Mutual assistance and cooperation between administrations to ensure the correct application of the law on customs and agricultural matters: antifraud system and customs risk management

2013/0410(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 644 votes to 15 with 12 abstentions, a legislative resolution 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.

Parliament's position in first reading following the ordinary legislative procedure amended the Commission position as follows:

Need to fight against fraud: it is recalled that, according to the Commission's estimates, 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 order to ensure a high level of consumer protection, Parliament stressed that the Union had a duty to combat customs fraud and thus contribute to the internal market's objective of having safe products with genuine certificates of origin. Given the increase in the scale of customs fraud, it was crucial to increase detection and prevention simultaneously at national and Union level.

Recognition of evidence: for the sake of legal certainty, evidence gathered during the course of administrative processes-documents, certified true copies of documents, attestations, all instruments or decisions which emanate from the administrative authorities, reports, and any other intelligence-should be legally recognised in the Member States, **whether arising from assistance on request or from spontaneous assistance**, since there was no reason why the two types of circumstance should be treated differently in terms of their legal validity.

Relations with the Commission: the amended text provided that the authorities must 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. Where the Commission considered that irregularities had taken place, it shall inform the Member State concerned and that State shall at the earliest opportunity but in any event not later than three weeks after the information was received carry out an enquiry.

Maritime transport: only 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). The required CSMs should be reported for containers **destined to be brought** by vessel into the customs territory of the Union from a third country.

Speed up customs investigations: to this end, Members suggested that the Commission might, under certain circumstances and **following a request to a Member State,** obtain directly from economic operators documents supporting import and transit declarations. 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 within three weeks, following advance notification by the Commission to the Member States.

Data protection: operators must know which organisations and agencies the Commission might transfer data. For legal certainty and transparency Members proposed that the list should be laid down in the basic act, and include the World Customs Organisation, the International Maritime Organization, the International Civil Aviation Organisation and the International Air Transport Association as well as Europol.

It was 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, the current limitation period of three years for breaches of customs legislation must not be superseded by the retention period.

Implementing acts and delegated acts: an amendment stated that the Commission shall adopt, by means of implementing acts, provisions regarding obligations that may pertain to containers that are brought into the Union due to diversions.

The Commission was also 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 the regulation. They may be invited to participate in the relevant committee meetings and expert groups that should be used to develop such acts.

Evaluation: two years after entry into force of the regulation, the Commission should carry out an assessment of the necessity of extend the data contained in the directory referred in Regulation (EC) No 515/97 by including data on export and on the feasibility of extend the data contained in the directory referred in Regulation (EC) No 515/97 by including data on import and transit of goods by land and air.