

**Proposal for a Regulation of the European Parliament and of the Council**

**Establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment**

**COM (2018) 0474 final - 2018/0258(COD)**

**PART 1: RECITALS**

Cell in green: The text can be deemed as already agreed

Cell in yellow: The issue needs further discussion at technical level

Cell in red: The issue needs further discussion in depth at the trilogue meetings

**Note:**

**Differences between EP's position and the Commission's proposal are highlighted in Bold/italics;**

**Modifications by lawyer-linguists are in italics.**

**Bold/italics the Council column indicates where the Council has amended Commission's text.**

**Deletions are marked with a strikethrough. Compromise wording is in Bold/italics double underline.**

Row	COMMISSION COM(2018)0474	EP	COUNCIL - PARTIAL GENERAL APPROACH	POSSIBLE COMPROMISE SOLUTION
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1.

(1) The 2 140 customs offices<sup>2</sup> that are present over the external borders of the European Union need to be properly equipped to ensure the operation of the customs union. The need for adequate and equivalent customs controls is ever more pressing not only by reason of the traditional function of customs to collect revenue but also increasingly by the necessity to significantly reinforce the control of goods entering and exiting Union's external borders in order to ensure both safety and security. However, at the same time, those controls on the movement of goods across the external borders should not impair but rather facilitate legitimate trade with third countries.

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<sup>2</sup> Annex of the Annual 2016 Report of the Customs Union Performance available on:  
[https://ec.europa.eu/info/publication/s/annual-activity-report-2016-taxation-and-customs-union\\_en](https://ec.europa.eu/info/publication/s/annual-activity-report-2016-taxation-and-customs-union_en).

(1) The 2 140 customs offices<sup>2</sup> that are present over the external borders of the European Union need to be properly equipped to ensure the *efficient and effective* operation of the customs union. The need for adequate and equivalent customs controls is ever more pressing not only by reason of the traditional function of customs to collect revenue but also increasingly by the necessity to significantly reinforce the control of goods entering and exiting Union's external borders in order to ensure both safety and security. However, at the same time, those controls on the movement of goods across the external borders should not impair but rather facilitate legitimate trade with third countries, *in compliance with the safety and security conditions*.

[Am. 1]

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<sup>2</sup> Annex of the Annual 2016 Report of the Customs Union Performance available on:  
[https://ec.europa.eu/info/publication/s/annual-activity-report-2016-taxation-and-customs-union\\_en](https://ec.europa.eu/info/publication/s/annual-activity-report-2016-taxation-and-customs-union_en).

(1) The ~~2-140~~ **2140** customs offices<sup>2</sup> that are present over the external borders of the European Union need to be properly equipped to ensure the operation of the customs union. The need for adequate ~~and equivalent~~ customs controls **with equivalent results** is ever more pressing not only by reason of the traditional function of customs to collect revenue but also increasingly by the necessity to significantly reinforce the control of goods entering and exiting Union's external borders in order to ensure both safety and security. However, at the same time, those controls on the movement of goods across the external borders should not impair but rather facilitate legitimate trade with third countries.

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**21/11/2019: Provisional agreement:**

(1) The **2 140** customs offices<sup>2</sup> that are present over the external borders of the European Union need to be properly equipped to ensure **the efficient and effective** operation of the customs union. The need for adequate ~~and equivalent~~ customs controls **with equivalent results** is ever more pressing not only by reason of the traditional function of customs to collect revenue but also increasingly by the necessity to significantly reinforce the control of goods entering and exiting Union's external borders in order to ensure both safety and security. However, at the same time, those controls on the movement of goods across the external borders should not impair but rather facilitate legitimate trade with third countries, ~~while but without compromising on maintaining the safety and security~~.

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<sup>2</sup> Annex of the Annual 2016 Report of the Customs Union Performance available on:  
<https://ec.europa.eu/info/publication>

				s/annual-activity-report-2016-taxation-and-customs-union_en
2.		<p><i>(1a) The customs union is a cornerstone of the European Union, which is one of the largest trading blocks in the world, and is essential for the proper functioning of the single market for the benefit of both businesses and citizens. In its resolution of 14 March 2018<sup>1a</sup>, the European Parliament expressed particular concern regarding customs fraud, which has created a significant loss of income for the Union's budget. The European Parliament reiterated that a stronger and a more ambitious Europe can only be achieved if it is provided with reinforced financial means and called, therefore, for providing continuous support to existing policies, for increasing resources to the Union' flagship programmes, and for additional responsibilities to be matched with additional financial means. [Am. 2]</i></p> <hr/> <p><i><sup>1a</sup> P8_TA(2018)0075 : The next MFF: Preparing the Parliament's position on the MFF post-2020</i></p>		<p><i>21/11/2019: Provisional agreement</i></p> <p><i>(1a) The customs union is a cornerstone of the European Union, which is one of the largest trading blocks in the world, and is essential for the proper functioning of the single market for the benefit of both businesses and citizens. Therefore, continuous steps to strengthen the Customs Union are needed as reiterated in the resolution of the 14 March 2018<sup>1a</sup>, the European Parliament.</i></p> <hr/> <p><i><sup>1a</sup> P8_TA(2018)0075 : The next MFF: Preparing the Parliament's position on the MFF post-2020</i></p>

3.

(2) There is currently an imbalance in the performance of customs control by Member States. This imbalance is due both to geographic differences between Member States and in their respective capacities and resources. The ability of Member States to react to challenges generated by the constantly evolving global business models and supply chains depend not only on the human component but also on the availability of modern and reliable customs control equipment. The provision of equivalent customs control equipment is therefore an important element in addressing the existing imbalance. It will improve equivalence in the performance of customs controls throughout Member States and thereby avoid the diversion of the flows of goods towards the weakest points.

