Basic information

2013/0410(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
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 Amending Regulation (EC) No 515/97 1992/0450(CNS) **Subject** 2.10.01 Customs union, tax and duty-free, Community transit 2.80 Cooperation between administrations 3.10.03 Marketing and trade of agricultural products and livestock 7.30.02 Customs cooperation 8.70.04 Protecting financial interests of the EU against fraud	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	JAAKONSAARI Liisa (S&D)	17/07/2014
	Shadow rapporteur HELLVIG Eduard-Raul (PPE) DUDA Andrzej (ECR) KALLAS Kaja (ALDE) ŠOLTES Igor (Verts/ALE)	

Former committee responsible	Former rapporteur	Appointed
IMCO Internal Market and Consumer Protection	CORREIA DE CAMPOS António Fernando (S&D)	17/12/2013

Former committee for opinion	Former rapporteur for opinion	Appointed
CONT Budgetary Control	The committee decided not to give an opinion.	
AGRI Agriculture and Rural Development	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union	**Council configuration** / **Meetings** / **Date** Agriculture and Fisheries / 3386 / 2015-05-11
European Commission	**Commission DG** / **Commissioner** European Anti-Fraud Office (OLAF) / BIEŃKOWSKA Elżbieta
European Court of Auditors	

Key events

Date	Event	Reference	Summary
25/11/2013	Legislative proposal published	COM(2013)0796	Summary
09/12/2013	Committee referral announced in Parliament, 1st reading		
18/03/2014	Vote in committee, 1st reading		
26/03/2014	Committee report tabled for plenary, 1st reading	A7-0241/2014	Summary
15/04/2014	Decision by Parliament, 1st reading	T7-0344/2014	Summary
15/04/2014	Results of vote in Parliament		
06/10/2014	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
17/03/2015	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	PE609.315	
17/06/2015	Council position published	08257/3/2015	Summary
09/07/2015	Committee referral announced in Parliament, 2nd reading		
16/07/2015	Vote in committee, 2nd reading		
20/07/2015	Committee recommendation tabled for plenary, 2nd reading	A8-0234/2015	Summary
08/09/2015	Decision by Parliament, 2nd reading	T8-0283/2015	Summary
08/09/2015	Results of vote in Parliament		
08/09/2015	Debate in Parliament		
09/09/2015	Final act signed		
09/09/2015	End of procedure in Parliament		
18/09/2015	Final act published in Official Journal		

Technical information

Procedure reference	2013/0410(COD)

Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 515/97 1992/0450(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 033 Treaty on the Functioning of the European Union TFEU 325-p4
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Court of Auditors
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/8/01424

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE529.735	13/02/2014	
Committee draft report		PE527.948	17/02/2014	
Committee report tabled for plenary, 1st reading/single reading		A7-0241/2014	26/03/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0344/2014	15/04/2014	Summary
Text agreed during interinstitutional negotiations		PE609.315	23/03/2015	
Committee draft report		PE560.902	30/06/2015	
Committee recommendation tabled for plenary, 2nd reading		A8-0234/2015	20/07/2015	Summary
Text adopted by Parliament, 2nd reading		T8-0283/2015	08/09/2015	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	08257/3/2015	17/06/2015	Summary
Draft final act	00051/2015/LEX	09/09/2015	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2013)0796	25/11/2013	Summary
Document attached to the procedure	SWD(2013)0482	25/11/2013	
Document attached to the procedure	SWD(2013)0483	25/11/2013	
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	
	COM(2015)0318		

Commission communication on Council's position		24/06/2015	Summary
Commission working document (SWD)	SWD(2018)0385	03/09/2018	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N8-0018/2014 OJ C 094 31.03.2014, p. 0001	25/02/2014	Summary
EDPS	Document attached to the procedure	N8-0032/2014 OJ C 219 11.07.2014, p. 0008	11/03/2014	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2015/1525
OJ L 243 18.09.2015, p. 0001 Summary

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) - 11/03/2014 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR (EDPS)

The Commission proposal amends one of the most important legal instruments for action against breaches of customs legislation. The fight against breaches of Union customs legislation involves extensive exchanges of information - including personal data - in the context of cooperation between competent authorities in the Member States and between the latter and the Commission.

Before the adoption of the proposal, the EDPS was given the possibility to provide informal comments to the Commission. The proposal was sent to the EDPS for consultation on 29 November 2013. Some of these comments have been taken into account. As a result, the data protection safe guards in the Proposal have been strengthened.

The EDPS welcomes the modifications that the Commission brought to the proposal, however, it should be noted that the **proposal also contains some rather serious weaknesses** that need to be eliminated before its final adoption.

