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## COVER NOTE

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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION Evaluation Council Regulation (EC) No 515/97 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 document SWD(2023) 429 final.

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**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE EVALUATION**

**Evaluation Council Regulation (EC) No 515/97 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(2023) 428 final}

## 1. INTRODUCTION

Council Regulation (EC) No 515/97<sup>1</sup> 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 Regulation') is the cornerstone of mutual assistance in customs matters at European level.

The **aim** of the Regulation is to:

- Strengthen the cooperation between Member States and between the latter and the Commission by ensuring the correct application of customs and agricultural law;
- Reinforce the protection of the financial interests of the EU, the environment and the safety and health of citizens.

The Regulation is accompanied by the three secondary acts: Commission Delegated Regulation (EU) 2016/757<sup>2</sup>, Commission Implementing Regulation (EU) 2016/346<sup>3</sup> and Commission implementing Regulation (EU) 2016/345<sup>4</sup>.

Since the last revision of the Regulation in 2015, several developments with a potential impact on the functioning of the Regulation, for example in the areas of data protection<sup>5</sup> and cash movements<sup>6</sup>, have occurred which prompted the evaluation of the Regulation and its robustness. Moreover, new fraud risks in the customs sector, such as the surge of low-value consignments imported into the EU via e-commerce platforms, have been identified.

The Regulation has not been evaluated before, therefore the evaluation exercise assesses the overall functioning of the Regulation, according to the standard evaluation criteria of effectiveness, efficiency, relevance, coherence and EU added-value. Consideration has been given to coherence with other related mutual assistance legal instruments such as the Naples II Convention<sup>7</sup> on mutual assistance and cooperation between customs administrations, and Council Decision 2009/917/JHA<sup>8</sup> on the use of information technology for customs purposes.

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<sup>1</sup> Council 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

<sup>2</sup> Commission Delegated Regulation (EU) 2016/757<sup>2</sup> of 3 February 2016, determining those operations in connection with the application of agricultural regulations which require the introduction of information into the Custom Information System

<sup>3</sup> Commission Implementing Regulation (EU) 2016/346 of 10 March 2016, determining the items to be included in the Customs Information System;

<sup>4</sup> Commission implementing Regulation (EU) 2016/345 of 10 March 2016, setting out the frequency of reporting of container status messages, the format of the data and the method of transmission

<sup>5</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

<sup>6</sup> Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005

<sup>7</sup> Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (Official Journal C 024, of 23/01/1998 P. 0002 – 0022).

<sup>8</sup> Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes.

The evaluation focuses on the key elements of the Regulation, such as its scope, the mutual assistance between Member States, the cooperation between them and the Commission, the relations with third countries and the IT systems and databases covered. It considers the extent to which the objectives pursued are being met and remain relevant. In particular, it assesses whether the data and data quality contained in these databases are sufficient to enable customs authorities to combat fraud effectively or whether there are gaps in the data coverage and if so, why.

The evaluation covers the time period from 1 September 2016, the date of the entry into application of the latest revision (Regulation 2015/1525<sup>9</sup>), until 1 September 2019.

## **2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?**

Combating fraud in the context of the customs union and the common agricultural policy calls for close cooperation between the administrative authorities responsible in each Member State and cooperation between these national authorities and the Commission. Effective cooperation in these fields strengthens the protection of the financial interests of the Union and contributes to the safety and health of citizens and the protection of the environment.

The Regulation sets out the rules under which customs and agriculture administrations may cooperate administratively at bilateral and Union level to ensure the correct application of customs and agriculture law. This cooperation is carried out by using mutual administrative assistance mechanisms in the form of exchange of information, joint operational actions, training courses or collection of evidence and other support provided during administrative enquiries. It can take place between Member States or between these and the Commission or at international level with non-EU countries. The nature and outcome of such activities varies considerably in terms of duration, number of authorities involved, allocated resources and necessary efforts to achieve the proposed aim.

The Regulation also puts in place a number of IT applications, hosted under the Anti-Fraud Information System (AFIS), to support the related mutual assistance activities. The Anti-Fraud Information System (AFIS) was set up by the Commission in 1997 as the single technical infrastructure hosting the various IT applications for the storage and exchange of information for the purposes of the Regulation. The AFIS system is available to users in Member States, partner third countries, international organisations, Commission services and other EU Institutions.

The Regulation was last amended by Regulation (EU) 2015/1525, which entered into force on 1 September 2016.

The changes aimed at improving the detection, investigation and analysis tasks in the anti-fraud area, enhance the cooperation by optimising systems and processes leading to better use

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<sup>9</sup> Regulation (EU) 2015/1525 of the European Parliament and of the Council of 9 September 2015 amending Council Regulation (EC) No 515/97 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

of the existing tools and facilitate cooperation between individual Member States and between Member States and the Commission. In the long term, the revised Regulation should present an opportunity to increase significantly the number of detected fraud cases and other irregularities in the agricultural and customs domains and thereby help to protect the financial interests of the European Union.

### **3. EVALUATION FINDINGS**

For the evaluation of the current state of play, relevant stakeholders dealing with the implementation of customs and agricultural legislation in Member States, Commission departments, European and international bodies, data protection authorities and maritime shipping carriers were consulted via targeted questionnaires and interviews. The evaluation report is based on the answers collected during the stakeholder consultation, feedback from meetings and available reports with relevance in the customs domain.

The Regulation allows for the storage and exchange of information at European level, which provides an added-value hardly achievable through bilateral exchanges at Member States level, with the consequent optimization of resources. Member States and Commission departments define a clear need for these information channels.

All respondent Member States use the Regulation to a high degree and consider the Regulation as being useful for their work.

Overall, the Regulation is considered to be fit for the purpose, although some areas for improvement were identified.

### **4. CONCLUSIONS**

The Regulation is considered to be effective, efficient, relevant, coherent and has a clear EU added value. Generally, stakeholders are satisfied with the Regulation as it currently stands and consider that it remains a good instrument to tackle the new challenges arising in the fight against fraud.

The Regulation's objectives have been achieved to a great extent, but more could be done in practical terms to optimize some of its sections in order to enable Member States national authorities to cooperate and exchange information among themselves and with the Commission in a time-saving and more effective manner. This can be done without necessarily amending the Regulation. In this respect, the Commission could consider specific initiatives to improve and facilitate the practical implementation of the Regulation by Member States and the Commission.