(2) There is currently an imbalance in the performance of customs control by Member States. This imbalance is due both to geographic differences between Member States and in their respective capacities and resources, **as well as to a lack of standardised customs controls**. The ability of Member States to react to challenges generated by the constantly evolving global business models and supply chains depend not only on the human component but also on the availability **and proper functioning** of modern and reliable customs control equipment. **Other challenges, such as the surge of e-commerce, the digitalisation of the controls and inspections records, resilience to cyber-attacks, sabotage, industrial espionage and misuse of data, will also increase demand for better functioning of customs procedures**. The provision of equivalent customs control equipment is therefore an important element in addressing the existing imbalance. It will improve equivalence in the performance of customs controls throughout Member States and thereby avoid the diversion of the flows of goods towards the weakest points. **All the**

(2) There is currently an imbalance in the performance of customs control by Member States. This imbalance is due both to geographic differences between Member States and in their respective capacities and resources. The ability of Member States to react to challenges generated by the constantly evolving global business models and supply chains depend not only on the human component but also on the availability of modern and reliable customs control equipment. The provision of equivalent customs control equipment is therefore an important element in addressing the existing imbalance. It will improve equivalence in the performance of customs controls throughout Member States and thereby avoid the diversion of the flows of goods towards the weakest points.

*Further discussions*

*21/11/2019: EP suggestion:*

(2) There is currently **a lack of equivalent results and** an imbalance in the performance of customs control by Member States. This imbalance is due **both** to geographic differences between Member States, and in their respective capacities and resources, ~~as well as to a lack of equivalent results of customs controls~~. The ability of Member States to react to challenges generated by the constantly evolving global business models and supply chains depend not only on the human component but also on the availability **and proper functioning** of modern and reliable customs control equipment. **Other challenges, such as the surge of e-commerce, the digitalisation of the controls and inspections records, resilience to cyber-attacks, [sabotage, industrial espionage] and misuse of data, will also increase demand for better functioning of customs controls**. The provision of equivalent customs control equipment is therefore an

		<p><i>goods entering the customs territory of the Union should be subject to thorough controls in order to avoid “port-shopping” by custom fraudsters. To ensure that the overall strength is increased as well as convergence in the performance of customs control by Member States, a clear strategy related to the weakest points is required. [Am. 3]</i></p>		<p>important element in addressing the existing imbalance. It will improve equivalence in the performance of customs controls throughout Member States and thereby avoid the diversion of the flows of goods towards the weakest points. <b>All the goods entering the customs territory of the Union should be subject to [risk-based /thorough] controls in order to avoid “import point shopping” by custom fraudsters. To ensure that the overall strength is increased as well as convergence in the performance of customs control by Member States, a clear strategy related to the weakest points is required.</b></p>
4.	<p>(3) Member States have repeatedly expressed the need for financial support and requested an in-depth analysis of the equipment needed. In its conclusions<sup>3</sup> on customs funding on 23 March 2017, the Council invited the Commission to "evaluate the possibility of funding technical equipment needs from future Commission financial programmes and improve coordination and (...) cooperation between Customs Authorities and</p>	<p>(3) <b>A number of</b> Member States have repeatedly expressed the need for financial support and requested an in-depth analysis of the equipment needed. In its conclusions<sup>3</sup> on customs funding on 23 March 2017, the Council invited the Commission to "evaluate the possibility of funding technical equipment needs from future Commission financial programmes and improve coordination and (...) cooperation between Customs Authorities and other law</p>	<p>(3) Member States have repeatedly expressed the need for financial support and requested an in-depth analysis of the equipment needed. In its conclusions<sup>3</sup> on customs funding on 23 March 2017, the Council invited the Commission to "evaluate the possibility of funding technical equipment needs from future Commission financial programmes and improve coordination and (...) cooperation between Customs Authorities and</p>	<p><b>12/11/2019: Provisional agreement: Keep original COM text</b></p>

	<p>other law enforcement authorities for funding purposes".</p> <p><sup>3</sup><a href="https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf">https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf</a> and <a href="http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf">http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf</a>.</p>	<p>enforcement authorities for funding purposes". <b>[Am. 4]</b></p> <p><sup>3</sup><a href="https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf">https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf</a> and <a href="http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf">http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf</a>.</p>	<p>other law enforcement authorities for funding purposes".</p> <p><sup>3</sup><a href="https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf">https://www.consilium.europa.eu/media/22301/st09581en17-vf.pdf</a> and <a href="http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf">http://data.consilium.europa.eu/doc/document/ST-7586-2017-INIT/en/pdf</a>.</p>	
5.	<p>(4) Under Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>4</sup>, customs controls are to be understood not only as the supervision of customs legislation but also other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Union and countries or territories outside that territory, and the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure. Such other legislation empowering customs authorities with specific tasks of control includes provisions on taxation, in particular as regards excise duties and value added tax, on the external aspects of the internal market, on the common trade policy and other common</p>	<p>(4) Under Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>4</sup>, customs controls are to be understood not only as the supervision of customs legislation but also other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Union and countries or territories outside that territory, and the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure. Such other legislation empowering customs authorities with specific tasks of control includes provisions on taxation, in particular as regards excise duties and value added tax, on the external aspects of the internal market, on the common trade policy and other common</p>	<p>(4) Under Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>4</sup>, customs controls are to be understood not only as the supervision of customs legislation but also other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Union and countries or territories outside that territory, and the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure. Such other legislation empowering customs authorities with specific tasks of control includes provisions on taxation, in particular as regards excise duties and value added tax, on the external aspects of the internal market, on the common trade policy and other common</p>	<p><i>Identical</i></p>

