



EUROPEAN COMMISSION

*Brussels, 2.10.2014
C(2014) 7078 final*

Dear President,

The Commission would like to thank the Folketing for its Reasoned Opinion on the proposal for a Directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions {COM(2013) 884 final}.

With regard to the Folketing's view that customs cooperation between Member States and between the latter and the Commission is not an exclusive EU competence, the Commission would like to note that the specific legislative proposal is based on Article 33 TFEU and consequently falls under a shared competence in accordance with Article 4 TFEU.

Concerning the statement in the reasoned Opinion that the proposal is incompatible with the principle of subsidiarity since it represents a more extensive harmonisation of the rules on infringements of EU customs legislation and the related sanctions than is necessary to solve the genuine problems arising from differences in the application of sanctions by Member States, the Commission would like to refer to the enhanced subsidiarity test in the corrigendum of 5 June 2014 to the Explanatory Memorandum {COM(2013) 884 final/4}. The Commission would like to emphasise that the enforcement of the harmonised customs legislation cannot be effectively achieved when there is a wide divergence of rules among Member States concerning customs infringements and sanctions, as currently is the case. The Commission finds that the only way to achieve a level playing field between the economic operators in this field is to provide for a common list of customs infringements that reflects the obligations stemming from the Union Customs Code (UCC). This cannot be ensured through action by individual Member States. Moreover, by approximating the level of sanctions without providing for its full harmonisation, it leaves some flexibility to the Member States while ensuring a common Union approach, thus respecting the principle of subsidiarity.

Furthermore, a common list of customs infringements and the approximation of customs sanctions established by the Directive would allow customs sanctioning systems to be more comparable. Given the divergence of rules among Member States, such comparable systems of customs sanctions currently do not exist. Since the UCC has been conceived for a multinational electronic environment where a decision taken by a Member State is applied in all other Member States, the common list of customs infringements and the approximation of customs sanctions would enable the proper enforcement of the UCC.

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The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the concerns raised by the Folketing and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*