



EUROPEAN COMMISSION

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2011/0341/a (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing an action programme for customs in the European Union for the period
2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On 29 June 2011, the Commission adopted a proposal for the next Multi-Annual Financial Framework for the period 2014-2020¹: a budget for delivering the Europe 2020 Strategy proposing among others a new Customs programme. The Customs 2020 programme will contribute to the **Europe 2020 Strategy** for smart, sustainable and inclusive growth², by strengthening the functioning of the customs union.

The **customs union** protects the financial interests of the Union and its Member States collecting duties, fees and taxes³. It requires that goods originating from third countries comply with Union legislation before they can move around freely within the Union. This implies the management of large trade volumes on a daily basis – handling 7 customs declarations every second - requiring customs to strike a balance between the facilitation of trade for business and the protection of citizens against risks to their safety and security. This can only be achieved through intense operational cooperation between customs administrations of the Member States, between them and other authorities, with trade and other third parties.

The proposed programme will support the **cooperation** mainly between the **customs authorities** but also with other parties concerned. It is the **successor programme** of the Customs 2013 programme which ends on 31 December 2013. The proposed programme will support customs cooperation in the Union clustered around human networking and competency building, on the one hand, and IT capacity building on the other hand. The first cluster allows for the exchange of good practices and operational knowledge amongst the Member States and incidentally other countries participating in the programme. The latter enables the programme to fund appropriate IT infrastructure and systems that allow customs administrations in the Union to evolve to fully-fledged e-administrations. The main added-value of the programme is generated by enhancing the capacity of Member States in raising revenue and managing increasingly complex trade flows, while cutting costs in developing the tools for these purposes.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultations and expertise

In the context of the midterm evaluation of the Customs 2013 programme⁴, a contractor analysed the effectiveness, efficiency, relevance and value added of the programme. Monitoring data available from the different activities was used and consultations with trade representatives were carried out.

¹ COM(2011)500 Final of 29 June 2011, A budget for Europe 2020.

² COM(2010) 2020 final of 3 March 2010: A strategy for smart, sustainable and inclusive growth.

³ In 2010, approximately 12.3% (15.7 billion euro) of the EU budget was derived from traditional own resources. Directorate General for Budget, Thematic Report on the customs control strategy in the Member States — Control of traditional own resources, p3.

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Customs 2013 midterm evaluation:

http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/customs2013_mid_term_report_en.pdf

Another contractor carried out a study of the possible framework of the future Customs programme⁵: its challenges, objectives and possible policy options, including a comprehensive analysis of future challenges, structural problems and possible improvements to the functioning of the customs union. For the latter, consultations were carried out with customs experts at different levels. The findings of this study were discussed with the representatives of the participating countries in a workshop organised in July 2011. In preparation of this workshop, a roundtable was organised in spring 2011 in the relevant programme Committee⁶ meeting where participating countries were asked to identify the main strengths of the programme and how the efficiency of the programme could be improved.

Considering the importance of the activities related to the exchange of information, a separate study was carried out on the future implementation strategy for the exchange of information. This study was presented in a workshop for Chief Information Officers of customs administrations in June 2011.

An impact assessment was prepared analysing the continuation of the Customs 2013 programmes and approved by the Impact Assessment Board on 22 September 2011.

Recommendations for design and further improvements of the programme were taken on board in the development of the future programme proposal. The programme proposal includes new tools, notably regarding cooperation on specific operational tasks. Measures are taken to improve the distribution of the results of the programme activities using online collaboration methods and to better monitor the outputs of the programme.

2.2. Impact assessment

Considering the overall policy context and problems ahead for customs in the next decade, a number of policy options has been analysed and compared in the impact assessment accompanying the present programme.

- (1) Baseline: continuing the programme with the current objectives and design.
- (2) No continuation of the programme: the programme would be discontinued and EU funding will no longer be provided for IT tools, joint actions or training activities supporting cooperation in the customs area.
- (3) Increased support to EU legal obligations such as the Modernised Customs Code (MCC): This policy option would extend the baseline scenario tailoring the programme to the new needs deriving from the evolving customs union environment, including the Union Customs Code (UCC)⁷. This option covers the deployment of new IT systems as defined in EU customs legislation, gradually introducing a shared development model for the IT systems and modernising the underlying governance, architecture and technology.
- (4) Increased support to EU legal obligations and financial support for technical capacity building: Besides the components of the previous option, this option would include a financial support scheme allowing Member States to request support to acquire equipment to control land, sea or air borders, for instance scanners or laboratory

⁵ DELOITTE, The future business architecture for the Customs Union and Cooperative Model in the Taxation Area in Europe.

⁶ Minutes of the 9th Customs Committee meeting on 11 April 2011.

⁷ Proposal for a regulation laying down the Union Customs Code, COM(2012)64 of 20 February 2012.

equipment. This would support Member States to meet the demands for speeding up and streamlining controls in the context of evolving technologies.

- (5) Increased support to EU legal obligations with a maximised shared IT environment: Besides the components of option 3, this option supports EU customs to take the advantage of full scale shared development and operation of the European IT systems to implement EU customs legislation such as the MCC and other customs related legislations. This option would ensure enhanced support to the public authorities to develop and deploy all the systems necessary for a pan-European electronic customs environment and to business to connect to those systems.

The impact assessment identified option 3 "**Increased support to EU legal obligations such as the Modernised Customs Code (MCC)**" as the preferred option. It is in line with the proposal for a new budget for Europe 2020 and scores best on acceptability by Member States. The option "Increased support to EU legal obligations and financial support for technical capacity building" has not been retained since the acquisition of equipment expressed in the technical capacity building component could be co-funded through other programmes including Regional Structural Funds while ensuring coherence with the priorities of the proposed Customs 2020 programme.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Legal basis

The Customs 2020 proposal is based on **article 33** of the Treaty on the Functioning of the European Union (TFEU) which calls for action by the European Union with regard to customs cooperation and the EU customs union.

3.2. Subsidiarity and Proportionality

Action at Union level rather than at national level is necessary for the following reasons:

- The **customs union** is an **exclusive competence of the Union**. By transferring their powers to the Union, Member States *ipso facto* agreed that actions in the customs area will be better implemented at Union level. However, the Union legal framework in itself does not ensure sufficiently the proper functioning of the customs union. It should be complemented by supporting measures as provided by the Customs programme in order to ensure that EU customs legislation is applied in a convergent and harmonised way.
- Many of the activities in the **customs** area are of a **cross-border nature**, involving and affecting all 27 Member States, and therefore they cannot be effectively and efficiently delivered by individual Member States. EU action is needed to underpin the European dimension of customs work, to avoid internal market distortions and to support the effective protection of the EU external borders.
- In this regard, EU action is justified to ensure the proper functioning and further development of the customs union and its common regulatory framework, as it has been shown to be the most efficient and effective EU response to shortcomings and challenges in implementing the EU customs union and customs cooperation.
- From an **economic point of view**, action at EU level is much more efficient. The backbone of the customs cooperation is a highly secured dedicated communication network. It interconnects national customs administrations in approximately 5 000⁸

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Customs and taxation connection points taken together

connection points. This common IT network ensures that every national administration only needs to connect once to this common infrastructure to be able to exchange any kind of information. If such an infrastructure were not available, Member States would have to link 26 times to the national systems of each of the other Member States.

