affairs.

II. DEBATE

No debate took

III. VOTE

When it voted on 15 April 2014, the plenary adopted the 53 amendments in the report of the Committee on Internal Market and Consumer Affairs.

The Commission's proposal, as thus amended, and the legislative resolution constitute the Parliament's position at first reading. The text of the amendments adopted and the European Parliament's legislative resolution are set out in the Annex to this note

Correct application of the law on customs and agricultural matters *I**

European Parliament legislative resolution of 15 April 2014 on the 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 (COM(2013)0796 – C7-0421/2013 – 2013/0410(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0796),
 - having regard to Article 294(2) and Articles 33 and 325 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0421/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Court of Auditors of 25 February 2014¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0241/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 94, 31.3.2014, p. 1.

Amendment 1

Proposal for a regulation Recital 4

Text proposed by the Commission

(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.

Amendment

(4) With a view to increasing clarity, consistency, ***effectiveness, coherence*** 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.

Amendment 2

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The information obtained from the Commission's impact assessment of 25 November 2013 on the amendment of Regulation (EC) No 515/97 in relation to the scale of the problem shows that fraud resulting from false declaration of origin alone may amount to a yearly loss of as much as EUR 100 million for the EU27. In 2011, Member States reported 1 905 cases of detected fraud and other irregularities relating to misdescription of goods amounting to damage of EUR 107,7 million. That figure covers only damage detected by the Member States and the Commission. The actual scale of the problem is substantially higher, since no information is available on an estimated 30 000 cases of potential fraud.

Amendment 3

Proposal for a regulation Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In order to ensure a high level of

consumer protection, the Union has a duty to combat customs fraud and thus contribute to the internal market's objective of having safe products with genuine certificates of origin.

Amendment 4

Proposal for a regulation Recital 6

Text proposed by the Commission

(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**.

Amendment

(6) ***Given the increase in the scale of customs fraud, it is crucial to increase detection and prevention simultaneously at national and Union level.*** 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 Union level, ***a*** directory containing data on import 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 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 ***at the earliest possible date. Each year, the Commission should submit the results obtained from that directory to the European Parliament and to the Council. By ...*, the Commission should carry out assessments in order to appraise the feasibility of extending the data contained in the directory by including data on import and transit of goods by land and air and the necessity of extending the data contained in the directory by including data on export.***

* ***OJ: please enter the date: two years after the entry into force of this Regulation.***

Amendment 5

Proposal for a regulation

Recital 8

Text proposed by the Commission

(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.

Amendment

(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, ***in certain circumstances and following prior notification to the Member States,*** have the right to request documents supporting import and export declarations directly from the economic operators concerned. ***The economic operators concerned should be informed which type of procedure applies.*** These economic operators should be obliged to provide the Commission with the requested documents ***in good time, following advance notification by the Commission to the Member States.***

Amendment 6

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) In order to ensure confidentiality of the inserted data, provision should be made for limiting access to inserted data to specific users only.

Amendment

(9) In order to ensure confidentiality ***and greater security*** of the inserted data, provision should be made for limiting access to inserted data to specific users ***and for defined purposes*** only.

Amendment 7

Proposal for a regulation

Recital 13

Text proposed by the Commission

(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.

Amendment

(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 **and the lack of appropriate resources, particularly human resources**. It is therefore necessary to simplify the procedure governing the *retention* 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. **However, this should not apply to the limitation period, as laid down in Article 221(3) of Regulation (EEC) No 2913/92. The retention** 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.

Amendment 8

Proposal for a regulation

Article 1 – point 1 – point b

Regulation (EC) No 515/97

Article 2 – paragraph 1 – indent 11

Text proposed by the Commission

–‘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.

Amendment

–‘**public or private** service providers active in the international supply chain’ means owners, shippers, consignees, freight forwarders, carriers, **producers** and other **involved** intermediaries or persons

involved in the international supply chain.

