



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **Impact Assessment for Amendment of Council Regulation (EC) No 515/97 and Council Decision 2009/917/JHA on mutual assistance**

(resubmitted draft version of 20 June 2013)*

(A) Context

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 is regulated by Regulation No 515/97. In addition, Council Decision 2009/917/JHA regulates the use of information technology for customs purposes. The current regulatory set-up at EU level does not provide customs authorities and OLAF all the necessary information for better preventing and detecting breaches of customs legislation. This gives a possibility to companies importing and exporting goods to gain illegal profits by avoiding paying appropriate taxes and VAT, thus causing losses to the EU budget. This impact assessment therefore looks at possible ways to improve the current situation.

(B) Overall opinion: POSITIVE

The report has been significantly improved along the lines of the Board's recommendations, but needs further work in a number of aspects. Firstly, the report should better describe the content and practical implementation of each option, in particular with regards to options for creating new databases under the Member State responsibility or for shared responsibilities for detecting the customs fraud. Secondly, it should further elaborate on the assessment and comparison of options, in particular with regards to the assumptions for estimating the costs and benefits of the different options. Finally, the report should better present throughout the different stakeholders' views, in particular regarding the implementation of policy options and their comparison.

(C) Main recommendations for improvements

(1) Better describe the policy options. The report should better describe the content of each option and how it will be implemented in practice. For instance, while it now describes the prospective databases at the EU level (option 2, annex 4), the report should also describe (i) how it would work for options with Member State full responsibility or shared responsibilities for detecting the customs fraud (options 2 and 3), (ii) how

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

information for each database will be collected and by whom (iii) how potential overlaps can be avoided. It should discuss the risks related to data security or legal implications of requiring data from operators that have contractual obligations not to disclose it. The report should explain which options were discarded without further analysis and why (e.g. other combinations of shared responsibility between MS and the Commission in option 4).

(2) Clarify the assessment and comparison of options. The report should clarify the main assumptions made when estimating the costs and benefits of the different options. For example, why it is assumed that the costs for the establishment and operation of national systems would correspond to the estimated costs incurred by the Commission if Member States already collect import and export data and therefore could have some sort of national system in place. When comparing the options, the report should better explain when options are assigned 'simple' positive impact and when impact is judged as 'quite' positive or 'significantly' positive. For example, it should justify why the effectiveness of option 3 (Member State responsibility) is judged only 'quite' positive while the report states that the economic impacts related to better detection of customs-related fraud are considered to be equivalent to those generated under option 2 (EU responsibility). As implementation costs (one-off and recurrent) seem to be known for all analysed options, these respective amounts could replace the current magnitudes (--/++) regarding assessment of efficiency of achieving operational objectives in order to provide a more compelling comparison on cost-effectiveness based on quantitative evidence. The report should also compare options in terms of coherence with overarching EU objectives, strategies and priorities.

(3) Better present stakeholder views. The presentation of stakeholder views should focus more on the content rather than the procedure followed (the latter can be presented in an annex). The report should briefly summarise in the main text (section 2.4) the stakeholder views, explaining what were their main concerns and how they have been addressed. It should better reflect the different stakeholders' views throughout, particularly regarding the policy options and their comparison.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should ensure that all abbreviations and technical terms are explained. The executive summary should present the estimated costs and benefits of each option.

(E) IAB scrutiny process

Reference number	2011/OLAF/001
External expertise used	No
Date of IAB meeting	Written procedure. The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 3 October 2012 and the second opinion was issued on 15 November 2012.