The EDPS wishes to highlight that the Commission should have taken a **more comprehensive approach** to the legislation on mutual assistance in the customs area, namely by deciding to eliminate the Regulation/Decision dual basis and to substitute it with a single instrument based exclusively on the TFEU, in order to **guarantee legal certainty** and a **seamless data protection regime**.

Against this background, the EDPS recommends:

- the introduction of a **new model for the supervision of all databases** which involve processing of personal data established on the basis of the Regulation and the proposal. Such model would be based on coordinated supervision which has a three-layered structure: data protection agencies at national level, EDPS at central level and coordination between both;
- the designation of the EDPS as secretariat of supervision coordination under both the Decision and the Regulation;

- the introduction of a **general provision** in the text of the Proposal to clarify that Regulation (EC) No 45/2001 applies to processing of personal data carried out by Union institutions and that national laws implementing Directive 95/46/EC are applicable to the processing carried out by the relevant competent authorities in the various Member States;
- the substitution of various fragmented provisions with **uniform provisions** specifying for each database (i) the role of the Commission as data controller or possibly joint data controller together with the relevant national competent authorities; (ii) if needed for the sake of clarity, the supervisory role of the EDPS where the Commission is the controller, as opposed to cases where the processing is under the supervision of national data protection authorities; (iii) the technical measures to be adopted by the Commission in order to ensure security of the processing (possibly, the specific measures could be inserted in a delegated act in order to ensure a more flexible updating); and (iv) the need for prior checking by the EDPS;
- that the newly introduced **retention periods** are reconsidered on the basis of an evaluation of the necessity of the duration for each specific case; furthermore the provisions on anonymisation of data should be modified in order to require deletion of the data;
- as regards the **CSM database**, the proposal should indicate an exhaustive list of data to be inserted. Alternatively, the text of the proposal should explicitly prohibit that personal data are to be inserted in such database.

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) - 08/09/2015 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council 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.

Parliament **approved, unamended, the Council position at first reading**.

A proposal to reject the Council position, tabled by the EFDD group, was rejected in plenary by 62 votes to 604, with 22 abstentions.

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) - 25/11/2013 - Legislative proposal

PURPOSE: to improve customs risk management and strengthen the detection and prevention of customs-related fraud.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the fight against breach of customs legislation entails extensive exchange of information in the framework of cooperation both between Member States and between the latter and the Commission.

While such cooperation has already been successful, a number of areas have been identified where **further action is necessary**, mainly as regards the functioning of the antifraud system in the customs field and the improvement of customs risk management at national and Union levels.

There are several challenges.

- ***Address loopholes in the existing systems for the detection of customs-related fraud****:* the Commission considers that the effectiveness of current measures might be improved if the relevant services are supported by systematic availability of high-quality and timely data on container movements (Container Status Messages - CSMs) carrying goods, imports, exports and transit at national and EU levels.

- ***Enhance customs risk management and supply chain security at national and EU levels:*** there is a need to: (i) establish an equivalent level of customs controls for goods brought into/ taken out of the customs territory of the Union; (ii) introduce a Union-wide risk management framework to support a common approach.

- ***Address delays in OLAF investigations***: the documents supporting import and export declarations (invoice, certificate of origin, etc.) are no longer kept by customs administrations but by economic operators. Member States must first obtain this information from economic operators before transmitting the information to the Commission. Such a system is inefficient because it delays OLAF's investigations.

- ***Clarify the possibility of restricting visibility of data***: the AFIS IT system is currently underused because Member States are not able to select the potential users of the information they insert in the system. Users would more readily share information that they possess within the AFIS system if they were able to shield sensitive data.

- ***Streamline data protection supervision***: it is necessary to have closer collaboration between the two supervisory bodies: the European Data Protection Supervisor – EDPS and Customs Joint Supervisory Authority – CJSA. Another issue in the area of data protection which needs to be further clarified is the responsibility for the technical systems established by the Commission.

- **Clarify the admissibility of evidence collected under mutual assistance**: it appears necessary to clarify that the evidence obtained through mutual assistance may be used by prosecutors in the national criminal proceedings.

IMPACT ASSESSMENT: the assessment of policy options concluded that the main amendments would comprise **the following objectives**: (i) create conditions for improved fighting of customs fraud related to misdeclaration of goods origin, misdescription of goods and misuse of the transit system; (ii) speed up OLAF investigations.

The proposed options are in line with the fundamental rights.

CONTENT: the Commission proposes to amend Regulation (EC) n° 515/97 so as to improve the detection, investigation and prevention of customs-related fraud, by increasing the exchange of information and the available evidence, and improving the functioning of the established system.

