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P7_TA(2014)0344

Correct application of the law on customs and agricultural matters *I**

European Parliament legislative resolution of 15 April 2014 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 (COM(2013)0796 — C7-0421/2013 — 2013/0410(COD))

(Ordinary legislative procedure: first reading)

(2017/C 443/26)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0796),
 - having regard to Article 294(2) and Articles 33 and 325 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0421/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Court of Auditors of 25 February 2014 ⁽¹⁾,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0241/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2013)0410

Position of the European Parliament adopted at first reading on 15 April 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council amending 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 EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33 and 325 thereof,

Having regard to the proposal from the European Commission,

⁽¹⁾ OJ C 94, 31.3.2014, p. 1.

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After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) In order to ensure that Council Regulation (EC) No 515/97⁽³⁾ covers all possible movements of goods in relation to the customs territory of the Union, it is appropriate to clarify the definition of customs legislation with regard to the concepts of entry and exit of goods.
- (2) With a view to further enhancing administrative and criminal procedures for dealing with irregularities, it is necessary to ensure that evidence obtained through mutual assistance can be considered as admissible in proceedings before the administrative and judicial authorities of the Member State of the applicant authority.
- (3) The Commission Communication of 8 January 2013 on Customs Risk Management and Security of the Supply Chain recognises an urgent need to improve the quality and availability of data for use in pre-arrival risk analysis, in particular for the effective identification and mitigation of safety and security risks at national and Union levels, within the Common Risk Management Framework established under Article 13(2) of Council Regulation (EEC) No 2913/92⁽⁴⁾. The integration of data on container movements in pre-arrival risk management will greatly improve supply chain visibility and will significantly enhance the capacity of the Union and the Member States to target higher-risk consignments for controls, while facilitating the flow of legitimate trade.
- (4) With a view to increasing clarity, consistency, **effectiveness, coherence** and transparency, it is necessary to define in more concrete terms the authorities which should have access to the directories established on the basis of Regulation (EC) No 515/97; for that purpose a uniform reference to competent authorities will be established. **[Am. 1]**
- (5) Data concerning container movements make it possible to identify fraud and risk trends with regard to goods that are moved in and out of the customs territory of the Union. Such data serve to assist in preventing, investigating and prosecuting operations which are or appear to constitute breaches of customs legislation, and to assist the competent authorities in managing customs risks defined in point 25 of Article 4 of Regulation (EEC) No 2913/92. In order to collect and use a set of data as complete as possible, while avoiding potential negative impacts on small and medium-sized enterprises in the freight forwarding sector, it is necessary that public or private sector providers active in the international supply chain submit to the Commission data concerning container movements in so far as they collect such data in electronic formats via their equipment tracking systems or have access to such data.
- (5a) ***The information obtained from the Commission's impact assessment of 25 November 2013 on the amendment of Regulation (EC) No 515/97 in relation to the scale of the problem shows that 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 2011, Member States reported 1 905 cases of detected fraud and other irregularities relating to misdescription of goods amounting to damage of EUR 107,7 million. That figure covers only damage detected by the Member States and the Commission. The actual scale of the problem is substantially higher, since no information is available on an estimated 30 000 cases of potential fraud.*** **[Am. 2]**
- (5b) ***In order to ensure a high level of consumer protection, the Union has a duty to combat customs fraud and thus contribute to the internal market's objective of having safe products with genuine certificates of origin.*** **[Am. 3]**

⁽¹⁾ OJ C 94, 31.3.2014, p. 1.

⁽²⁾ Position of the European Parliament of 15 April 2014.

⁽³⁾ Council 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 (OJ L 82, 22.3.1997, p. 1).