The Commission shall, for the purpose of implementing the programme, according to Article 17 TEU, exercise coordinating, executive and management functions, as laid down in the Treaties. The Customs 2020 Programme is therefore in line with the **principles of subsidiarity and proportionality** (as set out in Art. 5 of the Treaty of the European Union (TEU)).

3.3. Instrument

In line with the conclusion of the relevant impact assessments, **EU intervention** by means of a funding programme is appropriate. Taking into account the positive feedback resulting from the midterm evaluation of the Customs 2013 programme, a successor Customs 2020 programme is being proposed by the Commission.

In line with the Commission legislative policy adopted in the framework of the Multi-Annual Financial Framework, the successor funding programme is proposed as a regulation.

4. BUDGETARY IMPLICATION

The timing of the review of EU funding programmes is linked to the proposal for a new Multiannual Financial Framework, as amended on 6 July 2012⁹. In accordance with this proposal, this Regulation on the Customs 2020 programme contains a budgetary framework of **EUR 548.080.000** (in current prices) **for the period of 2014-2020**.

The Customs 2020 programme will be implemented by means of a direct central management mode and in a priority-based manner. Work programmes are established –together with the stakeholders- stipulating the priorities for a specific period.

5. OPTIONAL ELEMENTS

5.1. Annotations to specific legal provisions

5.1.1. Chapter I: General Provisions

The **scope** of the programme is specifically oriented towards the functioning of the EU customs union. It will be open for **participation** to the Member States, Candidate Countries and potential Candidates. In line with the overall Union policy in this respect, countries of the European Neighbourhood Policy will also have the possibility to take part in the programme under certain conditions. Finally, 'external experts' might also participate in specific actions (e.g. representatives of other authorities, trade, national and international organisations, and possibly other experts), if required to realise the programme objectives.

The **objectives** of the Customs 2020 programme address the identified problems and expected challenges for customs in the next decade. The overarching objective of the programme is to strengthen the internal market through an efficient and effective customs union.

To provide an adequate answer to the future challenges in the customs area in the Union, the following specific objective has been defined for the programme: to support the functioning of the customs union, in particular through cooperation between participating countries, their

⁹ COM(2012) 388 final

customs authorities, other competent authorities, their officials and external experts. The programme will have the following priorities:

1. to support the preparation, coherent application and effective implementation of Union law, with a view of strengthening the customs union in terms of efficiency, effectiveness and uniformity.
2. to strengthen the competitiveness of European businesses through the facilitation of legitimate trade, the reduction of compliance costs and administrative burden, and the protection against unfair competition,
3. to support customs in protecting citizens, safety and security and the environment.
4. to ensure the protection of the financial and economic interests of the European Union and the Member States;
5. to contribute to the efficient functioning of customs authorities by improving their administrative capacity,
6. to fight fraud and to enhance competitiveness, safety and security through cooperation with international organisations, third countries, other governmental authorities, economic operators and their organisations,

5.1.2. Chapter II: Eligible actions

The **types of actions** considered eligible for programme funding are similar to the ones under the current programme, namely:

- Joint Actions pursuing the exchange of knowledge and good practice between customs officials of the participating countries;
- European Information Systems¹⁰ facilitating the exchange of information and access to common data;
- Training activities leading to human competency building for customs officials across Europe.

Modifications have been introduced in certain categories of actions.

- The Customs 2020 programme will include some new joint action tools:
 - **Expert teams** are structured forms of cooperation, pooling expertise and/or addressing specific operational activities. They can be set up with a non-permanent or permanent character and could receive support such as online collaboration services, administrative assistance and infrastructure and equipment facilities to underpin the realisation and success of an action.
 - **Actions for public administration capacity building** will support customs authorities that face particular difficulties, be it lacking knowledge, expertise, organisational or any other deficiencies which can be overcome through tailor-made support actions provided by fellow countries and or Commission officials.
 - **Benchmarking activities and steering groups** are no longer explicitly mentioned in the list of Joint Actions since these can be considered as project groups with a particular purpose respectively identification of best practices to

¹⁰ Previously called Trans European IT Systems

reveal improvement opportunities or the coordination and steering of programme activities in a given area.

- As regards the European Information Systems, the new programme defines "Union components" as IT assets and services which concern some or all of the Member States and are owned or acquired by the Commission. These Union components are described in point 2 of the Annex of the proposed legal act. The "national components" are all components which are not "Union components". They are developed, installed and operated by Member States, and thus subject to the funding and responsibility of Member States.

The redefinition of Union components should be seen in the light of the changing practice of IT systems development. Currently each Member State is responsible for the implementation of its national systems according to common specifications, resulting in 27 developments for each system, 27 trader interfaces, 27 schedules of development, 27 sets of project related or operational difficulties, etc. In particular in the light of the economic and financial crisis, the Commission considers that the development of IT systems should be done more efficiently.

This evolution aims at improving the consistency of data and application of rules by gradually moving towards more shared IT development (knowledge, data, IT components). It will bring improved working methods for instance through business process modelling, better quality specifications but also will bring more standardisation for instance harmonising interfaces for traders. The new approach towards Union components will limit the risk for divergent development and deployment plans. It also provides additional means to control the finalisation of the project as common plans avoid that the slowest member in the development chain determines the entry in operation of the entire project.

5.1.3. *Chapter IV: Implementation*

In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. As such an annual work programme will be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹¹.

5.2. Simplification

5.2.1. *How did the proposal contribute to simplification?*

(a) Coherence with the financial regulation

The programme proposal is fully coherent with the financial regulation and its implementing provisions. Grants and procurement are the main financial instruments used to implement the programme. The programme incorporates the simplification measures proposed in the Commission proposal for the revision of the financial regulation, notably the recourse to lump sums, flat rates and unit costs. In view of the importance of the processing of subsistence and travel costs paid under the programme, the programme will introduce simplification measures offered by the new Financial Regulation in this area.

¹¹ OJ L 55, 28.2.2011, p 13.

(b) Coherence between the Customs and Fiscalis 2013 programmes

The management of the previous Customs and Fiscalis programmes had been fully aligned based upon identical procurement rules and grant models, common management guides and IT based systems. The management model includes clear and simple procedures for organising programme activities. The programme management team of the Commission is assisted by programme management teams in the different customs and tax administrations acting as facilitator and first point of contact for customs, respectively taxation officials in Member States. The management model allows the deployment of activities in a short time span, reacting quickly to newly emerging needs, while at the same time guarding coherence between the different activities. The Member States have expressed their satisfaction with the management model of the programme in the midterm evaluation.

Considering this close alignment of both programmes and further to the simplification objective of the proposal for the 2014 – 2020 multiannual financial framework¹², the Commission initially proposed a single FISCUS programme as successor for the Customs and Fiscalis 2013 programmes¹³. In view of the unanimity of Member States being in favour of splitting the proposed single programme, the Commission, while maintaining its position against this split, proposed an amended proposal with two legislative texts for respectively the Customs and Fiscalis 2020 programmes. Notwithstanding the introduction of these separate legislative texts, maintaining the alignment between both programmes will be a priority for the Commission and where appropriate, it will be further pursued when implementing the Customs and Fiscalis 2020 programmes.

(c) Did the programme consider externalisation?