	<p>Union policies having a bearing on trade, on the overall supply chain security and on the protection of the financial and economic interests of the Union and its Member States.</p> <p><sup>4</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).</p>	<p>Union policies having a bearing on trade, on the overall supply chain security and on the protection of the financial and economic interests of the Union and its Member States.</p> <p><sup>4</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).</p>	<p>Union policies having a bearing on trade, on the overall supply chain security and on the protection of the financial and economic interests of the Union and its Member States.</p> <p><sup>4</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).</p>	
6.	<p>(5) Supporting the creation of an adequate and equivalent level of customs controls at the Union’s external borders allows maximising the benefits of the customs union. A dedicated Union intervention for customs control equipment correcting current imbalances would moreover contribute to the overall cohesion between Member States. In view of the challenges facing the world, in particular the continued need to protect the financial and economic interests of the Union and its Member States while easing the flow of legitimate trade, the availability of modern and reliable control equipment at the external borders is indispensable.</p>	<p>(5) Supporting the creation of an adequate and equivalent level of customs controls at the Union’s external borders allows maximising the benefits of the customs union. A dedicated Union intervention for customs control equipment correcting current imbalances would moreover contribute to the overall cohesion between Member States. In view of the challenges facing the world, in particular the continued need to protect the financial and economic interests of the Union and its Member States while easing the flow of legitimate trade, the availability of modern and reliable control equipment at the external borders is indispensable.</p>	<p>(5) Supporting the creation of an adequate and equivalent level <b><u>of results</u></b> of customs controls at the Union’s external borders allows maximising the benefits of the customs union. A dedicated Union intervention for customs control equipment correcting current imbalances would moreover contribute to the overall cohesion between Member States. <b><u>Such a dedicated fund would address the needs of all types of borders: sea, air, land, rail and postal hubs.</u></b> In view of the challenges facing the world, in particular the continued need to protect the financial and economic interests of the Union and its Member States while easing the flow of legitimate trade, the availability of modern and reliable</p>	<p><b><i>12/11/2019: Provisional agreement</i></b></p> <p>(5) Supporting the creation of an adequate and equivalent level <b><u>of results</u></b> of customs controls at the Union’s external borders allows maximising the benefits of the customs union <b><i>and thus giving additional support to the customs authorities acting as one to protect the interests of the European Union.</i></b> A dedicated Union intervention for customs control equipment correcting current imbalances would moreover contribute to the overall cohesion between Member States. <b>Such a dedicated fund would address the needs of all types of borders: sea and other waterways, air, rail, road and other land borders, as well as postal hubs.</b> In view of the</p>



			<p>control equipment at the external borders is indispensable.</p>	<p>challenges facing the world, in particular the continued need to protect the financial and economic interests of the Union and its Member States while easing the flow of legitimate trade, the availability of modern and reliable control equipment at the external borders is indispensable.</p>
7.	<p>(6) It is therefore opportune to establish a new Instrument for financial support for customs control equipment.</p>	<p>(6) It is therefore opportune to establish a new Instrument for financial support for customs control equipment <i>that should ensure the detection of practices, such as for example counterfeiting of goods and other illegal commercial practices. Already existing formulas of financial support should be considered.</i> [Am. 5]</p>	<p>(6) It is therefore opportune to establish a new Instrument for financial support for customs control equipment <b><u>aimed at all types of borders.</u></b></p>	<p><b><i>21/11/2019: Provisional agreement for merging Rows 15, 16, 17, 18, 23:</i></b></p> <p>(6) It is therefore opportune to establish a new Instrument for financial support for customs control equipment <b><u>aimed at all types of borders. The Instrument should support the Customs Union and the customs authorities to protect the financial and economic interests, to ensure security and safety within the Union and to protect the Union from unfair and illegal trade, such as counterfeiting of goods, while facilitating legitimate business activity. It should contribute to adequate and equivalent results of customs controls. Furthermore, customs control equipment financed under this Instrument should support the implementation</u></b></p>



				<p><i>of the Customs Risk Management Framework as referred to in Article 46 of the Union Customs Code. <b><u>This objective should be achieved via the transparent purchase, maintenance and upgrade of relevant, state-of-the art and reliable customs control equipment that should take due account of the protection of data, cyber-resilience, and safety and environmental considerations, including the environmental friendly disposal of the replaced equipment.</u></b></i></p>
8.	<p>(7) As customs authorities of the Member States have been taking up an increasing number of responsibilities, which often extend to the field of security and take place at the external border, ensuring equivalence in carrying out border control and customs control at the external borders needs to be addressed by providing adequate Union financial support to the Member States. It is equally important to promote inter-agency cooperation at Union borders as regards controls of goods and controls of persons among the national authorities in each Member</p>	<p>(7) As customs authorities of the Member States have been taking up an increasing number of responsibilities, which often extend to the field of security and take place at the external border, ensuring equivalence in carrying out border control and customs control at the external borders needs to be addressed by providing adequate Union financial support to the Member States. It is equally important to promote inter-agency cooperation, <b><i>while considering cybersecurity</i></b>, at Union borders as regards controls of goods and controls of persons among the</p>	<p>(7) As customs authorities of the Member States have been taking up an increasing number of responsibilities, which often extend to the field of security and take place at the external border, ensuring equivalence in carrying out border control and customs control at the external borders needs to be addressed by providing adequate Union financial support to the Member States. It is equally important to promote inter-agency cooperation at Union borders as regards controls of goods and controls of persons among the national authorities in each Member</p>	<p><b><i>18/11/2019: Provisional agreement:</i></b></p> <p>(7) As customs authorities of the Member States have been taking up an increasing number of responsibilities, which often extend to the field of security and take place at the external border, ensuring equivalence in carrying out border control and customs control at the external borders needs to be addressed by providing adequate Union financial support to the Member States. <del><b><i>While also taking into account elements of cybersecurity, it.</i></b></del> It is equally</p>

	State that are responsible for border control or for other tasks carried out at the border.	national authorities in each Member State that are responsible for border control or for other tasks carried out at the border. <b>[Am. 6]</b>	State that are responsible for border control or for other tasks carried out at the border.	important to promote inter-agency cooperation at Union borders as regards controls of goods and controls of persons among the national authorities in each Member State that are responsible for border control or for other tasks carried out at the border, <b><u>with a view to maximising the Union added-value in the field of border management and customs controls.</u></b>
9.	(8) It is therefore necessary to establish an Integrated Border Management Fund ('the Fund').	(8) It is therefore necessary to establish an Integrated Border Management Fund ('the Fund').	(8) It is therefore necessary to establish an Integrated Border Management Fund ('the Fund').	<i>Identical</i>
10.	(9) Due to the legal particularities applicable to Title V of the TFEU as well as the different applicable legal bases regarding the policies on external borders and on customs control, it is not legally possible to establish the Fund as a single instrument.	(9) Due to the legal particularities applicable to Title V of the TFEU as well as the different applicable legal bases regarding the policies on external borders and on customs control, it is not legally possible to establish the Fund as a single instrument.	(9) Due to the legal particularities applicable to Title V of the TFEU as well as the different applicable legal bases regarding the policies on external borders and on customs control, it is not legally possible to establish the Fund as a single instrument.	<i>Identical</i>
11.	(10) The Fund should therefore be established as a comprehensive framework for Union financial support in the field of border management comprising the Instrument for financial support for customs control equipment ('the	(10) The Fund should therefore be established as a comprehensive framework for Union financial support in the field of border management comprising the Instrument for financial support for customs control equipment ('the	(10) The Fund should therefore be established as a comprehensive framework for Union financial support in the field of border management comprising the Instrument for financial support for customs control equipment ('the	<i>Identical</i>

