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COMMISSION STAFF WORKING DOCUMENT

IMPLEMENTATION¹ PLAN

Accompanying the document

**Proposal for a Directive of the European Parliament and of the Council
on the Union legal framework for customs infringements and sanctions**

{ COM(2013) 884 final }
{ SWD(2013) 513 final }
{ SWD(2013) 514 final }

¹ This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued.

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1. INTRODUCTION

The proposed Directive on a Union legal framework on customs infringements and sanctions (hereinafter: "the Directive") pursues the objective of an effective implementation of customs law and its enforcement in the EU's customs union. This general objective is to be reached through the introduction of a common nomenclature of customs infringements and non-criminal sanctions in EU Member States. The proper and timely transposition of the measures required may raise some implementation challenges, concerning the different legal traditions of each Member State. The practical effect of the provisions of the proposed Directive may also rest on the extent to which information can be successfully disseminated among stakeholders.

The Commission's services have thus laid down the present implementation plan, which identifies implementation challenges and suggests a set of actions aimed at targeting them. The measures, which are summarised in explanatory tables annexed to the present plan, encompass both actions by the Commission and actions by the Member States. The actions envisaged for Member States are meant to foster cooperation with the Commission in view of easing transposition tasks and foster better compliance with their obligations. The actions envisaged by the Commission are meant to loyally assist and support the Member States in the fulfilment of their tasks, as well as to monitor the implementation process.

This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued. As regards Member State actions, the present implementation plan does not create further legal obligations on the Member States other than those stemming from the proposed Directive, in accordance with the Treaties. It should be noted that possible adjustments and modifications of the present plan could be necessary to reflect future developments in the implementation of the proposed Directive.

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2. CONTACT POINT

The contact point for information about the implementation plan and for cooperation in the performance of the actions it suggests is the Commission's Directorate-General Taxation and Customs Union (TAXUD) – Unit A2: General Customs Legislation.

Functional mailbox: TAXUD-UNIT-A2@ec.europa.eu

The contact persons in unit A2 are:

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3. DELIVERABLES AND IMPLEMENTATION CHALLENGES

Since the aim of the proposed directive encompasses an approximation of Member States legislation in an area where several differences have been identified, as stated in the impact assessment report, some problematic issues in the implementation of the proposed Directive may be expected. As regards these problematic issues, three main challenges have been identified. These challenges are explained in the following sub-sections alongside the suggested support actions by the Commission and the Member States.

3.1. Providing full implementation within the time-frame

Member States have to ensure that national rules governing customs infringements and sanctions comply with the proposed Directive. In order to comply with their obligation, Member States may amend existing rules within their legal system or lay down new specific rules.

The monitoring of existing national rules applicable to customs infringements and sanctions and the clear understanding of the obligations stemming from the proposed Directive are crucial activities for a full and timely implementation. Firstly, they will help understanding which existing rules are already in line with the requirements of the proposed Directive. Secondly, they will facilitate the assessment of what further amendments are necessary and appropriate to ensure full compliance by the Member States.

The Commission should loyally cooperate with the Member States in the evaluation of specific problems and in the development of tailored solutions to the problematic issues that may arise. Member States should also assist the Commission by transmitting information on the implementation measures undertaken, thus enabling it to monitor the progress of the transposition process within the time-frame.

3.2. Exchange of best practices

In order to meet the requirements of the proposed Directive, Member States may benefit from experience from other administrations in a cross-exchange of best practices. This should cover both the monitoring of existing measures and the identification of better and more efficient solutions to the implementation challenges arisen.

A constant exchange of information is thus necessary, although it may in some instances be made difficult by the specificities and differences of each national legal order. The Commission is prepared to foster this process. Member States are thus invited to enter into a constant dialogue with the Commission about the problems encountered, the solutions devised, and the best practices already available at national level. The Commission, on its

part, should ensure adequate availability and exchange of such information in order to ease the process and allow better mutual understanding among the responsible actors at Member States' level.