The possibility to implement the future programme through an **executive agency** was considered. An agency could be empowered to execute tasks such as the selection of the activities under the programme, the administrative preparation and follow-up of the activities, monitoring of the activities, grants and procurement of IT systems. However, such an executive agency would add an additional layer to the governance structure, increasing the cost of coordination and checks, complicating and lengthening decision making by adding new administrative procedures. Also, it would have a negative impact on the level of know-how within the Commission and increase the risk of a fragmentation of content versus administrative aspects. This option would not bring the expected business benefits and has therefore been discarded.

In an alternative scenario, it was also considered **to transfer all relevant IT activities to national administrations** with the exception of the CCN/CSI network and its related services. In this scenario the risk is very high that gradually it would be necessary to set-up more central governance structures. The resulting impact would be similar to the effects of the discontinuation of the programmes which would put at risk the efficiency and effectiveness of customs administrations, challenge the uniformity of the customs union and thus the equal treatment of traders. Considering the negative impacts on results and performance, this scenario was also discarded.

¹² COM(2011), 398 Final of 29 June 2011.

¹³ COM(2011), 706 Final of 9 November 2011.

- (d) Does the programme use common IT tools to reduce the administrative burden on beneficiaries and contractors?

The Customs 2013 and Fiscalis 2013 programmes already deploy tools to facilitate the management of the programme activities and related expenditure through a common Activity Reporting Tool (ART). This will be continued.

5.2.2. *Performance measurement of the proposal*

The performance of the programme will be measured using a coherent set of performance, impact, result and output indicators linked to the general and specific objectives and priorities of the programme and building the link with the Commission Management Plan. The detailed list of impact, result and output indicators is available in the Impact Assessment. The Commission has identified targets for some outputs of the programme, others will be completed through actions within the Customs 2013 programme. The targets of all outputs will be identified before the start of the Customs 2020 programme by the Commission and presented to the programme Committee.

5.2.3. *Is the programme proposal coherent with overall Commission policy*

The programme will contribute towards the objectives of the Europe 2020 Strategy by strengthening the Single Market, enhancing the productivity of the public sector and sustain technical progress and innovation in administrations, and by promoting employment. It will support flagships on the digital agenda for Europe¹⁴ and the flagship on the Agenda for New Skills and Jobs¹⁵. The programme will also support the Single Market Act¹⁶ and promote growth and innovation by enforcing intellectual property rights (IPR) at the border in line with the recent comprehensive IPR strategy.¹⁷ As concerns the protection of the financial interests of the Union and Member States, the programme will support the collection of duties and various fees on trade, and collaborative efforts to fight fraud¹⁸. The customs union is the operational arm of EU trade policy, and the programme will therefore help implementing bilateral and multilateral trade agreements, collecting duties, and applying trade measures (such as rules of origin), embargoes and other restrictions in line with the EU trade strategy¹⁹. More recently, customs have been entrusted a role in protecting the environment (related *inter alia* to illegal waste export, chemicals, ozone depleting substances, illegal logging and the CITES convention). Finally, customs action and cooperation between customs, police and other enforcement authorities increasingly contribute to internal security of the EU as reflected in the

¹⁴ COM(2010) 245 Final/2, A Digital Agenda for Europe.

¹⁵ COM(2010) 682 of 23 November 2010, An Agenda for new skills and jobs.

¹⁶ COM(2011) 0206 final.

¹⁷ COM (2011) 287, A Single Market for Intellectual Property Rights – Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe

¹⁸ This programme will be complementary to the Hercule III programme (2014-2020) Commission(2011)914 final, a programme specifically dedicated to fighting fraud, corruption and other illegal activities affecting the financial interests of the Union.

¹⁹ COM (2010)612. Trade, Growth and World Affairs: Trade policy as a core component of the EU's 2020 Strategy

action plan for the Internal Security Strategy²⁰ and in the Stockholm Programme Action Plan.²¹

²⁰ COM(2010) 673 final, Brussels, 22.11.2010, Communication from the Commission to the European Parliament and the Council — the EU Internal Security Strategy in Action: Five steps towards a more secure Europe.

²¹ COM(2010) 171 final, Brussels, 20.4.2010, Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Delivering an area of freedom, security and justice for Europe's citizens — Action Plan Implementing the Stockholm Programme.

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC

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 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The multi-annual action programme for customs which applied before 2014 has significantly contributed to facilitating and enhancing cooperation between customs authorities within the Union. Many of the activities in the **customs** area are of a **cross-border nature**, involving and affecting all 27 Member States, and therefore they cannot be effectively and efficiently delivered by individual Member States. The Customs 2020 programme, implemented by the Commission, offers Member States a Union framework to develop these cooperation activities, which is more cost efficient than if each Member State would set up its individual cooperation framework on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of this programme by establishing a new programme in the same area.
- (2) The programme activities, i.e. the European Information Systems, the joint actions for customs officials and the common training initiatives, are expected to contribute to the realisation of the Europe 2020 Strategy for smart, sustainable and inclusive growth²². In providing a framework for activities which strive for more efficient customs authorities, strengthen the competitiveness of businesses, promote employment and contribute to the protection of the Union's financial and economic interests, the programme will actively strengthen the functioning of the customs union.
- (3) To support the process of accession and association by third countries, the programme should be open for the participation of acceding and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy²³ if certain conditions are fulfilled. Considering the increasing interconnectivity of the world economy, the programme continues to provide the possibility to involve external experts, such as officials of third countries, representatives of international organisations or economic operators in certain activities. The setting up of EEAS under the authority of the High Representative Vice-President (HRVP) may facilitate

²² COM(2010) 2020.

²³ COM(2004)373

policy coordination and coherence in an area which is a relevant component of EU external strategies and actions, both on bilateral and multilateral basis.

- (4) The programme objectives take into account the problems and challenges identified for customs in the next decade. The programme should continue to play a role in vital areas like the coherent implementation of Union customs and related law. Moreover, the focus of the programme will be on protecting the financial and economic interests of the Union, safeguarding safety and security, trade facilitation, among others through collaborative efforts to fight fraud and increasing the administrative capacity of customs authorities.
- (5) The programme tools which applied before 2014 have proven to be adequate and have therefore been retained. In view of the need for more structured operational cooperation, additional tools have been added, namely expert teams composed of the Union and national experts to perform jointly tasks in specific domains and public administration capacity building actions which should provide specialised assistance to those participating countries needing administrative capacity building.
- (6) The European information systems play a vital role in reinforcing the customs systems within the Union and should therefore continue to be financed under the programme. In addition, it should be made possible to include in the programme new customs related information systems established under Union legislation. European Information Systems should, where appropriate, be based upon shared development models and IT architecture.
- (7) Human competency building in the form of common training should also be realised through the programme. Customs officials need to build up and update their knowledge and skills required to serve the needs of the Union. The programme should be essential to strengthen the human capacities through enhanced training support that targets customs officials as well as economic operators. To this end, the current common training approach of the Union which was mainly based on central eLearning development should develop into a multi-faceted training support programme for the Union.
- (8) The programme should cover a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU) N° xxx of xxx laying down the multiannual financial framework for the year 2014-2020²⁴.
- (9) For the entire duration of the programme, a financial envelope should be laid down constituting the prime reference, within the meaning of point [17] of the Interinstitutional Agreement of XX/YY/201Z between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management, for the budgetary authority during the annual budgetary procedure.
- (10) In line with the Commission's commitment set out in its Communication on the Budget Review of 2010²⁵ to coherence and simplification of funding programmes, resources should be shared with other Union funding instruments if the envisaged programme activities pursue objectives which are common to various funding instruments excluding however double financing. Actions within this programme

²⁴ *To be completed*
²⁵ COM(2010)700

should ensure coherence in the use of the Union's resources supporting the functioning of the customs union.