	<p>Instrument') established by this Regulation as well as the instrument for financial support for border management and visa established by Regulation (EU) No .../... of the European Parliament and of the Council<sup>5</sup>.</p> <hr/> <p><sup>5</sup> COM(2018) 473.</p>	<p>Instrument') established by this Regulation as well as the instrument for financial support for border management and visa established by Regulation (EU) No .../... of the European Parliament and of the Council<sup>5</sup>.</p> <hr/> <p><sup>5</sup> COM(2018) 473.</p>	<p>Instrument') established by this Regulation as well as the instrument for financial support for border management and visa established by Regulation (EU) No .../... of the European Parliament and of the Council<sup>5</sup>.</p> <hr/> <p><sup>5</sup> COM(2018) 473.</p>	
12.	<p>(11) This Regulation lays down a financial envelope for the Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>6</sup>, for the European Parliament and the Council during the annual budgetary procedure.</p> <hr/> <p><sup>6</sup> Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).</p>	<p>(11) This Regulation lays down a financial envelope for the Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>6</sup>, for the European Parliament and the Council during the annual budgetary procedure. <b><i>To secure budgetary discipline, the conditions as to how the grants will be prioritised should be clear, defined and based on needs that have been identified for the tasks performed by customs points.</i></b> [Am. 7]</p> <hr/> <p><sup>6</sup> Interinstitutional Agreement of 2</p>	<p>(11) This Regulation lays down a financial envelope for the Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>6</sup>, for the European Parliament and the Council during the annual budgetary procedure.</p> <hr/> <p><sup>6</sup> Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).</p>	<p><b><i>21/11/2019: Provisional agreement:</i></b></p> <p>(11) This Regulation lays down a financial envelope for the Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>6</sup>, for the European Parliament and the Council during the annual budgetary procedure <b><i><u>It should be possible for this financial envelope to cover necessary and duly justified expenses for activities for managing the Instrument and evaluating its performance, insofar as those activities are related to the</u></i></b></p>

		December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).		<b><u>general and specific objectives of the Instrument.</u></b>  _____ <sup>6</sup> Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1)
13.	(12) Regulation (EU, Euratom) [2018/XXX] of the European Parliament and of the Council <sup>7</sup> (the ‘Financial Regulation’) applies to this Instrument. It lays down rules on the implementation of the Union budget, including the rules on grants.  _____ <sup>7</sup> COM(2016) 605.	(12) Regulation (EU, Euratom) [2018/XXX] of the European Parliament and of the Council <sup>7</sup> (the ‘Financial Regulation’) applies to this Instrument. It lays down rules on the implementation of the Union budget, including the rules on grants.  _____ <sup>7</sup> COM(2016) 605.	(12) Regulation (EU, Euratom) [2018/XXX] of the European Parliament and of the Council <sup>7</sup> (the ‘Financial Regulation’) applies to this Instrument. It lays down rules on the implementation of the Union budget, including the rules on grants.  _____ <sup>7</sup> COM(2016) 605.	<i>Identical</i>
14.	(13) Regulation (EU) [2018/XXX] of the European Parliament and of the Council <sup>8</sup> establishes the "Customs" programme for cooperation in the field of customs to support the customs union and customs authorities. In order to preserve the coherence and horizontal coordination of cooperation actions, it is appropriate to implement all of	(13) Regulation (EU) [2018/XXX] of the European Parliament and of the Council <sup>8</sup> establishes the "Customs" programme for cooperation in the field of customs to support the customs union and customs authorities. In order to preserve the coherence and horizontal coordination of cooperation actions, it is appropriate to implement all of	(13) Regulation (EU) [2018/XXX] of the European Parliament and of the Council <sup>8</sup> establishes the "Customs" programme for cooperation in the field of customs to support the customs union and customs authorities. In order to preserve the coherence and horizontal coordination of cooperation actions, it is appropriate to implement all of	<i>Identical</i>

	<p>them under one single legal act and set of rules. Therefore, only the purchase, maintenance and upgrade of the eligible customs control equipment should be supported under this Instrument while the Customs programme for cooperation in the field of customs should support related actions, such as cooperation actions for the assessment of needs or training relating to the equipment concerned.</p> <p><sup>8</sup> COM(2018) 442.</p>	<p>them under one single legal act and set of rules. Therefore, only the purchase, maintenance and upgrade of the eligible customs control equipment should be supported under this Instrument while the Customs programme for cooperation in the field of customs should support related actions, such as cooperation actions for the assessment of needs or training relating to the equipment concerned.</p> <p><sup>8</sup> COM(2018) 442.</p>	<p>them under one single legal act and set of rules. Therefore, only the purchase, maintenance and upgrade of the eligible customs control equipment should be supported under this Instrument while the Customs programme for cooperation in the field of customs should support related actions, such as cooperation actions for the assessment of needs or training relating to the equipment concerned.</p> <p><sup>8</sup> COM(2018) 442.</p>	
15.		<p><b><i>(13a) Customs control equipment financed under this Instrument should meet optimal security, including cybersecurity, safety, environmental and health standards. [Am. 8]</i></b></p>		<p><b><i>18/11/2019: Provisional agreement to leave empty and include text in Recital 6</i></b></p>
16.		<p><b><i>(13b) Data produced by customs control equipment financed under this Instrument should be accessed and processed only by duly authorised staff of the authorities, and should be adequately protected against unauthorised access or communication. Member States should be in full control of that data. [Am. 9]</i></b></p>		<p><b><i>18/11/2019: Provisional agreement to leave empty and include text in Recital 6</i></b></p>