Specifically, the proposal aims to:

- update the concept of customs legislation, in order to have the terminology aligned with the customs field, adding **references to entry and exit of goods;**

- remove the legal uncertainty that currently exists in relation to the possible use of information collected through mutual assistance as **evidence** in national criminal proceedings;

- oblige carriers to supply the Commission with the **information on container movements** (i.e. Container Status Messages — CSMs);

- create a **central database** for import and export data;

- create a **centralised repository** for transit-related data;

- enable the Commission to **obtain directly from private sector operators** documents supporting import and export declarations, in order to speed up OLAF's investigations;

- introduce the possibility of **selecting the potential users of data** (restricted visibility) so that Member States might increase the use of databases and consequently contribute to efficiency;

- simplify and harmonise the **rules for the supervision of data protection rules applicable to the EDPS and the CJSA.** The proposal also introduces a maximum retention period of ten years for data stored in the CIS, stipulating that in cases where personal data are stored for a period exceeding five years, the EDPS should be informed accordingly.

BUDGETARY IMPLICATIONS: the budgetary cost is estimated at EUR **60.526 million** (including human resources and other administrative expenditure) for the period 2014-2020.

The budgetary effort concerns mainly the IT costs to maintain and further develop the existing AFIS system. The costs related to the implementation of the proposal will be handled within the framework of the existing forecast in the context of Multiannual Financial Framework and therefore no additional request for budgetary allocation is required.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

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.

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) - 17/06/2015 - Council position

The Council's position at first reading, therefore, amends the original Commission proposal by partially redrafting it on the basis of the agreement reached with the European Parliament.

In parallel, the European Parliament voted 53 amendments to the Commission proposal.

The Council has introduced a number amendments to the original proposal and has substantially **modified the structure of the text**.

As regards the key policy issues, the Council has:

- amended the definition of "customs legislation" in line of Regulation (EU) No 952/2013 and added the definitions of "customs territory of the Union" and of "carriers";
- clarified the rules on the **admissibility of evidence** in administrative and judicial proceedings;
- clarified the objective, content and use of the directories established under this Regulation: (i) Member States should have the same level of access than the Commission to the CSM Directory; (ii) data concerning export of shipments of sensitive goods, such as tobacco and tobacco

products, alcohol and alcoholic beverages and energy products, should be reported by carriers in the Container Status Messages (CSMs) directory; (iii) the possibility to transfer selected data from the "import, export and transit directory" to international organisations or EU agencies has been withdrawn;

- provided for a clarification of the rules related to those **movements of containers** that should not be reported in the CSM Directory;
- streamlined data protection rules in accordance with Regulation (EC) No 45/2011;
- clarified that **documents supporting import and export declarations** should be provided by Member States, upon request by the Commission, and that such request should be dealt with within a period of four weeks;
- stipulated that data included in the Customs Information System (CIS) should be **stored for a period of maximum five years**, with an additional two years if justified;
- provided for an **assessment by the Commission**, two years after the entry into force of the Regulation, of the necessity to extend the export data and the data on land and air movements in the relevant directories;
- set the **date of application on 1 September 2016**, taking into account the delegated and implementing acts to be adopted, and the preparatory tasks to be completed by Member States.

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) - 26/03/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted the report by António Fernando CORREIA DE CAMPOS (S&D, PT) 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.

The committee recommended that Parliament’s position in first reading following the ordinary legislative procedure should amend the Commission position as follows:

Need to fight against fraud: in order to ensure a high level of consumer protection, the report 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 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.

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 in good time, 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.

Delegated acts: the Commission was 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 Article 18a of Regulation (EC) No 515/97 by including data on export and on the feasibility of extend 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.

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) - 09/09/2015 - Final act

PURPOSE: to improve, within the EU, customs risk management and strengthen the detection and prevention of customs-related fraud.

LEGISLATIVE ACT: Regulation (EU) 2015/1525 of the European Parliament and of the Council 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.

CONTENT: the Regulation amends Regulation (EC) n° 515/97 so as to improve the detection, investigation and prevention of customs-related fraud, by increasing the exchange of information and the available evidence, and improving the functioning of the established system. It aims to **address loopholes in the existing systems for the detection of customs-related fraud as well as addressing delays in OLAF investigations.**

The amending Regulation:

- updates the **concept of customs legislation**, in order to have the terminology aligned with the customs field, adding references to entry and exit of goods;
- provides for the **creation of a directory of reported Container Status Messages** ("CSM directory"). Member States will have the same level of access as the Commission to the CSM directory;
- establishes a centralised repository for **transit-related data** and a central database for **import and export data**;
- clarifies the **possibility of using information obtained via mutual assistance** as evidence in judicial and administrative proceedings;
- specifies the procedure for obtaining by the Commission supporting documents held by the economic operators. Accompanying documents to the import and export declarations are to be provided by Member States, on request of the Commission, and the request must be processed within four weeks;
- **simplifies the procedure governing the storage of data** in the CIS by removing the obligation to review data annually and by setting a maximum storage period of five years which can be increased, subject to justification, by an additional period of two years;
- provides that by 9 October 2017, the **Commission shall carry out an assessment of the necessity of** extending the export data contained in the directories concerned, as well as the feasibility of extending the data contained in the transport directory, by including data on import, export and transit of goods by land and air.