Amendment 9

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 515/97

Article 12

Text proposed by the Commission

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.

Amendment

Documents, certified true copies of documents, attestations, all *official acts* 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.

Amendment 10

Proposal for a regulation

Article 1 – point 2 a (new)

Regulation (EC) No 515/97

Article 16a (new)

Present text

Information obtained by staff of one Member State and communicated to another Member State in the course of the assistance provided for in Articles 13 to 15 may *be invoked as* evidence *by the competent bodies* of the Member State receiving the information.

Amendment

(2a) The following Article is inserted:

'Article 16a

Documents, certified true copies of documents, attestations, all instruments or decisions which emanate from the administrative authorities, reports, and any other intelligence obtained by staff of one Member State and communicated to another Member State in the course of the assistance provided for in Articles 13 to 15 may *constitute admissible* evidence *in administrative and judicial proceedings* of the Member State receiving the information *in the same way as if they had been obtained in the Member State where*

the proceedings take place.'

Amendment 11

Proposal for a regulation

Article 1 – point 2 b (new)

Regulation (EC) N0 515/97

Article 18 – paragraph 1 – subparagraph 1 – indent 2 a (new)

Text proposed by the Commission

Amendment

2b. In the first subparagraph of Article 18(1), the following indent is added:

'- breaches of customs legislation above a threshold set by the Commission.'

Amendment 12

Proposal for a regulation

Article 1 – point 2 c (new)

Regulation (EC) N0 515/97

Article 18 – paragraph 1 – subparagraph 1 - concluding phrase

Present text

Amendment

they shall communicate to the Commission as soon as possible, either on their own initiative or in response to a reasoned request from the Commission, any relevant information, be it in the form of documents or copies or extracts thereof, needed to determine the facts so that the Commission may coordinate the steps taken by the Member States.

2c. The concluding phrase of the first subparagraph of Article 18(1) is replaced by the following:

'they shall communicate to the Commission as soon as possible, ***but in any event not later than three weeks,*** either on their own initiative or in response to a reasoned request from the Commission, any relevant information, be it in the form of documents or copies or extracts thereof, needed to determine the facts so that the Commission may coordinate the steps taken by the Member States.'

Amendment 13

Proposal for a regulation

Article 1 – point 2 d (new)

Regulation (EC) No 515/97

Article 18 – paragraph 4 – subparagraph 1

4. Where the Commission considers that irregularities have taken place in one or more Member States, it shall inform the Member State or States concerned thereof and that State or those States shall at the earliest opportunity carry out an enquiry, at which Commission officials may be present under the conditions laid down in Articles 9 (2) and 11 of this Regulation.

2d. The first subparagraph of Article 18(4) is replaced by the following:

4. Where the Commission considers that irregularities have taken place in one or more Member States, it shall inform the Member State or States concerned thereof and that State or those States shall at the earliest opportunity **but in any event not later than three weeks after the information was received** carry out an enquiry, at which Commission officials may be present under the conditions laid down in Articles 9 (2) and 11 of this Regulation.

Amendment 14

Proposal for a regulation

Article 1 – point 3 – point a

Regulation (EC) No 515/97

Article 18a – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Without prejudice to the competences of the Member States, 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. **They shall ensure that the information regarding the interests of Member States' service providers contained in that directory shall be used only for the purposes of this Regulation.**

Amendment 15

Proposal for a regulation

Article 1 – point 3 – point b

Regulation (EC) No 515/97

Article 18a – paragraph 2 – point a

Text proposed by the Commission

(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;

Amendment

(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. Data subjects shall be provided with the right of access and correction in relation to data processed for this purpose;

Amendment 16

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97

Article 18a – paragraph 5

Text proposed by the Commission

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

'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.'

Amendment

(c) The following ***paragraph is*** added:

Amendment 17

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97
Article 18 a – paragraph 6 – subparagraph 1

Text proposed by the Commission

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.