⁽⁴⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

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- (6) **Given the increase in the scale of customs fraud, it is crucial to increase detection and prevention simultaneously at national and Union level.** The detection of fraud, identification of risk trends and the implementation of effective risk management procedures depend significantly on the identification and cross-analysis of relevant operational data sets. It is necessary therefore to establish, at European Union level, a directory containing data on import, export and transit of goods including transit of goods within the Member States and direct export. For that purpose, Member States should allow systematic replication of data on import ~~export~~ and transit of goods from the systems operated by the Commission and should supply to the Commission data relating to transit of goods within a Member State ~~and direct export~~ **at the earliest possible date. Each year, the Commission should submit the results obtained from that directory to the European Parliament and to the Council. By ... (*)**, the Commission should carry out assessments in order to appraise the feasibility of extending the data contained in the directory by including data on import and transit of goods by land and air and the necessity of extending the data contained in the directory by including data on export. [Am. 4]
- (7) For the implementation of Article 18b of Regulation (EC) No 515/97, the Commission has created a number of technical systems enabling the provision of technical assistance, training or communication activity and other operational activity to the Member States. Those technical systems need to be explicitly referred to in that Regulation and covered by data protection requirements.
- (8) The introduction of in 2011 of e-Customs, by which documents supporting imports and exports are no longer kept by the customs administrations but by the economic operators, has led to delays in the conduct of European Anti-fraud Office (OLAF) investigations in the customs area, as OLAF needs the intermediation of these administrations to obtain such documents. Moreover, the three-year limitation period applicable to customs documents held by the administration, puts additional constraints to the successful conduct of investigations. In order to accelerate the conduct of investigations in the area of customs the Commission should therefore, **in certain circumstances and following prior notification to the Member States**, have the right to request documents supporting import and export declarations directly from the economic operators concerned. **The economic operators concerned should be informed which type of procedure applies.** Those 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.** [Am. 5]
- (9) In order to ensure confidentiality **and greater security** of the inserted data, provision should be made for limiting access to inserted data to specific users **and for defined purposes** only. [Am. 6]
- (10) In order to ensure up-to-date information and to secure the transparency and information right of data subjects as enshrined in Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾ and Directive 95/46/EC of the European Parliament and of the Council ⁽²⁾, the possibility of publishing on the internet updates of the lists of competent authorities designated by the Member States and the Commission departments to have access to the Customs Information System (CIS) should be introduced.
- (11) Regulation (EC) No 45/2001 applies to the processing of personal data by Union institutions, bodies, offices and agencies.
- (12) In order to improve consistency of data protection supervision, the European Data Protection Supervisor needs to cooperate closely with the Joint Supervisory Authority established under Council Decision 2009/917/JHA ⁽³⁾, with a view to achieving coordination of the audits of the CIS.

(*) **Two years after the entry into force of this Regulation.**

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽²⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽³⁾ Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes (OJ L 323, 10.12.2009, p. 20).

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- (13) The provisions governing the storage of data in the CIS frequently result in unjustifiable loss of information; this is because Member States do not systematically carry out the yearly reviews due to the administrative burden involved **and the lack of appropriate resources, particularly human resources**. It is therefore necessary to simplify the procedure governing the ~~storage~~ **retention** of data in the CIS by removing the obligation to review data annually and by setting a maximum retention period of 10 years, corresponding to periods provided for the directories established on the basis of this Regulation. **However, this should not apply to the limitation period, as laid down in Article 221 (3) of Regulation (EEC) No 2913/92. The retention** period is necessary due to the long procedures for processing irregularities and because these data are needed for the conduct of joint customs operations and of investigations. Furthermore, to safeguard the rules governing data protection, the European Data Protection Supervisor should be informed about cases where personal data are stored in CIS for a period exceeding five years. [Am. 7]
- (14) In order to further enhance the possibilities for analysis of fraud and facilitate the conduct of investigations, data concerning current investigation files stored in the Files Identification Database (FIDE) should be rendered anonymous, after one year since the last observation, and retained in a form in which identification of the data subject is no longer possible.
- (15) Since the objectives of enhancing customs risk management as defined in points 25 and 26 of Article 4 and Article 13(2) of Regulation (EEC) No 2913/92 laying down the Community Customs Code, and of improving detection, investigation and prevention of customs-related fraud in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (16) Public or private service providers active in the international supply chain who, at the time of the entry into force of this Regulation, are bound by private contract obligations as regards the supply of data on container movements, should be entitled to benefit from a deferred application of Article 18c in order to renegotiate their contracts and ensure that future contracts are compatible with the obligation to provide data to the Commission.
- (17) Regulation (EC) No 515/97 confers powers on the Commission to implement some of the provisions of that Regulation; as a consequence of the entry into force of the Treaty of Lisbon, the powers conferred on the Commission under that Regulation need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).
- (18) In order to supplement certain non-essential elements of Regulation (EC) No 515/97 and in particular to create a streamlined and structured directory of CSMs, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the events for which CSMs should be reported, the minimum data elements to be reported in CSMs and the frequency of reporting.
- (19) In order to supplement certain non-essential elements of Regulation (EC) No 515/97 and in particular to specify the information to be inserted into the CIS, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of determining the operations concerning the application of agricultural legislation for which information has to be introduced into the central database of the CIS.
- (20) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