ENTRY INTO FORCE: 8.10.2015. This Regulation shall apply from 1 September 2016. Certain provisions shall apply from 8 October 2015.

DELEGATED ACTS: in order to supplement certain non-essential elements of Regulation (EC) No 515/97 and in particular to specify the information to be entered into the CIS, the power to adopt acts should be delegated to the Commission to determine the operations in connection with the application of agricultural legislation for which information has to be introduced into the CIS. The power to adopt delegated acts shall be conferred on the Commission for a period of **five years** (which may be tacitly extended) from 8 October 2015. A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months (this delay may be extended by two months). If the European Parliament and the Council object, the delegated act shall not enter into force.

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) - 24/06/2015 - Commission communication on Council's position

The Commission gave its opinion on the position of the Council on the adoption of a Regulation of the European Parliament and of the Council 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.

As all amendments introduced to the Commission proposal were discussed during the informal tripartite discussions, the Commission can accept the amendments that the Council adopted in its first reading position.

The Council's position by and large endorses the core elements of the Commission’s proposal, with some changes as to the details. Those amendments include:

- the clarification that the information obtained via mutual assistance may be used as evidence in judicial proceedings only in case the Member State sending information does not object to such use;
- the extension of the amendment to the Regulation relating to admissibility of evidence to cover information obtained via spontaneous assistance mechanism;
- limiting the scope of data to be included in the proposed directories;
- adding a provision governing the sanctions for failure to report Container Status Messages (CSMs) by the carriers;
- the elimination of the provision on transfer of data from the proposed directories to international organisations and EU agencies;
- the modification of the procedure for obtaining supporting documentation by the Commission.

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) - 25/02/2014 - Court of Auditors: opinion, report

Opinion No 1/2014 of the Court of Auditors 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.

The objective pursued by the draft regulation is the sound application of Union legislation in the fields of customs and agriculture, providing in particular the Commission but also the Member States' customs and other authorities with more effective mechanisms to assist it in preventing, investigating and prosecuting operations that are in breach of customs and agricultural legislation.

The Court considers that the proposal will contribute to achieving the objectives pursued by the regulation, subject to the following specific remarks:

Directory of data: the proposal set out the arrangements by which the Commission will establish and analyse a directory of data received from public or private service providers active in the international supply chain and share this data with the Member States' authorities. The proposal limits access to this directory to certain Commission departments and national authorities and makes the transfer of data to other institutions subject to specific conditions.

The Court recommends stating, in the relevant Articles, that these provisions are "**without prejudice to the Court of Auditor's right of access to documents and information** under Article 287(3) TFEU". This would ensure that all parties involved in the implementation of the Regulation are aware of the audit powers of the Court and that these cannot be made subject to restrictive conditions. For the same reason, a reference to the Court of Auditors in Article 29, concerning access to the Customs Information System, would be useful.

Container movements: the proposal sets out the arrangements by which the Commission will obtain and process information about container movements into, inside and out of the customs territory of the Union. This information will be provided by public and private service providers, in effect the shipping companies.

The Court notes that there is no provision in the draft legislation for any verification of the completeness, reliability and timeliness of the data provided by the shipping companies. Furthermore, no resources are set aside in the legislative financial statement for such a procedure. **Completeness, reliability and timeliness of the data** are risks that need to be addressed, having due regard to the cost of any controls put in place.

Access to documents for investigative purposes: with a view to speeding up OLAF investigations, the Commission is empowered to obtain directly from economic operators documents supporting import and export declarations when these are required for investigations.

However, in the interest of sincere and effective cooperation between the Commission and the Member States, the proposal would provide that the Commission: (a) should inform the national authorities of the Member States concerned about any requests made to economic operators; and (b) may request **assistance from the competent national authorities** to obtain documents, particularly where economic operators do not comply immediately with its request.

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) - 20/07/2015 - Committee recommendation tabled for plenary, 2nd reading

The Committee on the Internal Market and Consumer Protection adopted the recommendation for a second reading contained in the report by Liisa JAAKONSAARI (S&D, FI) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council 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.

The committee recommended the European Parliament to approve the Council position at first reading without amendment.