Amendment

6. 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 including the World Customs Organisation, the International Maritime Organisation, the International Civil Aviation Organisation and the International Air Transport Association, as well as Europol**, 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.

Amendment 18

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97

Article 18a – paragraph 6 – subparagraph 2

Text proposed by the Commission

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.

Amendment

Data shall be transferred under this paragraph only for the general purposes of this Regulation 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.

Amendment 19

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97

Article 18a – paragraph 6 – subparagraph 3

Text proposed by the Commission

The **arrangement or memorandum of**

Amendment

The transfer of data under this paragraph

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.

shall *respect* data protection principles, 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.

Amendment 20

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97

Article 18 a – paragraph 6 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 43 in order to amend the list of international organisations and/or Union institutions/agencies which contribute to the protection of the financial interests of the Union and the correct application of customs legislation.

Amendment 21

Proposal for a regulation

Article 1 – point 3 – point c

Regulation (EC) No 515/97

Article 18 a – paragraph 6 – subparagraph 4 b (new)

Text proposed by the Commission

Amendment

The Commission shall consult business representatives regarding the development of delegated acts referred to in Article 18a(6).

Amendment 22

Proposal for a regulation

Article 1 – point 4 – point a

Regulation (EC) No 515/97

Article 18 b – paragraph 2

Text proposed by the Commission

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.

Amendment

2. The Commission *shall ensure that* expertise, technical or logistical assistance, training or communication activity or any other operational support *is* 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.

Amendment 23

Proposal for a regulation

Article 1 – point 4 – point b

Regulation (EC) No 515/97

Article 18 b – paragraph 3

Text proposed by the Commission

(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.'

Amendment

deleted

Amendment 24

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 c – paragraph 1

Text proposed by the Commission

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").

Amendment

Maritime carriers 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*).

Amendment 25

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 c – paragraph 2

Text proposed by the Commission

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

Amendment

2. The required CSMs shall be reported *for containers destined to be brought by vessel into the customs territory of the Union from a third country*;

Amendment 26

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 c – paragraph 2 – point b

Text proposed by the Commission

(b) containers leaving the customs territory of the Union to a third country by vessel.

Amendment

deleted

Amendment 27

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 c – paragraph 3

Text proposed by the Commission

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.

Amendment

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 *and for which the data has been generated or collected in the electronic container tracking equipment.*

Amendment 28

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 c – paragraph 4

Text proposed by the Commission

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

Amendment

4. The Commission shall establish and manage a directory of reported CSMs (the ‘CSM directory’). ***The CSM directory shall form part of the directory referred to in Article 18a and shall not contain personal data.***

Amendment 29

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 f – paragraph 2

Text proposed by the Commission

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).

Amendment

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, ***and regarding obligations that may pertain to containers that are brought into the Union due to diversions.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43a(2).

Amendment 30

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 f – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Pursuant to Article 18a(1), the Commission shall establish by means of an implementing act the means by which the agreement of service providers shall be obtained prior to the transferral of their filed CSMs to other organisations or bodies.

Amendment 31

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97
Article 18 f – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission is urged to consult closely with business representatives of the container liner shipping industry concerning the preparation of the delegated and implementing acts referred to in this Article. They may be invited to participate in the relevant committee meetings and expert groups that shall be used to develop such acts.

Amendment 32

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97
Article 18 g – paragraph 1

Text proposed by the Commission

Amendment

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**.

1. The Commission shall establish and manage a directory containing data on import 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 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, **at the earliest possible date**, supply to the Commission data concerning the transit of goods within a Member State. **Information provided on natural and legal persons shall be used for the purposes of this Regulation only.**

Amendment 33

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97
Article 18 g – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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.

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 **including the World Customs Organisation, the International Maritime Organisation, the International Civil Aviation Organisation and the International Air Transport Association, as well as Europol**, 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.