17.		<i>(13c) Customs control equipment financed under this Instrument should contribute to providing optimal customs risk management. [Am. 10]</i>		<i>21/11/2019: Provisional agreement to leave empty and incorporate text in Recital 6</i>
18.		<i>(13 d) When replacing old customs control equipment by the means of this Instrument, Member States should be responsible for environment friendly disposal of old customs control equipment. [Am. 11]</i>		<i>18/11/2019: Provisional agreement to leave empty and incorporate text in Recital 6</i>
19.	<p>(14) In addition, and where appropriate, the Instrument should also support the purchase or upgrade of customs control equipment for testing new pieces or new functionalities in operational conditions before Member States start large-scale purchases of such new equipment. Testing in operational conditions should follow up in particular on the outcomes of research of customs control equipment in the framework of Regulation (EU) [2018/XXX]<sup>9</sup>.</p> <hr/> <p><sup>9</sup> COM(2018) 435.</p>	<p>(14) In addition, and where appropriate, the Instrument should also support the purchase or upgrade of customs control equipment for testing new pieces or new functionalities in operational conditions before Member States start large-scale purchases of such new equipment. Testing in operational conditions should follow up in particular on the outcomes of research of customs control equipment in the framework of Regulation (EU) [2018/XXX]<sup>9</sup>.</p> <hr/> <p><sup>9</sup> COM(2018) 435.</p>	<p>(14) In addition, and where appropriate, the Instrument should also support the purchase or upgrade of customs control equipment for testing new pieces or new functionalities in operational conditions before Member States start large-scale purchases of such new equipment. Testing in operational conditions should follow up in particular on the outcomes of research of customs control equipment in the framework of Regulation (EU) [2018/XXX]<sup>9</sup>.</p> <hr/> <p><sup>9</sup> COM(2018) 435.</p>	<p><i>18/11/2019: Provisional agreement:</i></p> <p>(14) In addition, and where appropriate, the Instrument should also support the purchase or upgrade of customs control equipment for testing new pieces or new functionalities in operational conditions before Member States start large-scale purchases of such new equipment. Testing in operational conditions should follow up in particular on the outcomes of research of customs control equipment in the framework of Regulation (EU) [2018/XXX]<sup>9</sup>. <b><i>The Commission should encourage joint procurement and testing of</i></b></p>

				<p><i>customs control equipment between Member States making use of the cooperation tools under the Customs programme.</i></p> <hr/> <p><sup>9</sup> COM(2018) 435.</p>
20.	<p>(15) Most customs control equipment may be equally or incidentally fit for controls of compliance with other legislation, such as provisions on border management, visa or police cooperation. The Integrated Border Management Fund has therefore been conceived as two complementary instruments with distinct but coherent scopes for the purchase of equipment. On the one hand, the instrument for border management and visa established by Regulation [2018/XXX]<sup>10</sup> will exclude equipment that can be used for both border management and customs control. On the other hand, the instrument for financial support for customs control equipment established by this Regulation will not only support financially equipment with customs controls as the main purpose but will also allow its use as well for additional purposes such as border controls and security. This distribution of roles</p>	<p>(15) Most customs control equipment may be equally or incidentally fit for controls of compliance with other legislation, such as provisions on border management, visa or police cooperation. The Integrated Border Management Fund has therefore been conceived as two complementary instruments with distinct but coherent scopes for the purchase of equipment. On the one hand, the instrument for border management and visa established by Regulation [2018/XXX]<sup>10</sup> will exclude equipment that can be used for both border management and customs control. On the other hand, the instrument for financial support for customs control equipment established by this Regulation will not only support financially equipment with customs controls as the main purpose but will also allow its use as well for additional <i>related</i> purposes such as border controls, <i>safety</i>, and security. This</p>	<p>(15) Most customs control equipment may be equally or incidentally fit for controls of compliance with other legislation, such as provisions on border management, visa or police cooperation. The Integrated Border Management Fund has therefore been conceived as two complementary instruments with distinct but coherent scopes for the purchase of equipment. On the one hand, the instrument for border management and visa established by Regulation [2018/XXX]<sup>10</sup> will <del>exclude equipment that can be used for both border management and customs control only</del> <b><u>financially support equipment of which the primary aim or effect is border controls, but will also allow its use for additional purposes such as customs controls.</u></b> On the other hand, the instrument for financial support for customs control equipment established by this Regulation will</p>	<p><i>Needs further discussions (related to discussion on interagency cooperation)</i></p> <p>(15) Most customs control equipment may be equally or incidentally fit for controls of compliance with other legislation, such as provisions on border management, visa or police cooperation. The Integrated Border Management Fund has therefore been conceived as two complementary instruments with distinct but coherent scopes for the purchase of equipment. On the one hand, the instrument for border management and visa established by Regulation [2018/XXX]<sup>10</sup> will <del>exclude equipment that can be used for both border management and customs control only</del> <b><u>financially support equipment of which the primary aim or effect is integrated border management border controls, but will also</u></b></p>