- (11) The measures necessary for the financial implementation of this Regulation shall be adopted in accordance with Council Regulation (EC, Euratom) No xxx/20xx of xxx on the Financial Regulation applicable to the general budget of the European Communities, and with Commission Regulation (EC, Euratom) No xxx/20xx of xxx laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No xxx/20xx of xxx (*references of new financial regulation and implementing act to be added*).
- (12) The financial interests of the Union should be protected through appropriate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties.
- (13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes. Those powers should be exercised in accordance with 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 the Member States of the Commission's exercise of implementing powers²⁶.
- (14) Since the objectives of the action to be taken, namely establishing a multi-annual programme to improve the functioning of the customs union, cannot be sufficiently achieved by the Member States which cannot efficiently perform the cooperation and coordination necessary to carry out the programme, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (15) The Commission should be assisted by the Customs 2020 Committee for the implementation of the programme.
- (16) Directive 95/46 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 governs the processing of personal data carried out in the Member States in the context of this Regulation and under the supervision of the Member States competent authorities, in particular the public independent authorities designated by the Member States. Regulation (EU) 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 EU institutions and bodies and on the free movement of such data, governs the processing of personal data carried out by Commission within the framework of this Regulation and under the supervision of the European Data Protection Supervisor. Any exchange or transmission of information by competent authorities should be in accordance with the rules on the transfer of personal data as laid down in Directive 95/46/EC and any exchange or transmission of information by the Commission should be in accordance with the rules on the transfer of personal data as laid down in Regulation (EC) No 45/2001.

²⁶

OJ 28.2.2011 L 55-13

- (17) This Regulation should replace Decision N°624/2007/EC of the European Parliament and the Council of 23 May 2007 establishing an action programme for customs in the Community (Customs 2013)²⁷. That Decision should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

1. A multi-annual action programme "Customs 2020" ("the programme") is hereby established to support the functioning of the customs union.
2. The programme shall cover the period 1 January 2014 to 31 December 2020.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) "customs authorities" means the authorities responsible for applying rules on customs;
- (2) "External experts" means:
 - (a) representatives of governmental authorities including from countries not participating in the programme according to article 3(2)1 and 3(2)2;
 - (b) economic operators and their organisations;
 - (c) representatives of international and other relevant organisations.

Article 3

Participation in the programme

1. Participating countries shall be the Member States and the countries referred to in paragraph 2 provided the conditions set out in that paragraph are met.
2. The programme shall be open to the participation of any of the following countries:
 - (1) acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective Framework Agreements, Association Council Decisions or similar Agreements;
 - (2) partner countries of the European Neighbourhood Policy provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union. The partner countries concerned shall participate to the programme in accordance with provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Union programmes.

²⁷ OJ L 154, 14.6.2007, p. 25

Article 4
Participation in the programme activities

External experts may be invited to take part in selected activities organised under the programme wherever this is useful for the achievement of the objectives referred to in Articles 5. These experts shall be selected by the Commission on the basis of their skills, experience and knowledge relevant to the specific activities.

Article 5
General objective and specific objective

1. The general objective of the programme shall be to strengthen the internal market through an efficient and effective customs union.
2. The specific objective of the programme shall be to support the functioning of the customs union, in particular through cooperation between participating countries, their customs authorities, other competent authorities, their officials and external experts.
3. The achievement of this objective shall be measured on the basis of the following indicators:
 - (1) the availability of the Common Communication Network for the European Information Systems;
 - (2) the feedback from participants in programme actions and users of the programme.

Article 6
Priorities

The priorities of the programme shall be the following:

- (1) to support the preparation, coherent application and effective implementation of Union law, with a view of strengthening the customs union in terms of efficiency, effectiveness and uniformity.
- (2) to strengthen the competitiveness of European businesses through the facilitation of legitimate trade, the reduction of compliance costs and administrative burden, and the protection against unfair competition,
- (3) to support customs in protecting citizens, safety and security and the environment.
- (4) to ensure the protection of the financial and economic interests of the European Union and the Member States;
- (5) to contribute to the efficient functioning of customs authorities by improving their administrative capacity,
- (6) to fight fraud and to enhance competitiveness, safety and security by enhancing cooperation with international organisations, third countries, other governmental authorities, economic operators and their organisations.

Chapter II

Eligible actions

Article 7 *Eligible actions*

The programme shall provide, under the conditions set out in the annual work programme referred to in Article 14, financial support for the following types of action:

- (1) Joint actions:
 - (a) seminars and workshops;
 - (b) project groups, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely described outcome;
 - (c) working visits organised by the participating countries or a third country to enable officials to acquire or increase their expertise or knowledge in customs matters; for working visits organised within third countries only travel and subsistence (accommodation and daily allowance) costs are eligible under the programme;
 - (d) monitoring activities carried out by joint teams made up of Commission officials and officials of the Participating Countries to analyse customs practices, identify any difficulties in implementing rules and, where appropriate, make suggestions for the adaptation of union rules and working methods;
 - (e) expert teams, which are structured forms of cooperation, with a non-permanent or permanent character, pooling expertise to perform tasks in specific domains or carry out operational activities, possibly with support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
 - (f) public administration capacity building and supporting actions;
 - (g) studies;
 - (h) communication projects;
 - (i) any other activity in support of the specific objective and priorities set out in Articles 5 and 6
- (2) IT capacity building: development, maintenance, operation and quality control of Union components of European Information Systems set out in point 1 of the Annex and new European Information Systems established under Union legislation
- (3) Human competency building: common training actions to support the necessary professional skills and knowledge relating to customs.

Article 8 *Specific implementation provisions for joint actions*

1. Participating countries shall ensure that officials with the adequate profile and qualifications are nominated to participate in the joint actions.

2. Participating countries shall take the necessary measures for the implementation of the joint actions, in particular by raising awareness on those actions and by ensuring an optimal use is made of the outputs generated.

Article 9

Specific implementation provisions for the European Information Systems

1. The Commission and the participating countries shall ensure that the European Information Systems referred to in point 1 of the Annex are developed, operated and appropriately maintained.
2. The Commission shall coordinate, in cooperation with the participating countries, those aspects of the establishment and functioning of the Union and non-Union components of the systems and infrastructure referred to in points 1 and 2 of the Annex which are necessary to ensure their operability, interconnectivity and continuous improvement.

Article 10

Specific implementation provisions for common training

1. Participating countries shall, where appropriate, integrate jointly developed training content, including e-learning modules, training programmes and commonly agreed training standards in their national training programmes.
2. Participating countries shall ensure that their officials receive the initial and continuing training necessary to acquire common professional skills and knowledge in accordance with the training programmes.
3. Participating countries shall provide the linguistic training necessary for officials to ascertain a sufficient level of linguistic competence for participation in the programme.