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- (21) In order to ensure uniform conditions for implementation of Regulation (EC) No 515/97, implementing powers should be conferred on the Commission in respect of the format of the data and method of transmission of CSMs. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁾. The examination procedure should be used for the adoption of implementing acts.
- (22) In order to ensure uniform conditions for implementation of Regulation (EC) No 515/97, implementing powers should be conferred on the Commission in respect of the specific elements to be included in the CIS under each of the categories referred to under items (a) to (h) in Article 24. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. The examination procedure should be used for the adoption of implementing acts. The specific elements to be included in the CIS will be based on those listed in the Annex to the Commission Regulation (EC) No 696/98⁽²⁾.
- (23) The European Data Protection Supervisor has been consulted and issued an opinion on 11 March 2014,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 515/97 is amended as follows:

1. In Article 2, paragraph 1 is amended as follows:

- (a) The first indent is replaced by the following:

‘— “customs legislation” means the body of Union provisions and the associated delegated and implementing acts governing the entry, exit, import, export, transit and presence of goods traded between Member States and third countries, and between Member States in the case of goods that do not have Union status within the meaning of Article 28(2) of the Treaty on the Functioning of the European Union (TFEU) or goods subject to additional controls or investigations for the purposes of establishing their Union status.’

- (b) The following indent is added:

‘— “**public or private** service providers active in the international supply chain” means owners, shippers, consignees, freight forwarders, carriers, **producers** and other **involved** intermediaries or persons involved in the international supply chain.’ [Am. 8]

2. Article 12 is replaced by the following:

‘Documents, certified true copies of documents, attestations, all ~~instruments~~ **official acts** or decisions which emanate from the administrative authorities, reports, and any other intelligence obtained by the staff of the requested authority and communicated to the applicant authority in the course of the assistance provided for in Articles 4 to 11 may constitute admissible evidence in administrative and judicial proceedings of the applicant Member State in the same way as if they had been obtained in the Member State where the proceedings take place.’ [Am. 9]

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ Commission Regulation (EC) No 696/98 of 27 March 1998 implementing 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 (OJ L 96, 28.3.1998, p. 22).

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2a. The following Article is inserted:

'Article 16a

Documents, certified true copies of documents, attestations, all instruments or decisions which emanate from the administrative authorities, reports, and any other intelligence obtained by staff of one Member State and communicated to another Member State in the course of the assistance provided for in Articles 13 to 15 may constitute admissible evidence in administrative and judicial proceedings of the Member State receiving the information in the same way as if they had been obtained in the Member State where the proceedings take place.' [Am. 10]

2b. In the first subparagraph of Article 18(1), the following indent is added:

'— breaches of customs legislation above a threshold set by the Commission.' [Am. 11]

2c. The concluding phrase of the first subparagraph of Article 18(1) is replaced by the following:

'they shall communicate to the Commission as soon as possible, but in any event not later than within three weeks, either on their own initiative or in response to a reasoned request from the Commission, any relevant information, be it in the form of documents or copies or extracts thereof, needed to determine the facts so that the Commission may coordinate the steps taken by the Member States.' [Am. 12]

2d. The first subparagraph of Article 18(4) is replaced by the following:

