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) - 22/12/2006 - Legislative proposal

PURPOSE: to co-ordinate the fight against fraud by updating the “Customs Information System (CIS).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: in recent years, fraudsters have been focusing much of their attention on transactions which breach customs and agricultural regulations. They show a particular interest in defrauding the EU’s payment of export refunds on agricultural and processed products, which are verified by customs authorities once these products leave the Community’s territories. The trend for defrauding the Community has been exacerbated in recent years by the EU’s expansion eastwards.

The Customs Information System or CIS was established by Regulation 515/97/EC (for a summary see: CNS/1992/0450). It acts as a Community database, enabling the relevant administrative authorities to alert their European partners to risks of irregular operations, through the transmission of information and came into force in 2003.

However, since 2003, experience has shown that the use of the CIS is being undermined preventing it from fully achieving the system’s main objectives namely: to prevent, investigate and prosecute operations in breach of customs and agricultural legislation.

CONTENT: the purpose of this proposal, therefore, is to amend Regulation 515/97/EC and to roll out a new Anti-Fraud Information System, (AFIS) in a bid to improve its overall functionality. In summary the main provisions of the proposal are as follows:

Alignment of the definition of customs legislation on the Naples II Convention: The Commission is proposing to align the definition of “customs” legislation with that of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union or the Naples II Convention in order to make Community instruments more consistent with instruments under Title VI of the TEU – particularly in the field of prosecutions for offences against Community customs rules.

Automatic data exchange: The Commission is proposing to supplement the current spontaneous case-by-case exchange mechanism with an automatic and structured information exchange mechanism, without requiring a prior request from the receiving Member State.

European data directory: The Commission is proposing to establish a directory, the purpose of which is to collect data commonly used in international trade for analysis purposes with a view to detecting illegal activities.

Co-ordination structure for operational co-operation: The purpose of this proposed amendment is to promote the idea of developing an interface which allows enhanced coordination and co-operation between the Member States and between the Commission. It should also improve co-ordination activities with European, regional and other international organisations and agencies.

Third countries: The Commission is proposing that the current procedure be supplemented by a measure allowing the Commission, or a Member State, to enter into communication with a third country - on condition that the Member State from which information is received gives their prior consent.

Use of CIS data for analysis purposes: The current Regulation must be amended in order to make "analysis" a new strategy of the CIS – be it strategic or operational. To match the extended functionalities of the system, a new category of information is created relating to goods detained, seized or confiscated.

The creation of a Community Customs Files Identification Database: In a bid to optimise the effectiveness of the co-operation mechanisms, the administrative authorities of the Member States should have access to files enabling them to target those who are requesting administrative assistance. That is the objective of FIDE, which records references to past or current investigations in each Member State. This system will allow competent authorities to find out whether other Member States are undertaking similar investigations to that of their own.