Chapter III Financial Framework

Article 11

Financial framework

1. The financial envelope for the implementation of the programme shall be EUR 548.080.000 (in current prices).
2. The financial allocation for the programme may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the European Union as far as they are related to the objectives of this Regulation, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme.

Article 12
Types of intervention

1. The Commission shall implement the programme in accordance with the Financial Regulation.
2. Union financial support for activities provided for in Article 7 shall take the form of:
 - (1) grants;
 - (2) public procurement contracts;
 - (3) reimbursement of costs incurred by external experts referred to in Article 4
3. The co-financing rate for grants shall be up to 100 % of the eligible costs where the latter are travel and accommodation costs, costs linked to organisation of events and daily allowances. That rate shall apply to all eligible actions with the exception of expert teams. For this category of eligible actions, the annual work programmes will specify the applicable co-financing rate when these actions require the awarding of grants.

Article 13
Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this programme.
3. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 and Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities²⁸ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

²⁸ OJL 292, 15.11.1996, p. 2.

Chapter IV

Implementing powers

Article 14

Work programme

1. In order to implement the programme the Commission shall adopt annual work programmes which shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action type and an indicative implementation timetable. The work programmes shall include for grants the priorities, the essential evaluation criteria and the maximum rate of co-financing. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).
2. In preparing the annual work programme, the Commission shall take into account the common approach regarding the customs policy. That approach shall regularly be reviewed and established in a partnership between the Commission and the Member States in the Customs Policy Group, composed of the heads of customs administrations from the Member States or their representatives and the Commission. The Commission shall keep the Customs Policy Group regularly informed of measures relating to the implementation of the programme.

Article 15

Committee procedure

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.

Chapter V

Monitoring and Evaluation

Article 16

Monitoring of programme actions

The Commission shall, in cooperation with the participating countries, monitor the programme and its actions in order to follow the implementation of actions carried out.

Article 17

Evaluation

1. The Commission shall ensure a midterm and final evaluation of the programme, regarding the aspects referred to in paragraph 2 and 3. The results shall be integrated into decisions on possible renewal, modification or suspension of subsequent programmes. An independent external evaluator shall carry out these evaluations.
2. The Commission shall establish a mid-term evaluation report on the achievement of the objectives of the programme actions, the efficiency of the use of resources and the European added value of the programme no later than mid 2018. This report shall

additionally address the simplification, the continued relevance of the objectives, as well as the contribution of the programme to the Union priorities of smart, sustainable and inclusive growth.

3. The Commission shall establish a final evaluation report on the aspects referred to in paragraph 2 as well as on the long term impact and the sustainability of effects of the programme no later than end 2021.
4. The participating countries shall provide, on request of the Commission, all data and information relevant for the purpose of contributing to the mid term and final evaluation reports of the Commission.

Chapter VI

Final Provisions

Article 18 *Repeal*

Decision No 624/2007/EC is repealed with effect from 1 January 2014.

However, financial obligations related to actions pursued under this Decision shall continue to be governed by this Decision until their completion.

Article 19 *Entry into force*

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

It shall apply from 1 January 2014.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

European Information Systems and their Union components

1. The European Information Systems are the following:
 - (1) the common communications network/common systems interface (CCN/CSI – CCN2), CCN mail3, the CSI bridge, the http bridge, CCN LDAP and related tools, CCN web portal, CCN monitoring;
 - (2) supporting systems, in particular the application configuration tool for CCN,, the activity reporting tool (ART2), Taxud electronic management of project online (TEMPO), service management tool (SMT), the user management system (UM), the BPM system, the availability dashboard and AvDB, IT service management portal, directory and user access management;
 - (3) Programme' information and communication space (PICS);
 - (4) the customs movement systems, in particular the (New) Computerised Transit System ((N)CTS), NCTS TIR for Russia, the Export Control System (ECS) and the Import Control system (ICS). The following applications/components are supporting these systems: the system to exchange data with third countries (SPEED bridge), the SPEED Edifact Converter Node (SPEED-ECN), the Standard SPEED Test Application (SSTA), the Standard Transit Test Application (STTA), the Transit Test Application (TTA), the Central Services/Reference Data (CSR2), the Central Services/Management Information System (CS/MIS);
 - (5) the Community Risk Management System (CRMS) covering the Risk Information Forms (RIF) and the Common Profiles CPCA functional domains;
 - (6) the Economic Operators System (EOS) covering the Economic Operator Registration and Identification (EORI), the Authorised Economic Operators (AEO), the Regular Shipping Services (RSS) and the mutual recognition with partner countries functional domains. The Generic Web Service is a support component for this system;
 - (7) the tariff system (TARIC3) which is a reference data system for other applications such as the quota management system (QUOTA2), the surveillance management and monitoring system (SURV2), the European Binding Tariff Information system (EBTI3) the European Customs Inventory of Chemical Substances (ECICS2). The Combined Nomenclature (CN) and the suspensions (Suspensions) applications are managing legal information with a direct link to the tariff system;
 - (8) the applications for control purposes, in particular the Specimen Management System (SMS) and the Information System for Processing Procedures (ISPP);
 - (9) the anti-COUNTERFEIT and anti-PIRACY System (COPIS);
 - (10) the Data Dissemination System (DDS2) managing all information which is accessible to the public via Internet;
 - (11) the Anti-Fraud Information System (AFIS);
2. The Union components of the European Information Systems are:
 - (1) IT assets such as the hardware, the software and the network connections of the systems including the associated data infrastructure;

- (2) IT services necessary to support the development, the maintenance, the improvement and the operation of the systems;
- (3) and any other elements which, for reasons of efficiency, security and rationalisation, are identified by the Commission as common to participating countries.

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. Summary of estimated impact on expenditure
 - 3.2.2. Estimated impact on operational appropriations
 - 3.2.3. Estimated impact on appropriations of an administrative nature
 - 3.2.4. Compatibility with the current multiannual financial framework
 - 3.2.5. Third-party participation in financing
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision N°624/2007/EC.

1.2. Policy area(s) concerned in the ABM/ABB structure²⁹

1404 Customs Policy

1.3. Nature of the proposal/initiative

The proposal/initiative relates to a **new action**

The proposal/initiative relates to a **new action following a pilot project/preparatory action**³⁰

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objectives

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

The proposed programme will contribute to the **Europe 2020 Strategy** for smart, sustainable and inclusive growth³¹ by (1) strengthening the functioning of the Single Market, (2) providing a framework to support activities enhancing productivity of the public sector and (3) pushing technical progress and innovation in national and European customs administrations.

The customs union is fundamental to the **internal market**. The borderless internal market for goods requires goods originating from third countries to comply with formalities and other requirements upon entry or when released into circulation; after this, they can move around freely within the external borders of the EU. Customs supports the development of fair, competitive internal market conditions by uniform application of common rules and regulations. It supports growth and innovation within the internal market for instance by enforcing intellectual property rights (IPR) at the border (see also the **European anti-counterfeiting and anti-piracy plan**³² and the **new strategy for IPR in the Single Market** as recently adopted by the Commission). Responses to a recent public consultation³³ on the future of the internal market suggest high expectations among industry federations regarding further EU action against counterfeiting and piracy. Customs has a fundamental role in effective enforcement of IPR, as confirmed by statistics on IPR customs activities.³⁴ In addition the programme will support a large variety of policy measures in the framework of the customs union. For instance, the protection of the **financial interests** of the EU and Member States through the collection of duties and various fees and taxes on trade, and collaborative efforts to fight fraud. In 2010,

²⁹ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

³⁰ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

³¹ COM(2010) 2020 final of 3 March 2010: A strategy for smart, sustainable and inclusive growth.

