



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

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

(resubmitted draft version of 23 October 2012)*

(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 assessment

While the report has been improved to some extent along the lines of the Board's recommendations it still needs to be significantly further improved in several important respects.

Firstly, the report should present a clearer intervention logic by distinguishing between operational objectives and options. The latter should instead be designed in terms of different content and specific actions that present truly alternative ways of reaching the revised objectives. Secondly, the report should assess the impacts, including implementation and compliance costs, of each option (rather than objective) separately, in order to allow for a comparison of options in terms of effectiveness, efficiency and coherence against the baseline. Finally, based on the revised objectives the report should clarify progress indicators to measure this initiative's success and should describe the timing, scope and nature of the evaluation of this initiative.

Given the nature of these issues, the IAB requests DG OLAF to resubmit a revised version of the IA report on which it will issue a new opinion.

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

(C) Main recommendations for improvements

(1) Present a clearer intervention logic. The report should clearly differentiate between the operational objectives and options. It should therefore not include possible solutions already in the formulation of operational objectives (as done for objectives of improving detection and investigation of customs fraud, speeding up investigation procedures, further enhancing co-operation, and improving the use of evidence collected under mutual assistance). Furthermore, some of the objectives (e.g., strengthening/enhancing cooperation) are the same for general, specific and operational objectives. The report should therefore clearly present differently the objectives corresponding at these different levels. To the extent possible, the report should develop options that present real alternative ways of reaching the refined objectives. These options should be presented and analysed for each operational objective which they should attain. It should provide reasons where alternative options are not possible or feasible and should present and justify any options discarded at an early stage.

(2) Strengthen the assessment of impacts. As options differ in terms of effectiveness of reaching the objectives, each option has different benefits and costs. Therefore, the report should assess and compare impacts of each option rather than comparing objectives. In doing so, it should assess implementation and compliance costs for the EU, Member States and businesses. When describing the baseline scenario (option 0), the report should explain more clearly the consequences of continuing with the status quo, in particular, with regards to problems of supervision and auditing of data protection and non-admissibility of evidence. The report should also assess if any of the options have significant impacts on SMEs and sector competitiveness. The report should assess in more detail the implications of the envisaged database/information handling on fundamental rights, including data protection and privacy. It should also explain why none of the options are expected to have significant direct or indirect social impacts. The report should base the comparison of options in terms of effectiveness, efficiency and coherence more clearly on the results from the impact analysis. Finally the report should present better the views of the stakeholders when discussing the impacts.

(3) Clarify monitoring and evaluation arrangements. Based on revised (operational) objectives the report should clarify some of the progress indicators to measure this initiative's success. In particular, it should elaborate how the required data would be collected for progress indicators (e.g., how it will be exactly determined which investigations were opened or how much funds were recovered based on export/import/transit/CMS data from this initiative or how the degree of satisfaction of requests for documents supporting customs declaration from private companies will be measured). The report should describe the timing, scope and nature of the evaluation of this initiative.

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 move the description of options (and their practical implementation) from the operational objectives section to the options section. The analysis of impacts should correspond to the options rather than objectives. These necessary changes should also be made to the executive summary of the report.

(E) IAB scrutiny process	
Reference number	2011/OLAF/001
External expertise used	No
Date of IAB meeting	Written procedure. An earlier version of this report was submitted to the IAB on 10 September 2012, for which the Board issued an opinion on 3 October 2012.