Amendment 34

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18g – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall present, on an annual basis, the results provided by that directory to the European Parliament and the Council, pursuant to Article 51a.

Amendment 35

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18g – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

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.

deleted

Amendment 36

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18g – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

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.

deleted

Amendment 37

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18g – paragraph 5

Text proposed by the Commission

Amendment

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.

deleted

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.

Amendment 38

Proposal for a regulation

Article 1 – point 5

Regulation (EC) 515/97

Article 18 h – paragraph 1

Text proposed by the Commission

Amendment

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).

1. The Commission may, ***following a request to a Member State as referred to in paragraph 1a and in accordance with Article 14 of Regulation 2913/92,*** obtain directly from economic operators documents supporting import ***and transit*** declarations ***and for which supporting documents have been generated or***

collected by the economic operators, with respect to investigations related to the implementation of customs legislation as defined in Article 2(1) with either the explicit authorisation of a Member State or with the tacit authorisation specified in 18h(1b). The Commission shall notify all Member States likely to be involved in a subsequent enquiry of the request in parallel with the request being made. The Commission shall provide the Member State where the economic operator is established with a copy of the request in parallel with the request being made. The Commission shall provide copies of the response and of the supporting documents from the economic operator to the Member State where the economic operator is established within one week of receipt of a response.

Amendment 39

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 h – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Following a request from the Commission to a Member State for documents supporting an import or transit declaration, the Member State shall, in accordance with Article 14 of Regulation 2913/92, have three weeks within which to either:

- answer the request and provide the requested documentation;*
- notify the Commission that the Member State has requested the documentation from the economic operator;*
- request, for operational reasons, a further two weeks to fulfil the request; or*
- decline the request and notify the Commission that the request was impossible to fulfil by means of due diligence, for instance due to the failure of the economic operator to provide the*

requested information or by a refusal decision taken by a Member State judicial authority in accordance with Article 3 of this Regulation.

Amendment 40

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18 h – paragraph 1 b(new)

Text proposed by the Commission

Amendment

1b. If the Member State does not:

- respond with the requested documents;*
- notify the Commission that the Member State has requested the documents from the economic operator;*
- request, for operational reasons, a further two weeks to fulfil the request; or*
- decline the request*

within the initial three-week period, it shall be considered to have given its tacit authorisation for the Commission to request documents supporting an import or transit declaration directly from the economic operator.

Amendment 41

Proposal for a regulation

Article 1 – point 5

Regulation (EC) No 515/97

Article 18h – paragraph 2

Text proposed by the Commission

Amendment

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.

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 *within three weeks.*

Amendment 42

Proposal for a regulation

Article 1 – point 5 a (new)

Regulation (EC) No 515/97

Article 21 – paragraph 1

Present text

1. The findings and information obtained in the course of the Community missions referred to in Article 20 of this Regulation, and in particular documents passed on by the competent authorities of the third countries concerned, shall be handled in accordance with Article 45 of this Regulation.

Amendment

5a. Article 21(1) is replaced by the following:

‘1. The findings and information obtained in the course of the Community missions referred to in Article 20 of this Regulation, and in particular documents passed on by the competent authorities of the third countries concerned, ***as well as the information obtained during the course of an administrative enquiry, including by the Commission’s services,*** shall be handled in accordance with Article 45 of this Regulation.’

Amendment 43

Proposal for a regulation

Article 1 – point 8 – point a

Regulation (EC) No 515/97

Article 29 – paragraph 1

Text proposed by the Commission

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).

Amendment

Access to data included in the CIS shall be reserved 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).

Amendment 44

Proposal for a regulation

Article 1 – point 9 a (new)

Regulation (EC) No 515/97

Article 30 – paragraph 4

4. Data obtained from the CIS may, with the prior authorization of, and subject to any conditions imposed by, the Member State which included them in the System, be communicated for use by national authorities other than those referred to in paragraph 2, third countries and international or regional organizations **wishing to make use of them**. Each Member State shall take special measures to ensure the security of such data when they are being transmitted or supplied to departments located outside its territory.