<p>will foster inter-agency cooperation as a component of the European integrated border management approach, as referred to in Article 4(e) of Regulation (EU) 2016/1624<sup>11</sup>, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and inter-operability of control equipment.</p> <hr/> <p><sup>10</sup> COM(2018) 473.</p> <p><sup>11</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).</p>	<p>distribution of roles will foster inter-agency cooperation as a component of the European integrated border management approach, as referred to in Article 4(e) of Regulation (EU) 2016/1624<sup>11</sup>, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and inter-operability of control equipment. <i>To ensure that any instrument or equipment financed by the fund is in the permanent custody of the designated customs point that owns the equipment, the act of co-sharing and interoperability between customs and border authorities should be defined as being non-systematic and non-regular.</i> [Am. 12]</p> <hr/> <p><sup>10</sup> COM(2018) 473.</p> <p><sup>11</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European</p>	<p><u>not</u> only <u>support</u> financially <u>support</u> equipment <u>with of which the primary aim or effect is</u> customs controls <u>as the main purpose</u> but will also allow its use <u>as well</u> for additional purposes such as border controls and security. This distribution of roles will foster inter-agency cooperation as a component of the European integrated border management approach, as referred to in Article 4(e) of Regulation (EU) 2016/1624<sup>11</sup>, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and inter-operability of control equipment.</p> <hr/> <p><sup>10</sup> COM(2018) 473.</p> <p><sup>11</sup> Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).</p>	<p><u>allow its use for additional purposes such as customs controls.</u> On the other hand, the instrument for financial support for customs control equipment established by this Regulation will <u>not</u> only <u>support</u> financially <u>support</u> equipment <u>with of which the primary aim or effect is</u> customs controls <u>as the main purpose</u> but will also allow its use <u>as well</u> for additional purposes such as border controls and security. This distribution of roles will foster inter-agency cooperation as a component of the European integrated border management approach, as referred to in Article 4(e) of Regulation (EU) 2016/1624<sup>11</sup>, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and inter-operability of control equipment. <i>The act of co-sharing [and interoperability] between customs and other border authorities should be defined as being non-systematic and non-regular.</i></p> <hr/> <p><sup>10</sup> COM(2018) 473.</p> <p><sup>11</sup> Regulation (EU) 2016/1624 of the European Parliament and of the</p>
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21.	<p>(16) By way of derogation from the Financial Regulation, funding of an action by several Union programmes or instruments should be possible in order to allow and support, where appropriate, cooperation and interoperability across domains. However, in such cases, the contributions may not cover the same costs in accordance with the principle of prohibition of double funding established by the Financial Regulation.</p>	<p>(16) By way of derogation from the Financial Regulation, funding of an action by several Union programmes or instruments should be possible in order to allow and support, where appropriate, cooperation and interoperability across domains. However, in such cases, the contributions may not cover the same costs in accordance with the principle of prohibition of double funding established by the Financial Regulation. <b><i>If a Member State has already been awarded or has received contributions from another Union programme or support from a Union fund for the acquisition of the same equipment, that contribution or support should be listed in the application.</i></b> [Am.</p>	<p>(16) By way of derogation from the Financial Regulation, funding of an action by several Union programmes or instruments should be possible in order to allow and support, where appropriate, cooperation and interoperability across domains. However, in such cases, the contributions may not cover the same costs in accordance with the principle of prohibition of double funding established by the Financial Regulation.</p>	<p><b><i>19/11/2019: Provisional agreement: EP text from Art. 10(3) and 8(2a) included in Recital 16</i></b></p> <p>(16) By way of derogation from the Financial Regulation, funding of an action by several Union programmes or instruments should be possible in order to allow and support, where appropriate, cooperation and interoperability across domains. However, in such cases, the contributions may not cover the same costs in accordance with the principle of prohibition of double funding established by the Financial Regulation. <b><i>If a Member State has already been awarded or has received contributions from another Union programme or support from a Union fund for the</i></b></p>

		13]		<i>acquisition of the same equipment, that contribution or support should be listed in the application communicated to the Commission, in accordance with Article 191 of the Financial Regulation. Any funding in excess to the ceiling of the co-financing rate should be granted only in duly justified cases that may include cases of joint procurement and of testing of customs control equipment between Member States.</i>
22.		<i>(16a) The Commission should incentivise joint procurement and testing of customs control equipment between Member States. [Am. 14]</i>		<i>12/11/2019: Provisional agreement to leave empty and incorporate EP AM in Recital 14 (Row 19)</i>
23.	(17) In view of the rapid evolution of customs priorities, threats and technologies, work programmes should not span over long periods of time. At the same time, the need to establish annual work programmes increases the administrative burden for both the Commission and Member States without it being necessary for the implementation of the Instrument. Against that backdrop, work	(17) In view of the rapid evolution of customs priorities, threats and technologies, work programmes should not span over long periods of time. At the same time, the need to establish annual work programmes increases the administrative burden for both the Commission and Member States without it being necessary for the implementation of the Instrument. Against that backdrop, work programmes should in principle	(17) In view of the rapid evolution of customs priorities, threats and technologies, work programmes should not span over long periods of time. At the same time, the need to establish annual work programmes increases the administrative burden for both the Commission and Member States without it being necessary for the implementation of the Instrument. Against that backdrop, work programmes should in principle	<i>21/11/2019: Provisional agreement to include EP text in Recital 6 and to accept CNS text:</i>  (17) In view of the rapid evolution of customs priorities, threats and technologies, work programmes should not span over long periods of time. At the same time, the need to establish annual work programmes increases the administrative burden for both the Commission and Member States

	<p>programmes should in principle cover more than one budgetary year.</p>	<p>cover more than one budgetary year. <i>Moreover, to ensure that the integrity of the Union's strategic interests are preserved, Member States are encouraged to consider carefully cybersecurity and the risks to potential exposure of sensitive data outside the Union when tendering for new customs control equipment.</i> [Am. 15]</p>	<p>cover more than one budgetary year, <b><u>but not more than three.</u></b></p>	<p>without it being necessary for the implementation of the Instrument. Against that backdrop, work programmes should in principle cover more than one budgetary year, <b><u>but not more than three.</u></b></p>
<p>24.</p>	<p>(18) In order to ensure uniform conditions for the implementation of the work programme under this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council<sup>12</sup>.</p> <p><sup>12</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p><i>Deleted</i> [Am. 16]</p>	<p>(18) In order to ensure uniform conditions for the implementation of the work programme under this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council<sup>12</sup>.</p> <p><sup>12</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p><i>Linked to Articles Row 48 (delegated acts)</i></p>

25.

(19) Although central implementation is indispensable in order to achieve the specific objective of ensuring equivalent customs controls, given the technical nature of this Instrument, preparatory work is required at technical level. Therefore, implementation should be supported by assessments of needs that are dependent on national expertise and experience through the involvement of customs administrations of the Member States. Those assessments of needs should be based on a clear methodology including a minimum number of steps ensuring the collection of the required information.

