Mutual assistance and cooperation between the administrative authorities of the Member States and the Commission concerning the application of the law on customs and agricultural matters

2006/0290(COD) - 21/03/2007 - Document attached to the procedure

OPINION No 3/2007 of the Court of Auditors.

The Court considers that the proposal will contribute to achieving the objective pursued by the regulation provided that the Commission takes proper action in order to implement without further delay the IT infrastructure, databases and software applications needed for its practical operation. However, the proposed regulation does not address important issues already highlighted by the Court, namely:

- a potential overlap between the RIF (Risk Information Form) and MA (mutual assistance) communications;
- in the special case of the mutual assistance procedure in the customs and agriculture sectors, there is no systematic follow-up by OLAF; and
- the Commission should take measures to improve the reliability of sources of information on fraud, and should make better use of them by developing risk management strategies.

The following are the Court's recommendations:

- for reasons of consistency with the definition of customs legislation contained in the Naples II Convention, the proposed regulation should also refer to the body of provisions adopted at Community level for harmonised excise duties on importation together with the associated implementing provisions;

- the option of communicating at regular intervals is in contradiction with the current obligation existing in Article 15 to immediately notify to the other Member States concerned information relating to operations which constitute, or appear to them to constitute, breaches of customs and agricultural legislation;

- although approving the possibility provided for MA communications to be used for the purpose of strategic analysis, the Court considers that the proposal should have gone further by giving the Commission full access to the information available in systems already implemented or foreseen for all kinds of goods (not only for sensitive goods);

- the draft regulation does not clearly provide the legal basis for a permanent infrastructure in order to ensure the coordination of joint customs operations open to the participation of representatives or liaison officers of competent international or regional organizations, European Union bodies or agencies and third countries;

- the draft regulation should be better explained specifying that the effectiveness of the cooperation and control procedures of the competent authorities can now also be increased through operational and strategic analysis;

- the Court invites the Commission to include in the draft regulation the excise duties identification number (SEED identification number) foreseen in the Regulation on administrative cooperation in the field of excise duties and in the Directive 92/12/EEC in order to facilitate investigations by either the Commission or the competent authorities of a Member State;

- lastly, although the Commission indicated that the proposal has no financial impact on revenue, the Court considers that the proposal should have a positive impact on traditional and VAT resources through the reduction of fraud, and this impact should have been estimated in the legislative financial statement of the proposal.