³² Adopted by Council in 2008 (2008/C 253/01).

³³ SEC(2011) 467 final, 13.4.2011. Overview of responses to the public consultation on the Communication "Towards a Single Market Act".

³⁴ http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/statistics_2010.pdf.

approximately 12.3 % (15.7 billion euro) of the EU budget corresponded to traditional own resources.³⁵ The customs union is **the** operational arm of EU **Trade Policy**, implementing bilateral and multilateral trade agreements, collecting duties, and applying trade measures (such as rules of origin), embargoes and other restrictions. The discussion paper **Trade, Growth and World Affairs: Trade policy as a core component of the EU's 2020 Strategy**³⁶ published in November 2010, highlights the agenda for international customs cooperation in the framework of bilateral agreements and in the World Customs Organization. It emphasises that efficient customs procedures reduce compliance costs for traders, facilitate legitimate trade, and help to address rising security, safety and IPR risks.

The role of the customs union in contributing to **internal security** of the EU has become increasingly prominent, and will continue to grow, as reflected in the action plan for the **Internal Security Strategy**³⁷ and in the **Stockholm Programme Action Plan**.³⁸ Furthermore, customs action and cooperation between customs, police and other enforcement authorities contribute to global security objectives such as the fight against money laundering, organised cross-border crime, and terrorism.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objectives and ABM/ABB activity(ies) concerned

The ABB activity concerned is Customs Policy (1404). The specific objective of the programme will be the following:

to support the functioning of the customs union, in particular through cooperation between participating countries, their customs authorities, other competent authorities, their officials and external experts.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

From customs point of view, Member States, by transferring their powers to the EU – the customs union being an exclusive competence of the EU – ipso facto agreed that actions in the customs area will be **better applied at EU level**. However, the EU legal framework in itself does not ensure proper functioning of the customs union. Flanking support measures as provided by the Customs programme are required to ensure that EU customs legislation is applied in a convergent and harmonised way, so that treatment of traders, fraud prevention, and legal obligations do not vary.

Moreover, many of the activities in the customs area are of a cross-border nature, involving and affecting all **27 Member States** and therefore they cannot be effectively and efficiently delivered by individual Member States. EU action is needed to underpin the European dimension of customs work, to avoid internal market distortions and to support the effective protection of the EU borders.

³⁵ Directorate General for Budget, Thematic Report on the customs control strategy in the Member States — Control of traditional own resources, p3.

³⁶ COM(2010)612, Trade, Growth and World Affairs, page 12.

³⁷ COM(2010) 673 final, Brussels, 22.11.2010, Communication from the Commission to the European Parliament and the Council — the EU Internal Security Strategy in Action: Five steps towards a more secure Europe.

³⁸ COM(2010) 171 final, Brussels, 20.4.2010, Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Delivering an area of freedom, security and justice for Europe's citizens — Action Plan Implementing the Stockholm Programme.

Solidarity and responsibility sharing are the principles underlying funding for the customs union. Situations where the need for effective measures exceeds the ability of particular Member States to supply them are detrimental to the union as a whole. EU intervention is required to preserve the **EU public good** where EU demand (e.g. for security) cannot be adequately serviced by the supply of particular Member States. In such cases, EU action translates into jointly **funding** technical capacity building to meet the demand for effective control despite the limited supply capability of specific Member States.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

Monitoring of the programme's activities will be carried out in order to ensure that the rules and procedures for the implementation of the programme have been applied properly and to verify if the programme is successful in achieving its objectives. A monitoring framework will be put in place, including: an intervention logic, a comprehensive set of indicators, measurement methods, a data collection plan, a clear and structured reporting and monitoring process and midterm and final evaluations.

The performance of the programme will be measured using a coherent set of performance, impact, result and output indicators linked to the general and specific objectives and priorities of the programme and building the link with the Commission Management Plan. The detailed list of impact, result and output indicators is available in the Impact Assessment. DG TAXUD has identified targets for some outputs of the programme. For some others though this is not yet feasible at this point in time. The targets of those outputs will be identified before the start of the Customs 2020 programme by DG TAXUD and presented to the Programme Committee for endorsement in the framework of the Annual Work programme procedure.

The **general and specific objectives** will be measured among others as the availability of the Common Communication Network for the European Information systems and will have as **target** a 97% availability.

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The proposal contributes to the Europe 2020 strategy and the implementation of various other Union legislations as elaborated under chapter 1.4.1

1.5.2. *Added value of EU involvement*

It is more beneficial to initiate actions at the Union level than at the level of 27 Member States as described in detail in chapter 3.2 of the explanatory memorandum.

1.5.3. *Lessons learned from similar experiences in the past*

From an economic point of view, action at EU level is much more efficient. The backbone of the customs cooperation is a highly secured dedicated communication network which is operational since the first customs cooperation programmes in the early 90's. It interconnects national customs administrations in approximately 5.000³⁹ connection points. This common **IT network** ensures that every national administration only needs to connect once to this common infrastructure to be able to exchange any kind of information. If such an infrastructure were not available customs administrations in the Member States would have to link 26 times to the national systems of each of the other Member States.

³⁹ Customs and Taxation connection points taken together.

Other cornerstones of the programme are activities that bring customs officials together with the purpose of exchanging best practices, to learn from each other, analyse a problem or draft a guide, for instance. If Member States would have had to learn from each other by developing their own activities outside the programme umbrella, they would all have developed their own set of tools and ways of work. Synergies between activities would have been lost and common activities would not have been implemented systematically at the level of 27 Member States. It is much more efficient to have, with the support of the programme, the Commission acting as **activity broker** between the participating countries.

Another important value added is one of an intangible nature. The programme has been instrumental in creating a sense of common interest, stimulating mutual trust and generating a **cooperation spirit** between Member States and Member States and the Commission in the area of customs.

1.5.4. *Coherence and possible synergy with other relevant instruments*

The management of the Fiscalis 2020 and Customs 2020 programmes will be aligned whenever possible. The programmes share a common network for the implementation of European IT Systems, a common platform for online collaboration (PICS) and a common tool for the Activity Reporting (ART2). Methodologies applied for the Human Capacity Building are also shared between the two programmes.

One of the policy scenarios worked out for the customs area foresees to financially support Member States' customs authorities for acquiring equipment and build up their technical capacity. Rather than working out a financing scheme for this purpose under the Customs 2020 programme, Member States may call on other programmes, including Regional Structural Funds for supporting this need.

The Midterm evaluation of the DG HOME programmes on Prevention of and Fight against Crime (ISEC) and Prevention, Preparedness and Consequence Management of Terrorism & other Security Related Risks (CIPS)⁴⁰ considers the Customs and Fiscalis 2013 programme management model "offers the most promising prospects for improving the management of ISEC/CIPS as it allows to promptly and flexibly respond to operational needs".

The backbone for trans-European IT systems is the **CCN/CSI network**, also being used by OLAF for the exchange (and storage) of information on irregularities and fraud. For this purpose both DGs benefit from economies of scale.