'4. Where the Commission considers that irregularities have taken place in one or more Member States, it shall inform the Member State or Member States concerned thereof and that Member State or those Member States shall at the earliest opportunity but in any event not later than three weeks after the information was received carry out an enquiry, at which Commission officials may be present under the conditions laid down in Articles 9 (2) and 11 of this Regulation.' [Am. 13]

3. Article 18a is amended as follows:

(a) Paragraph 1 is replaced by the following:

*'1. Without prejudice to the competences of the Member States, for the purpose of risk management as set out in Article 4, points 25 and 26, and Article 13(2) of Regulation (EEC) No 2913/92, and with a view to assisting the authorities referred to in Article 29 to detect movements of goods that are the object of operations in potential breach of customs and agricultural legislation and means of transport, including containers, used for that purpose, the Commission shall establish and manage a directory of data received from public or private service providers active in the international supply chain. That directory shall be directly accessible to those authorities. **They shall ensure that the information regarding the interests of Member States' service providers contained in that directory shall be used only for the purposes of this Regulation.**'* [Am. 14]

(b) Paragraph 2 is replaced by the following:

'2. In managing that directory, the Commission shall be empowered:

(a) to access or extract and store the contents of the data, by any means or in any form, and to use data for the purposes of an administrative or judicial procedure in compliance with legislation applicable to intellectual property rights. ~~The Commission shall put in place adequate safeguards against arbitrary interference by public authorities including technical and organisational measures and transparency requirements towards the data subjects.~~ Data subjects shall be provided with the right of access and correction in relation to data processed for this purpose; [Am. 15]

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- (b) to compare and contrast data that are accessible in or extracted from the directory, to index them, to enrich them from other data sources and to analyse them in compliance with Regulation (EC) No 45/2001 of the European Parliament and of the Council (*);
- (c) to make the data in this directory available to the authorities referred to in Article 29, using electronic data-processing techniques.

(*) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).'

- (c) The following ~~paragraphs 5 and 6~~ are **paragraph is** added:

~~5. The European Data Protection Supervisor shall supervise compliance of this directory with Regulation (EC) No 45/2001.~~

~~The Commission shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing. [Am. 16]~~

6. ~~Without prejudice to Regulation (EC) No 45/2001,~~ The Commission may transfer, subject to the agreement of the public or private service providers active in the international supply chain, data referred to in Article 18a(3) to international organisations ~~and/or EU institutions/agencies~~ **including the World Customs Organisation, the International Maritime Organisation, the International Civil Aviation Organisation and the International Air Transport Association, as well as Europol**, which contribute to the protection of the financial interests of the Union and correct application of customs legislation with which the Commission concluded a relevant arrangement or memorandum of understanding. [Am. 17]

Data shall be transferred under this paragraph only for the general purposes of this Regulation ~~also~~ including the protection of the financial interests of the Union, and/or for the purpose of risk management as set out in points 25 and 26 of Article 4 and Article 13(2) of Council Regulation (EEC) No 2913/92 (*). [Am. 18]

~~The arrangement or memorandum of understanding based on which the transfer of data may take place under this paragraph shall include, inter alia,~~ **respect** data protection principles ~~such as~~, the possibility for data subjects to exercise their rights of access and correction and to seek administrative and judicial redress, as well as an independent oversight mechanism to ensure compliance with the data protection safeguards. [Am. 19]

Data received from public or private service providers active in the international supply chain shall be kept only for the time necessary to achieve the purpose for which they were introduced and may not be stored for more than ten years. If personal data are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.

The Commission shall be empowered to adopt delegated acts in accordance with Article 43 in order to amend the list of international organisations and/or Union institutions/agencies which contribute to the protection of the financial interests of the Union and the correct application of customs legislation. [Am. 20]

The Commission shall consult business representatives regarding the development of delegated acts referred to in Article 18a(6). [Am. 21]

(*) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).'

