



EUROPEAN COMMISSION

Brussels, 27.4.2012
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Dear President,

The Commission would like to thank the Camera Deputaţilor for its positive opinion on the Proposal for a Regulation of the European Parliament and of the Council concerning customs enforcement of intellectual property rights – {COM(2011) 285 final}.

The Commission takes note of the view of the Camera Deputaţilor on the issue of eliminating the derogation in relation to parallel trade.

The key objective of the revision of the Council Regulation (EC) No 1383/2003 is to strengthen the provisions concerning customs enforcement of intellectual property rights, whilst at the same time ensuring legal clarity of the provisions themselves.

The Commission considers, as the Camera Deputaţilor rightly mentions, that parallel trade in certain instances constitutes an infringement of intellectual property rights. Where customs authorities detain such shipments, the right-holder must be able to receive information from customs such as the holder of the goods in order to allow him initiating court proceedings to establish the infringement.

The Commission considers that it is more efficient to detain such goods at the border rather than searching the Internal Market to identify them. The Commission agrees that interception of these type of goods might be difficult and probably only possible after receiving concrete information from the right-holder but this should not prevent the inclusion of illegal parallel trade into the proposal. Other intellectual property rights might be complicated as well, e.g. patents or plant variety rights, but such an argument should not prevent customs authorities from enforcing these rights. Based on information from the right-holder, customs authorities will be capable of performing risk analysis and risk assessment in order to select those shipments that contain a higher risk.

*Ms. Roberta Alma ANASTASE
President
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Let me take this opportunity to inform you that discussions on the proposal have already started in the Council and in the European Parliament.

I look forward to continuing our political dialogue on this issue.

Yours faithfully,

*Maroš Šefčovič
Vice-President*