COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.7.2003
COM(2003) 371 final

2002/0132 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the prevention of money laundering by means of customs cooperation

(presented by the Commission pursuant to Article 250 (2) of the EC Treaty)

2002/0132 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the prevention of money laundering by means of customs cooperation

1. BACKGROUND

Transmission of the Proposal to the Council and the European Parliament (COM(2002) 328 final -2002/0132(COD) in accordance with Article 251(2) of the Treaty - 25 June 2002

Opinion of the European Parliament - first reading: 15 May 2003

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The main objective of the proposal is to supplement Directive 91/308/EEC, which establishes a system of supervision of and information on monetary transactions by financial and credit institutions (later extended to other professionals). The proposal concerns controls on sums of money transported across borders. It has two main components: introducing an obligation to declare movements of sums of money of EUR 15 000 or more across the Community's external borders and transmission to the competent authorities of information on transactions in which money laundering is suspected.

3. COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY THE PARLIAMENT

Of the 23 amendments adopted by Parliament, eight of which are of substance, the rest are only adjustments to the wording - two (amendments 13 and 15) are accepted in their entirety by the Commission, and three (2, 11 and 21) are accepted in part.

3.1 Amendments accepted by the Commission

Amendment 13 (Article 2(3)(b)) proposes replacing the words "traveller's cheques or postal cheques" with the word "cheques" in the definition of cash in Article 2(3)(b). The Commission accepts this technical amendment since it considers that the term proposed is more generic and preferable to the distinction between types of cheque.

Amendment 15 (second subparagraph of Article 3 (1)) proposes adding a short phrase linking Article 6 with Article 1 of Directive 91/308 in order to specify clearly which are the competent authorities to whom the information is to be transmitted. The Commission accepts this amendment since Article 1 of the Directive defines the competent authorities.

3.2 Amendments accepted in part by the Commission

Amendment 2 (recital 6) would cite Article 95 of the EC Treaty as a further legal basis in addition to Article 135, already cited in the proposal. Article 95 concerns the approximation of the laws, regulations and administrative provisions of the Member States that directly affect the establishment and functioning of the internal market. The Commission accepts the addition of this legal basis, since it agrees that in addition to customs supervision of movements of money, and the exchange of information between the customs authorities of Member States, which fall within the scope of Article 135, the establishment of uniform measures for the application of controls may also fall within the scope of Article 95 in that it contributes to the functioning of the internal market. Furthermore, this provision would maintain a parallel with Directive 91/308, which is based on Articles 47 and 95.

Amendment 11 (second paragraph of Article 4) proposes limiting the extension of the period for which cash may be held by the competent authorities to a single occasion of not more than one month. The Commission can accept the time limit on the extension, in the interests of the protection of the persons transporting the cash.

Amendment 21 (Article 7) alters the name of the Official Journal as a consequence of the entry into force of the Treaty of Nice.

3.3 Amended proposal

In conclusion, having regard to Article 250 (2), of the EC Treaty, the Commission modifies its proposal as indicated above.