1.6. **Duration and financial impact**

X Proposal/initiative of limited duration

- Proposal/initiative in effect from 01/01/2014 to 31/12/2020
- Financial impact 2014 to 2023 (from 2021 to 2023 only for payment appropriations)
- Proposal/initiative of **unlimited duration**
- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

⁴⁰ COM(2005) 124 of 6 April 2005 has a budget of 745 million euro in the 2007-2013 financial framework.

1.7. Management mode(s) envisaged⁴¹

Centralised direct management by the Commission

Centralised indirect management with the delegation of implementation tasks to:

- executive agencies
- bodies set up by the Communities⁴²
- national public-sector bodies/bodies with public-service mission
- persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

Joint management with international organisations (*to be specified*)

If more than one management mode is indicated, please provide details in the "Comments" section.

Comments

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⁴¹ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

⁴² As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Monitoring of the programme's activities will be carried out in order to ensure that the rules and procedures for the implementation of the programme have been applied properly (audit function). The proposals for joint action activities are monitored on a permanent basis through an online database, Activity Reporting Tool (ART2), which contains the proposals and their corresponding activities. The same tool allows the beneficiaries of the grants issued under the programme, namely the Member States customs administrations, to report online the expenses financed from the grant to participate in the joint action activities. Annually Member States have to send a financial report to the Commission which using the Activity Reporting Tool.

For the IT and Training Capacity Building activities that are financed through procurement, the standard reporting and monitoring rules apply.

The programme will be evaluated twice. The results of the midterm **evaluation** will be available by mid-2018 and those of the final evaluation of the programme towards the end of 2021. Member States, as main beneficiaries of the programme will do an important part of the data collection either by providing information at the level of the individual tools (mainly through ART2) or on the wider impact of the programme (either by participating in perception measuring exercises or through the issuing of reports).

Up to now, evaluation exercises of the existing programmes, predominantly addressed primary stakeholders of the programme, namely customs authorities and their experts which are the target audience of the programme. Considering the importance of consulting also stakeholders that are external to the programme (i.e. economic operators) on the impacts the programme has on them and to what extent they benefit for instance from better cooperation between customs administrations, this dimension of indirect impacts will be included in future programme evaluations.

2.2. Management and control system

2.2.1. *Risk(s) identified*

The potential risks for the implementation of the grants are related to:

- Incorrect implementation of the grant agreement signed with the consortium of the Member States and Candidate Countries. The level of risk is considered low, since the beneficiaries are public administrations of the participating countries
- Member States declare expenses for an activity that is not approved under the programme
- Member States declare twice the same expenses

The potential risks for the implementation of the procurement contracts concluded under the umbrella of the programme are related to :

- Non-respect of procurement rules
- Payment of an invoice for a non-existing deliverable

2.2.2. *Control method(s) envisaged*

The **main elements** of the control strategy applied are:

1. Financial controls common for all expenditure areas:

Ex-ante verification of commitments:

All commitments in DG TAXUD are verified by the head of the HR and Finances Unit. Consequently, 100% of the committed amounts are covered by the ex-ante verification. This procedure gives a high level of assurance as to the legality and regularity of transactions.

Ex-ante verification of payments:

All payments are ex-ante verified according to financial regulations and established procedures. This in-depth control is performed by a financial verifier and an authorizing officer.

In addition at least one payment (from all categories of expenditures) per week is randomly selected for ex-ante in-depth verification performed by the head of the HR and Finances Unit. There is no target concerning the coverage, as the purpose of this verification is to check payments "randomly" in order to verify that all payments were prepared in line with the requirements. The remaining payments are processed according to the rules in force on a daily basis.

Declarations of the AOSD:

All the Authorising Officers by Sub-Delegations sign declarations supporting the Annual Activity Report for the year concerned. These declarations cover the operations under the programme. The AOSD declare that the operations connected with the implementation of the budget have been executed in accordance with the principles of the sound financial management, that the management and control systems in place provided satisfactory assurance concerning the legality and regularity of the transactions and that the risks associated to these operations have been properly identified, reported and that mitigating actions have been implemented.

2. Additional controls for procurement contracts:

The control procedures for procurement defined in the Financial Regulation are applied. Any procurement contract is established following the established procedure of verification by the services of the Commission for payment, taking into account contractual obligations and sound financial and general management. Anti-fraud measures (controls, reports, etc.) are foreseen in all contracts concluded between the Commission and the beneficiaries. Detailed terms of reference are drafted and form the basis of each specific contract. The acceptance process follows strictly the TAXUD TEMPO methodology: deliverables are reviewed, amended if necessary and finally explicitly accepted (or rejected). No invoice can be paid without an "acceptance letter".

The procedure of ordering and accepting deliverables covers also assets management. Each asset is ordered and consequently accepted and encoded into corporate IT tool of the European Commission (ABAC assets) in its acquisition value. The depreciation is automatic based on accounting rules of the Commission.

Technical verification for procurement

DG TAXUD performs controls of deliverables and supervises operations and services carried out by contractors. It also conducts quality and security audits of their contractors on a regular basis. Quality audits verify the compliance of the contractors' actual processes against the rules and procedures defined in their quality plans. Security audits focus on the specific processes, procedures and set-up.

Ex-post administrative control on both operational and financial side

At the end of each contract, the whole file is verified by both operational and financial units before it is formally closed.

3. Additional controls for grants

The grant agreement signed by the beneficiaries of the programme (customs administrations in Member States and Candidate Countries) defines conditions applying to the financing of activities resorting under the grant, including a chapter on control methods. All participating administrations engaged themselves to respect Commission's financial and administrative rules on expenses.

The activities for which grant beneficiaries can finance participation from the grants are identified in an online database (ART2 – Activity Reporting Tool). The Member States report their spending in the same database which has a number of built in controls to reduce errors. For instance, Member States can only report expenses for activities to which they were invited and can only do so once.

In addition to the controls that are built-in in the reporting system, DG TAXUD performs paper controls and on the spot checks on a sample basis. These controls are performed ex-post and based on risk-based sampling.

This control strategy allows keeping the administrative burden on the grant beneficiaries as limited as possible and proportionate to the budget allocated and risks perceived.

The effect of simplification measures, such as replacing real costs by lump sums, is likely to be marginal in terms of budgetary gains. Its main benefit will be at the level of efficiency gains and reduced administrative burden both in Member States and at the Commission.

4. Cost and benefits of the controls

The controls established enable DG TAXUD to have sufficient assurance of the quality and regularity of the expenditure and reduce the risk of non-compliance. The depth of the assessment reaches level three⁴³ for Joint Actions and level four⁴⁴ for the procurement contracts. The benefit of the above control strategy measures is the reduction of the potential risks below 2% of the overall budget and it reaches all beneficiaries. Any additional measures for further risk reduction would result in disproportionate high costs and are therefore not envisaged. DG TAXUD considers there are no variations between the present and current programme from control point of view and will apply the same control strategy for the 2020 programme. The costs entailed to implement the above control strategy are limited to 2,60 %⁴⁵ of the budget and is expected to remain at the same ratio.