The provisions referred to in the first subparagraph shall apply *mutatis mutandis* to the Commission where it has entered the data in the System.

9a. Article 30(4) is replaced by the following:

4. Data obtained from the CIS may, with the prior authorization of, and subject to any conditions imposed by, the Member State which included them in the System, be communicated for use by national authorities other than those referred to in paragraph 2, third countries and international or regional organizations **and/or Union agencies which contribute to the protection of the financial interests of the Union and correct application of customs legislation**. Each Member State shall take special measures to ensure the security of such data when they are being transmitted or supplied to departments located outside its territory.

The provisions referred to in the first subparagraph shall apply *mutatis mutandis* to the Commission where it has entered the data in the System.

Amendment 45

Proposal for a regulation

Article 1 – point 11

Regulation (EC) No 515/97

Article 33

Text proposed by the Commission

Data included in the CIS 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.***

Amendment

Data included in the CIS 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.

Amendment 46

Proposal for a regulation

Article 1 – point 13 – point c

Regulation (EC) No 515/97

Article 38 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. The Commission shall verify that the searches carried out were authorized and were carried out by authorised users. **The level of verification shall depend on the extent of the area to be verified, the severity of the infringement and expected amount of revenue affected, but shall always be equal to 1 % or more of searches made.** 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.

Amendment 47

Proposal for a regulation

Article 1 – point 14 – point a

Regulation (EC) No 515/97

Article 41 d – paragraph 1– introductory part

Text proposed by the Commission

‘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:

Amendment

‘1. The period for which data may be stored shall depend on the laws, regulations and procedures of the Member State supplying them. **The need for the retention of data shall be reviewed by the supplying Member State.** 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:

Amendment 48

Proposal for a regulation

Article 1 – point 14 – point b

Regulation (EC) No 515/97

Article 41 d – paragraph 3

Text proposed by the Commission

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

Amendment

‘3. The Commission shall **make anonymous or delete** the data as soon as the maximum storage period provided for

elapsed.’

in paragraph 1 has elapsed.’

Amendment 49

Proposal for a regulation

Article 1 – point 15

Regulation (EC) No 515/97

Article 43 – point 2

Text proposed by the Commission

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].

Amendment

2. The power to adopt delegated acts referred to in Article **18a(6)**, **Article** 18f(1), **Article 18g(3)** and **Article** 23(4) shall be conferred on the Commission for an indeterminate period of time from ...*

* *OJ: please insert the date of entry into force of this Regulation.*

Amendment 50

Proposal for a regulation

Article 1 – point 15

Regulation (EC) No 515/97

Article 43 – point 3

Text proposed by the Commission

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.

Amendment

3. The power to adopt delegated acts referred to in Article **18a(6)**, **Article** 18f(1), **Article 18g(3)** and **Article** 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.

Amendment 51

Proposal for a regulation

Article 1 – point 15

Regulation (EC) No 515/97

Article 43 – point 5

Text proposed by the Commission

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.

Amendment

5. A delegated act adopted pursuant to Article **18a(6)**, **Article** 18f(1), **Article** **18g(3)** and **Article** 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.

Amendment 52

Proposal for a regulation
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

By ...*, the Commission shall carry out an assessment of:

- the necessity of extending the data contained in the directory referred in Article 18a of Regulation (EC) No 515/97 by including data on export, and

- the feasibility of extending the data contained in the directory referred in Article 18a of Regulation (EC) No 515/97 by including data on import and transit of goods by land and air.

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

Amendment 53

Proposal for a regulation
Article 2 – paragraph 2

Text proposed by the Commission

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.

Amendment

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 ***no earlier than*** one year after the ***required delegated and implementing acts referred to in Articles 18f(1) and 18f(2) enter*** into force.