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4. Article 18b is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. The Commission ~~may make~~ **shall ensure that** expertise, technical or logistical assistance, training or communication activity or any other operational support available to the Member States both for the achievement of the objectives of this Regulation and in the performance of Member States' duties in the framework of the implementation of the customs cooperation provided for by Article 87 TFEU. For that purpose, the Commission shall establish appropriate technical systems.' [Am. 22]

~~(b) The following paragraph 3 is added:~~

~~'3. The European Data Protection Supervisor shall supervise compliance of all the technical systems provided under this Article with Regulation (EC) No 45/2001.'~~ [Am. 23]

5. The following Articles are inserted:

'Article 18c

1. ~~The public or private service providers active in the international supply chain referred to in Article 18a(1)~~ **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"). [Am. 24]

2. The required CSMs shall be reported ~~in either of the following situations:~~ **for containers destined to be brought by vessel into the customs territory of the Union from a third country.**

~~(a) containers destined to be brought by vessel into the customs territory of the Union from a third country;~~ [Am. 25]

~~(b) containers leaving the customs territory of the Union to a third country by vessel.~~ [Am. 26]

3. The required CSMs shall report the events referred to in Article 18f insofar as they are known to the reporting public or private service provider active in the international supply chain **and for which the data have been generated or collected in the electronic container tracking equipment.** [Am. 27]

4. The Commission shall establish and manage a directory of reported CSMs, (the "CSM directory"). **The CSM directory shall form part of the directory referred to in Article 18a and shall not contain personal data.** [Am. 28]

Article 18d

1. Where a container, including containers which will not be discharged in the Union, is destined to be brought by vessel into the customs territory of the Union from a third country, the public or private service providers that are subject to the obligation in Article 18c(1) shall report CSMs for all events taking place from the moment when the container was reported empty before being brought into the customs territory of the Union until the container is again reported empty.

2. In cases where the specific CSMs needed to identify the relevant empty container events are not available in the provider's electronic records in any given case, the provider shall report CSMs for events taking place at least three months prior to physical arrival at the customs territory of the Union until one month after the entry into the customs territory of the Union or until arrival at a destination outside the customs territory of the Union, whichever is sooner.

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Article 18e

1. Where a container is leaving the customs territory of the Union to a third country by vessel, the public or private service providers that are subject to the obligation in Article 18c(1) shall report CSMs for all events taking place from the moment when the container was reported empty in the customs territory of the Union until the container is reported to be empty outside the customs territory of the Union.
2. In cases where the specific CSMs needed to identify the relevant empty container events are not available in the provider's electronic records in any given case, the provider may report CSMs for events taking place during at least three months after exit from the customs territory of the Union.

Article 18f

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 43 laying down the container status events for which CSMs are to be reported in accordance with Article 18c, the minimum data elements to be reported in the CSMs and the frequency of reporting.
 2. The Commission shall adopt, by means of implementing acts, provisions regarding the format of the data in the CSMs and the method of transmission of the CSMs, **and regarding obligations that may pertain to containers that are brought into the Union due to diversions**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43a(2). [Am. 29]
- 2a. Pursuant to Article 18a(1), the Commission shall establish by means of an implementing act the means by which the agreement of service providers shall be obtained prior to the transferral of their filed CSMs to other organisations or bodies. [Am. 30]**
- 2b. The Commission is 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 this Article. They may be invited to participate in the relevant committee meetings and expert groups that are to be used to develop such acts. [Am. 31]**

Article 18 g

1. The Commission shall establish and manage a directory containing data on import, ~~export~~ and transit of goods, including transit within a Member State, as set out in Annexes 37 and 38 of Commission Regulation (EEC) No 2454/93 (*), (the 'import, export, transit directory'). The Member States shall authorise the Commission to systematically replicate data relating to import, ~~export~~ and transit from the sources operated by the Commission on the basis of Regulation (EEC) No 2913/92. The Member States shall, **at the earliest possible date**, supply to the Commission data concerning the transit of goods within a Member State ~~and direct export~~. **Information provided on natural and legal persons shall be used for the purposes of this Regulation only.** [Am. 32]
2. The import, export, transit directory shall be used to assist in preventing, investigating and prosecuting operations which are, or appear to constitute, breaches of customs legislation and for the purpose of risk management including risk-based customs controls as defined in points 25 and 26 of Article 4, and Article 13(2) of Regulation (EEC) No 2913/92.
3. The import, export, transit directory shall be accessible exclusively to the Commission departments and to the national authorities referred to in Article 29. Within the Commission and national authorities, only designated analysts shall be empowered to process personal data contained in that directory.