The programme control strategy is deemed efficient to limit the risk of non-compliance to below 2% and proportionate with the risks entailed.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

In addition to the application of all regulatory control mechanisms, the DG will devise an anti-fraud strategy in line with the Commission's new anti-fraud strategy (CAFS) adopted on 24 June 2011 in order to ensure *inter alia* that its internal anti-fraud related controls are

⁴³ Depth of controls – level three: control with reference to fully independent corroborative information

⁴⁴ Depth of controls – level four: control with reference to and including access to the underlying documentation that is available at the stage of the process in question.

⁴⁵ The cost comprises the number of FTE performing the controls multiplied by average staff cost; expenditure linked to external audits, expenditure linked to maintenance of ART system.

fully aligned with the CAFS and that its fraud risk management approach is geared to identify fraud risk areas and adequate responses. Where necessary, networking groups and adequate IT tools dedicated to analysing fraud cases related to the Customs 2020 programme will be set up.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Description.....]	Diff./non-diff. (46)	from EFTA ⁴⁷ countries	from candidate countries ⁴⁸	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
1	14.04.03 – Customs 2020	Diff.	NO	YES	NO	NO
1	14.01.04.05 Customs 2020 – Expenditure on administrative management	Non-diff	NO	NO	NO	NO

⁴⁶ Diff. = Differentiated appropriations / Non-diff. = Non-Differentiated Appropriations

⁴⁷ EFTA: European Free Trade Association.

⁴⁸ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure⁴⁹

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multiannual financial framework:		1	Smart and Inclusive Growth							TOTAL	
DG: TAXUD			Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021-2023	TOTAL
• Operational appropriations											
14.0403 – Customs 2020	Commitments	(1)	71.740	73.860	75.970	78.080	80.300	82.610	84.820		547.380
	Payments	(2)	14.348	47.055	62.779	68.162	70.083	72.072	74.103	138.778	547.380
Appropriations of an administrative nature financed from the envelope for specific programmes ⁵⁰											
14.010405		(3)	0.100	0.100	0.100	0.100	0.100	0.100	0.100		0.700
TOTAL appropriations for DG TAXUD		Commitments	71.840	73.960	76.070	78.180	80.400	82.710	84.920		548.080
		=1+1(a)+3									
		Payments	14.448	47.155	62.879	68.262	70.183	72.172	74.203	138.778	548.080
		=2+2(a)+3									

⁴⁹ Expenditure is expressed in current prices.

⁵⁰ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

• TOTAL operational appropriations	Commitments	(4)	71.740	73.860	75.970	78.080	80.300	82.610	84.820		547.380
	Payments	(5)	14.348	47.055	62.779	68.162	70.083	72.072	74.103	138.778	547.380
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0.100	0.100	0.100	0.100	0.100	0.100	0.100		0.700
TOTAL appropriations under HEADING 1	Commitments	=4+ 6	71.840	73.960	76.070	78.180	80.400	82.710	84.920		548.080
of the multiannual financial framework	Payments	=5+ 6	14.448	47.155	62.879	68.262	70.183	72.172	74.203	138.778	548.080

Heading of multiannual financial framework:	5	" Administrative expenditure "
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EUR million (to 3 decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
DG: TAXUD								
• Human resources	10.096	10.096	10.096	10.096	10.096	10.096	10.096	70.672
• Other administrative expenditure	0.390	0.390	0.390	0.390	0.390	0.390	0.390	2.730
TOTAL DG TAXUD	10.486	10.486	10.486	10.486	10.486	10.486	10.486	73.402
TOTAL appropriations under HEADING 5 of the multiannual financial framework	10.486	10.486	10.486	10.486	10.486	10.486	10.486	73.402

		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021-2023	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	82.326	84.446	86.556	88.666	90.886	93.196	95.406		621.482
	Payments	24.934	57.641	73.365	78.748	80.669	82.658	84.689	138.778	621.482

Estimated impact on operational appropriations

– The proposal requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs ↓	Type of output ⁵¹	Average cost of the output	2014		2015		2016		2017		2018		2019		2020		TOTAL	
			Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs	Total cost
Specific Objective: To support the functioning of the customs union, in particular through cooperation between participating countries, their customs administrations, their officials and external experts																		
IT Capacity Building	Number of IT Contracts	Around 30	57.360	59.470	61.580	63.700	65.910	68.220	70.440	446.680								
Joint Actions	Number of events organised	Around 450	11.570	11.570	11.570	11.570	11.570	11.570	11.570	80.990								
Human Capacity Building	Number of trainings	Tbc	2.810	2.820	2.820	2.810	2.820	2.820	2.810	19.710								
TOTAL COST			71.740 104.400	73.860	75.970	78.080	80.300	82.610	84.820	547.380								

⁵¹ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

3.2.2. Estimated impact on appropriations of an administrative nature

3.2.2.1. Summary

- The proposal requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources	10.096	10.096	10.096	10.096	10.096	10.096	10.096	70.672
Other administrative expenditure	0.390	0.390	0.390	0.390	0.390	0.390	0.390	2.730
Subtotal HEADING 5 of the multiannual financial framework	10.486	10.486	10.486	10.486	10.486	10.486	10.486	73.402

Outside HEADING 5⁵² of the multiannual financial framework								
Human resources	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Other expenditure of an administrative nature	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Subtotal outside HEADING 5 of the multiannual financial framework	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.

TOTAL	10.486	10.486	10.486	10.486	10.486	10.486	10.486	73.402
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⁵² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

3.2.2.2. Estimated requirements of human resources

– The proposal requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
• Establishment plan posts (officials and temporary agents)							
14 01 01 01 (Headquarters and Commission's Representation Offices)	65	65	65	65	65	65	65
14 01 01 02 (Delegations)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
14 01 05 01 (Indirect research)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
10 01 05 01 (Direct research)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
• External personnel (in Full Time Equivalent unit: FTE)⁵³							
14 01 02 01 (CA, INT, TA, SNE from the "global envelope")	17	17	17	17	17	17	17
14 01 02 02 (CA, INT, JED, LA and SNE in the delegations)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
14 01 04 05 ⁵⁴	- at Headquarters ⁵⁵	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
	- in delegations	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
14 01 05 02 (CA, INT, SNE - Indirect research)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
10 01 05 02 (CA, INT, SNE - Direct research)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Other budget lines (specify)	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
TOTAL	82	82	82	82	82	82	82

14 is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	Programme management activities, <i>stricto sensu</i> ⁵⁶ , and programme implementation activities such as studies, development, maintenance and operation of European IT systems
External personnel	Assistance to programme implementation activities such as studies, development, maintenance and operation of European IT systems

⁵³ CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

⁵⁴ Under the ceiling for external personnel from operational appropriations (former "BA" lines).

⁵⁵ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

⁵⁶ The number of posts involved in programme management activities *strictu sensu* is limited to 18.

3.2.3. *Compatibility with the current multiannual financial framework*

- The proposal is compatible with the 2020 multiannual financial framework.

3.2.4. *Third-party contributions*

- The proposal does not provide for co-financing by third parties

3.2.5. *Estimated impact on revenue*

- The proposal has potentially financial impact on revenue:
 - The impact of the programme may indirectly affect the revenue of the EU as improved and more efficient customs are expected to lead, amongst others, to more customs duties being collected. Such effect is however not quantifiable.
 - In case the penalties (mentioned in article 13) are applied, these will be budgeted as general revenue for the EU budget