(19) Although central implementation is indispensable in order to achieve the specific objective of ensuring equivalent customs controls, given the technical nature of this Instrument, preparatory work is required at technical level. Therefore, implementation should be supported by *individual* assessments of needs that are dependent on national expertise and experience through the involvement of customs administrations of the Member States. Those assessments of needs should be based on a clear methodology including a minimum number of steps ensuring the collection of the required *relevant* information. [Am. 17]

(19) Although central implementation is indispensable in order to achieve the specific objective of ensuring equivalent **results of** customs controls, given the technical nature of this Instrument, preparatory work is required at technical level. Therefore, implementation should be supported by assessments of needs that are dependent on national expertise and experience through the involvement of customs administrations of the Member States. Those assessments of needs should be based on a clear methodology including a minimum number of steps ensuring the collection of the required information.

***21/11/2019: Provisional agreement***

(19) Although central implementation is indispensable in order to achieve the specific objective of ensuring equivalent **results of** customs controls, given the technical nature of this Instrument, preparatory work is required at technical level. Therefore, implementation should be supported by assessments of needs that are dependent on national expertise and experience through the involvement of customs ***authorities administrations*** of the Member States. Those assessments of needs should be based on a clear methodology including a minimum number of steps ensuring the collection of the ***relevant*** information. **The Commission should use this information to determine the allocation of allocate the funds to Member States taking into consideration in particular the volume of trade, the relevant risks and the administrative capacity of the administration customs authorities to use and maintain the equipment, with a view to achieving the most efficient use of the customs control equipment financed under this**

				<p><b><u>Instrument. To contribute to budgetary discipline, the conditions for the prioritisation of grants should be clearly defined and based on the assessment of needs.</u></b></p>
26.	<p>(20) To ensure regular monitoring and reporting, a proper framework for monitoring the results achieved by the Instrument and actions under it should be put in place. Such monitoring and reporting should be based on indicators measuring the effects of the actions under the Instrument. Reporting requirements should include some information on customs control equipment beyond a certain cost threshold.</p>	<p>(20) To ensure regular monitoring and reporting, a proper framework for monitoring the results achieved by the Instrument and actions under it should be put in place. Such monitoring and reporting should be based on <i>quantitative and qualitative</i> indicators measuring the effects of the actions under the Instrument. <b><i>Member States should ensure a transparent and clear procurement procedure.</i></b> Reporting requirements should include <i>detailed</i> information on customs control equipment <i>and procurement procedure</i> beyond a certain cost threshold, <i>and a justification of the expenses.</i> [Am. 18]</p>	<p>(20) To ensure regular monitoring and reporting, a proper framework for monitoring the results achieved by the Instrument and actions under it should be put in place. Such monitoring and reporting should be based on indicators measuring the effects of the actions under the Instrument. Reporting requirements should include some information on customs control equipment beyond a certain cost threshold. <b><u>This information should be distinguished from the information provided to the general public and media in order to promote the actions and the results of the programme referred to in Article 16.</u></b></p>	<p><b><i>21/11/2019: Provisional agreement (text from Art. 12(4) incorporated):</i></b></p> <p>(20) To ensure regular monitoring and reporting, a proper framework for monitoring the results achieved by the Instrument and actions under it should be put in place. Such monitoring and reporting should be based on <i>quantitative and qualitative</i> indicators measuring the effects of the actions under the Instrument. Reporting requirements should include information on customs control equipment <b>where the cost of a piece of customs controls equipment exceeds the threshold set out in paragraph 4 of Article 12</b> beyond a certain cost threshold. <b><u>This information should be distinguished from the information provided to the general public and media in order to promote the actions and the results of the programme referred to in Article 16.</u></b></p>

27.

(21) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>13</sup>, there is a need to evaluate this Instrument on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground.

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<sup>13</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

(21) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>13</sup>, there is a need to evaluate this Instrument on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground.

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<sup>13</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

(21) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>13</sup>, there is a need to evaluate this Instrument on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground. **In addition to the mid-term and final programme evaluations, annual Progress Reports should be issued as well to monitor and report on the programme implementation.**

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<sup>13</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

***19/11/2019: Provisional agreement:***

(21) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>13</sup>, there is a need to evaluate this Instrument on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground **in a comparable and complete manner. The interim and final evaluations, which should be performed no later than [four years] after the start of the implementation or completion of the Programme respectively, should contribute to the efficient decision-making process concerning the financial support for customs control equipment under the next Multiannual Financial Frameworks. In addition to the ~~mid-term~~ interim and final programme evaluations, as part of the performance reporting system, annual Progress**



				<p><b><u>Reports should be issued as well to monitor and report on the programme implementation and should be communicated to the European Parliament and the Council. Those reports should include a summary of the lessons learned and, where appropriate, of the obstacles and shortfalls encountered in the context of the activities of the programme that have taken place in the year in question.</u></b></p>
28.	<p>(22) In order to respond appropriately to evolving policy priorities, threats and technologies, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the customs control purposes for actions eligible under the Instrument and the list of indicators to measure the achievement of the specific objectives. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid</p>	<p>(22) In order to respond appropriately to evolving policy priorities, threats and technologies, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of <b><i>amending this Regulation in order to lay down work programmes</i></b>, amending the customs control purposes for actions eligible under the Instrument and the list of indicators to measure the achievement of the specific objectives. It is of particular importance that the Commission carries out appropriate <b><i>and fully transparent</i></b> consultations during its preparatory work, including at</p>	<p>(22) In order to respond appropriately to evolving policy priorities, threats and technologies, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending <del>the customs control purposes for actions eligible under the Instrument and</del> the list of indicators to measure the achievement of the specific objectives. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid</p>	<p><b><i>Linked to Articles Row 48 (delegated acts)</i></b></p>