3.3 Providing information to stakeholders

Both the Commission and the customs authorities should provide information on the directive through the consultation bodies representing the economic operators (e. g. for the Commission the Trade Contact Group). Specific awareness actions such as seminars and workshops can be organised by the Commission and the Member States under C 2020 programme.

4. SUPPORT ACTIONS

4.1 Commission Actions

a) Full implementation within the time-frame

- The Commission should set up a working group to exchange information on the transposition of the Directive. This group should make available all information about the proposed Directive useful to clearly identify the scope of the obligations for the Member States and by making available all the useful preparatory documents.
- Upon request by the relevant services within the Member States, the Commission will offer advice on issues arisen. To this end, the Commission identified a single contact point within its services that can be reached through the functional address indicated below in point 2. The Commission services will also be available to respond to such requests in bilateral meetings.

b) Exchange of best practices

- The Commission will open a dedicated page on its website, where transposition-related information will be published in order to allow for comparison and cross-exchange of best practices.
- Should particular difficulties arise in several Member States, the Commission may consider the set-up of a network to discuss technical issues and recurring implementation challenges, in order to facilitate the discussion among Member States and the exchange of best practices.

4.2 Member States' Actions

a) Full implementation within the time-frame

- Member States may at any moment inform the Commission's services of specific challenges encountered and questions arisen within the transposition effort, so as to allow the Commission to offer the available information and assistance that they may require. Member States may also informally consult the Commission's services on draft transposition measures.
- In order to make it possible for the Commission to monitor the transposition efforts made and the progress in the transposition of the Directive within the time-frame, Member States should communicate to the Commission the text of laws, regulations and administrative provisions adopted to comply with the Directive (Article X of the proposed Directive), or the text of already existing provisions that they consider to be in line with it. Such provisions should contain a reference to the Directive or be

accompanied by a reference on the occasion of their official publication, in the form chosen by the Member States.

- Member States should transmit explanatory documents showing which existing or new provisions implement the individual measures set out in the proposed Directive.

b) Exchange of best practices

- Member States should transmit transposition-related information to the Commission and communicate any significant implementation issue.
- Where efficient solutions are already in place under national law or have been introduced within the transposition of the proposed Directive, Member States should inform the Commission so as to allow it to offer specific examples to other Member States that may be facing similar issues.

c) Ensuring adequate information to economic operators

- Member States should organise awareness actions to economic operators dealing with customs in a systematic basis, in order to provide them with information about the new legislation to be introduced with the directive's transposition.

ANNEX 1

DETAILED IMPLEMENTATION PLAN

The following tables summarise the implementation plan, and give a detailed overview of which actions are foreseen to achieve its objectives, and the envisaged time-frame for the actions.

A. ACTIONS BY THE COMMISSION TO PROVIDE GENERAL ASSISTANCE TO THE MEMBER STATES

| Implementation challenge/Objective | Support action/Action | Timing |
|---|--|--|
| Full implementation within the time frame | Setting up a working group under C2020 programme, based on the previous C2013 Project Group on Customs Penalties, to exchange information on transposition | As soon as proposal is adopted |
| | Hold meetings with Member States to closely monitor the implementation process | As soon as the directive enters into force |
| | Issuing guidance documents | Before 1 May 2016 |
| | Eventual platform for exchange of good practise in implementation (e.g CIRCA-BC) | As soon as the directive enters into force |

B. ACTIONS BY THE MEMBER STATES TO ENSURE SMOOTH IMPLEMENTATION

| Implementation challenge/Objective | Support action/Action | Timing |
|---|---|--|
| Full implementation within the time-frame | Ensuring there is a network responsible for the directive's implementation phase | As soon as the directive enters into force |
| | Communication of the specific provisions of the national legislation adopted to comply with the directive Communication of existing specific provisions that are considered already in line with the directive | Before 1 May 2016 |
| | Inform the Commission about any potential problems related to the transposition period | Transposition period |

| | | |
|---|---|----------------------|
| Exchange of best practices | Exchange of information with other Member States through the Commission about solutions to transposition issues | Transposition period |
| Ensuring adequate information to stakeholders | Develop awareness actions to economic operators on the new legislation transposing the directive | Before 1 May 2016 |