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~~Without prejudice to Regulation (EC) No 45/2001, the Commission may transfer, subject to the agreement of the supplying Member State, selected data obtained in accordance with the procedure specified in paragraph 1 to international organisations and/or EU institutions/agencies including the World Customs Organisation, the International Maritime Organisation, the International Civil Aviation Organisation and the International Air Transport Association, as well as Europol, which contribute to the protection of the financial interests of the Union and correct application of customs legislation and with which the Commission concluded a relevant arrangement or memorandum of understanding. [Am. 33]~~

Data shall be transferred under this paragraph only for the general purposes of this Regulation also including the protection of the financial interests of the Union, and/or for the purpose of risk management as set out in points 25 and 26 of Article 4 and Article 13(2) of Regulation (EEC) No 2913/92.

The arrangement or memorandum of understanding based on which the transfer of data may take place under this paragraph shall include, inter alia, data protection principles such as the possibility for data subjects to exercise their rights of access and correction and to seek administrative and judicial redress, as well as an independent oversight mechanism to ensure compliance with the data protection safeguards.

3a. The Commission shall present, on an annual basis, the results provided by the import, export, transit directory to the European Parliament and the Council, pursuant to Article 51a. [Am. 34]

~~4. Regulation (EC) No 45/2001 shall apply to the processing of personal data by the Commission in the context of data included in this directory. [Am. 35]~~

The Commission shall be considered as data controller within the meaning of Article 2(d) of Regulation (EC) No 45/2001.

~~The import, export, transit directory shall be subject to prior checking by the European Data Protection Supervisor in accordance with Article 27 of Regulation (EC) No 45/2001. [Am. 36]~~

Data contained in the import, export, transit directory shall be kept only for the time necessary to achieve the purpose for which they were introduced and may not be stored for more than ten years. If personal data are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.

~~5. The import, export, transit directory shall not include the special categories of data within the meaning of Article 10(5) of Regulation (EC) No 45/2001.~~

~~The Commission shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing. [Am. 37]~~

Article 18h

1. The Commission may, **following a request to a Member State as referred to in paragraph 1a of this Regulation and in accordance with Article 14 of Regulation (EEC) No 2913/92**, obtain directly from the economic operators documents supporting import and export transit declarations **and for which supporting documents have been generated or collected by the economic operators**, with respect to investigations related to the implementation of customs legislation as defined in Article 2(1) **of this Regulation with either the explicit authorisation of a Member State or with the tacit authorisation specified in 18h(1b) of this Regulation. The Commission shall notify all Member States likely to be involved in a subsequent enquiry of the request in parallel with the request being made. The Commission shall provide the Member State where the economic operator is established with a copy of the request in parallel with the request being made. The Commission shall provide copies of the response and of the supporting documents from the economic operator to the Member State where the economic operator is established within one week of receipt of a response. [Am. 38]**

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1a. Following a request from the Commission to a Member State for documents supporting an import or transit declaration, the Member State shall, in accordance with Article 14 of Regulation (EEC) No 2913/92, have three weeks within which to either:

- **answer the request and provide the requested documentation;**
- **notify the Commission that the Member State has requested the documentation from the economic operator;**
- **request, for operational reasons, a further two weeks to fulfil the request; or**
- **decline the request and notify the Commission that the request was impossible to fulfil by means of due diligence, for instance due to the failure of the economic operator to provide the requested information or by a refusal decision taken by a Member State judicial authority in accordance with Article 3 of this Regulation. [Am. 39]**

1b. If the Member State does not:

- **respond with the requested documents;**
- **notify the Commission that the Member State has requested the documents from the economic operator;**
- **request, for operational reasons, a further two weeks to fulfil the request; or**
- **decline the request within the initial three-week period,**

it shall be considered to have given its tacit authorisation for the Commission to request documents supporting an import or transit declaration directly from the economic operator. [Am. 40]

2. Within the time limits obliging economic operators to maintain the relevant documentation, economic operators shall provide the Commission upon request with the information mentioned in paragraph 1 *within three weeks*. [Am. 41]

(*) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).'