	<p>down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>	<p>expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. <b>[Am. 19]</b></p>	<p>down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>	
29.	<p>(23) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>14</sup>, Council Regulation (Euratom, EC) No2988/95<sup>15</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>16</sup> and Regulation (EU) 2017/1939<sup>17</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where</p>	<p>(23) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>14</sup>, Council Regulation (Euratom, EC) No2988/95<sup>15</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>16</sup> and Regulation (EU) 2017/1939<sup>17</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where</p>	<p>[(23) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>14</sup>, Council Regulation (Euratom, EC) No2988/95<sup>15</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>16</sup> and Regulation (EU) 2017/1939<sup>17</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where</p>	<p><b>21/11/2019: Provisional agreement to include updated text from Council</b></p> <p>[In accordance with Regulations (EU, Euratom) 2018/1046<sup>14a</sup> (the "Financial Regulation") and (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>14</sup> and Council Regulations (Euratom, EC) No 2988/95<sup>15</sup>, (Euratom, EC) No 2185/96<sup>16</sup> and (EU) 2017/1939<sup>17</sup>, the financial interests of the Union are to be protected through</p>

<p>appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other criminal offences affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>18</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p>	<p>appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other criminal offences affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>18</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p>	<p>appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other criminal offences affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>18</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p>	<p>proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (the "EPPO") may investigate and prosecute offences against the financial interests of the Union, as provided for in Directive (EU) 2017/1371</p>
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<p><sup>14</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L248, 18.9.2013, p. 1).</p> <p><sup>15</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).</p> <p><sup>16</sup> Council Regulation (Euratom, EC) No 2185/96 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 irregularities (OJ L292,15.11.96, p.2).</p> <p><sup>17</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation</p>	<p><sup>14</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L248, 18.9.2013, p. 1).</p> <p><sup>15</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).</p> <p><sup>16</sup> Council Regulation (Euratom, EC) No 2185/96 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 irregularities (OJ L292,15.11.96, p.2).</p> <p><sup>17</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation</p>	<p><sup>14</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L248, 18.9.2013, p. 1).</p> <p><sup>15</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).</p> <p><sup>16</sup> Council Regulation (Euratom, EC) No 2185/96 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 irregularities (OJ L292,15.11.96, p.2).</p> <p><sup>17</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation</p>	<p>of the European Parliament and of the Council<sup>18</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors (ECA), and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.]</p> <p><sup>14a</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom)</p>
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	<p>on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) (OJ L283, 31.10.2017, p.1).</p> <p><sup>18</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>	<p>on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) (OJ L283, 31.10.2017, p.1).</p> <p><sup>18</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>	<p>on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) (OJ L283, 31.10.2017, p.1).</p> <p><sup>18</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).]</p>	<p>No 966/2012 (OJ L 193, 30.7.2018, p. 1).</p> <p><sup>14</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L248, 18.9.2013, p. 1).</p> <p><sup>15</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).</p> <p><sup>16</sup> Council Regulation (Euratom, EC) No 2185/96 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 irregularities (OJ L292,15.11.96, p.2).</p>
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30.	<p>(24) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in</p>	<p>(24) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in</p>	<p>(24) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in</p>	<p><b><i>19/11/2019: Provisional agreement:</i></b></p> <p>(24) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors.</p>

	<p>case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.</p>	<p>case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding. <b><i>Funding under this Instrument should respect the principles of transparency, proportionality, equal treatment and non-discrimination.</i></b> [Am. 20]</p>	<p>case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.]</p>	<p>[Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.] <b>Funding under this Instrument should be subject to respect the principles of transparency, proportionality, equal treatment and non-discrimination referred to in Article 188 of the Financial Regulation and should ensure the optimal use of its financial resources in achieving its objectives.</b></p>
31.	<p>(25) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objective of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to</p>	<p>(25) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objective of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to</p>	<p>(25) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objective of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to</p>	<p><b><i>19/11/2019: Provisional agreement: Keep COM text (EP text included in Rec. 24).</i></b></p>



	<p>costs as referred to in Article 125(1) of the Financial Regulation.</p>	<p>costs as referred to in Article 125(1) of the Financial Regulation. <i>Improving the implementation and quality of spending should constitute guiding principles for the achievement of the objectives of the Instrument while ensuring optimal use of financial resources. [Am. 21]</i></p>	<p>costs as referred to in Article 125(1) of the Financial Regulation.</p>	
32.	<p>(26) Since the objective of this Regulation, which is to establish a Instrument that supports the customs union and customs authorities, cannot be sufficiently achieved by the Member States alone further to objective imbalances existing at geographical level amongst them, but can rather, by reason of the equivalent level and quality of custom control that a coordinated approach and a centralised funding will help providing, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,</p>	<p>(26) Since the objective of this Regulation, which is to establish a Instrument that supports the customs union and customs authorities, cannot be sufficiently achieved by the Member States alone further to objective imbalances existing at geographical level amongst them, but can rather, by reason of the equivalent level and quality of custom control that a coordinated approach and a centralised funding will help providing, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,</p>	<p>(26) Since the objective of this Regulation, which is to establish a Instrument that supports the customs union and customs authorities, cannot be sufficiently achieved by the Member States alone further to objective imbalances existing at geographical level amongst them, but can rather, by reason of the equivalent level and quality of <b>results of</b> custom <b>control controls</b> that a coordinated approach and a centralised funding will help providing, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,</p>	<p><b>12/11/2019: Provisional agreement:</b></p> <p>(26) Since the objective of this Regulation, which is to establish a Instrument that supports the customs union and customs authorities, cannot be sufficiently achieved by the Member States alone further to objective imbalances existing at geographical level amongst them, but can rather, by reason of the equivalent level and quality of <b>results of</b> custom <b>controls</b> that a coordinated approach and a centralised funding will help providing, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation</p>

			<p>does not go beyond what is necessary in order to achieve that objective,</p>
33.			<p><i>21/11/2019: Provisional agreement to include EP AM from art. 16(2) (row 74):</i></p> <p><i>(26A) The recipients of Union funding should acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public, thereby showing the added value of the Instrument to support the customs union and customs authorities to fulfil their missions and the efforts of the Commission to ensure budgetary transparency. Furthermore, in order to ensure transparency the Commission should regularly provide information to the public relating to the Instrument, its actions and results, referring to, inter alia, the work programmes referred to in Article 11.</i></p>