5a. Article 21(1) is replaced by the following:

'1. The findings and information obtained in the course of the Community missions referred to in Article 20 of this Regulation, and in particular documents passed on by the competent authorities of the third countries concerned, as well as the information obtained during the course of an administrative enquiry, including by the Commission's services, shall be handled in accordance with Article 45 of this Regulation.' [Am. 42]

6. In Article 23, paragraph 4 is replaced by the following:

'4. The Commission shall be empowered to adopt delegated acts in accordance with Article 43 determining those operations in connection with the application of agricultural regulations which require the introduction of information into the CIS.'

7. In Article 25, paragraph 1 is replaced by the following:

'1. The Commission shall adopt, by means of implementing acts, provisions regarding the items to be included in the CIS relating to each of the categories referred to in Article 24(a) to (h) to the extent that this is necessary to achieve the aim of the System. Personal data may not appear in the category referred to in Article 24(e). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 43a(2).'

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8. Article 29 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. Access to data included in the CIS shall be reserved ~~exclusively~~ for the national authorities designated by each Member State and the departments designated by the Commission. Those national authorities shall be customs administrations but may also include other authorities competent, according to the laws, regulations and procedures of the Member State in question, to act in order to achieve the aim stated in Article 23(2). [Am. 43]

The supplying CIS partner shall have the right to determine which among those national authorities mentioned above may have access to data that it has included in the CIS.'

(b) Paragraph 2 is replaced by the following:

'2. Each Member State shall send the Commission a list of its designated competent national authorities which have access to the CIS stating, for each authority, to which data it may have access and for what purposes.

The Commission shall inform the other Member States accordingly. It shall also verify the list of the designated national authorities against disproportionate designations and inform all the Member States of the corresponding details concerning the Commission departments authorised to have access to the CIS.

The list of national authorities and Commission departments thus designated shall be published for information by the Commission in the *Official Journal of the European Union* and subsequent updates to the list shall be made public by the Commission on the internet.'

9. In Article 30(3), the third subparagraph is replaced by the following:

'The list of the authorities or departments thus designated shall be made public by the Commission on the internet.'

9a. In Article 30, paragraph 4 is replaced by the following:

'4. Data obtained from the CIS may, with the prior authorization of, and subject to any conditions imposed by, the Member State which included them in the System, be communicated for use by national authorities other than those referred to in paragraph 2, third countries and international or regional organizations and/or Union agencies which contribute to the protection of the financial interests of the Union and correct application of customs legislation. Each Member State shall take special measures to ensure the security of such data when they are being transmitted or supplied to departments located outside its territory.

The provisions referred to in the first subparagraph shall apply mutatis mutandis to the Commission where it has entered the data in the System.' [Am. 44]

10. The title of Chapter 4 is replaced by the following:

'Chapter 4

Storage of data.'

11. Article 33 is replaced by the following:

'Article 33

Data included in the CIS shall be kept only for the time necessary to achieve the purpose for which they were introduced and may not be stored for more than ten years. ~~If personal data are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.~~ [Am. 45]

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12. Article 37 is amended as follows:

(a) Paragraph 3a is replaced by the following:

‘3a. This Regulation particularises and complements Regulation (EC) No 45/2001.

The European Data Protection Supervisor shall supervise compliance of the CIS with Regulation (EC) No 45/2001.’

(b) The following paragraph is added:

‘5. The European Data Protection Supervisor shall co-ordinate with the Joint Supervisory Authority, established under Council Decision 2009/917/JHA (*), each acting within the scope of their respective competence, with a view to ensuring coordinated supervision and audits of the CIS.

(*) Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes (OJ L 323, 10.12.2009, p. 20).’

13. Article 38 is amended as follows:

(a) In paragraph 1, point b is deleted.

(b) Paragraph 2 is replaced by the following:

‘2. In particular, both the Member States and the Commission shall take measures:

(a) to prevent any unauthorised person from having access to installations used for the processing of data;

(b) to prevent data and data media from being read, copied, modified or deleted by unauthorised persons;

(c) to prevent the unauthorised entry of data and any unauthorised consultation, modification or deletion of data;

(d) to prevent data in the CIS from being accessed by unauthorised persons by means of data-transmission equipment;

(e) to guarantee that, with respect to the use of the CIS, authorised persons have right of access only to data for which they have competence;

(f) to guarantee that it is possible to check and establish to which authorities data may be transmitted by data-transmission equipment;

(g) to guarantee that it is possible to check and establish *ex post facto* what data have been introduced into the CIS, when and by whom, and to monitor interrogation;

(h) to prevent the unauthorised reading, copying, modification or deletion of data during the transmission of data and the transport of data media.’

(c) Paragraph 3 is replaced by the following:

‘3. The Commission shall verify that the searches carried out were authorized and were carried out by authorised users. ~~At least 1% of all searches made shall be verified.~~ **The level of verification shall depend on the extent of the area to be verified, the severity of the infringement and expected amount of revenue affected, but shall always be equal to 1% or more of searches made.** A record of such searches and verifications shall be entered into the system and shall be used only for the said verifications. It shall be deleted after six months.’ [Am. 46]

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14. Article 41d is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. The period for which data may be stored shall depend on the laws, regulations and procedures of the Member State supplying them. **The need for the retention of data shall be reviewed by the supplying Member State.** The maximum and non-cumulative periods, calculated from the date of entry of the data in the investigation file, which may not be exceeded are as follows: [Am. 47]

(a) data concerning current investigation files may not be stored for more than three years without any operation in breach of customs and agricultural legislation being observed; data must be anonymised before that time limit if one year has elapsed since the last observation;

(b) data concerning administrative enquiries or criminal investigations in which an operation in breach of customs and agricultural legislation has been established but which have not given rise to an administrative decision, a conviction or an order to pay a criminal fine or an administrative penalty may not be stored for more than six years;

(c) data concerning administrative enquiries or criminal investigations which have given rise to an administrative decision, a conviction or an order to pay a criminal fine or an administrative penalty may not be stored for more than ten years.'

(b) Paragraph 3 is replaced by the following:

'3. The Commission shall ~~anonymise~~ **make anonymous or delete** the data as soon as the maximum storage period provided for in paragraph 1 has elapsed.' [Am. 48]

15. Article 43 is replaced by the following:

'1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in ~~Articles~~ **Article 18a(6), Article 18f(1), Article 18 g(3) and Article 23(4)** shall be conferred on the Commission for an indeterminate period of time from ~~[dd/mm/yyyy] [insert date of entry into force of this Regulation]~~ ... (*). [Am. 49]

3. The power to adopt delegated acts referred to in ~~Articles~~ **Article 18a(6), Article 18f(1), Article 18 g(3) and Article 23(4)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force. [Am. 50]

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to ~~Articles~~ **Article 18a(6), Article 18f(1), Article 18 g(3) and Article 23(4)** shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.' [Am. 51]

(*) **Date of entry into force of this Regulation.**

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16. The following article is inserted:

‘Article 43a

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 (*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).’

Article 1a

By ... (*), the Commission shall carry out an assessment of:

- **the necessity of extending the data contained in the directory referred in Article 18a of Regulation (EC) No 515/97 by including data on export, and**
- **the feasibility of extending 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. [Am. 52]**

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

For public or private service providers who, at the time of the entry into force of this Regulation, are bound by private contracts that prevent them from fulfilling their obligation stipulated in Article 18c(1) of Regulation (EC) No 515/97, this shall take effect **no earlier than** one year after the ~~Regulation has entered~~ **required delegated and implementing acts referred to in Articles 18f(1) and 18f(2) of Regulation (EC) No 515/97 enter** into force. [Am. 53]

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

(*) **Two years after the date of entry into force of this Regulation.**