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PROPOSAL

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the Hercule III programme to promote activities in the field of the protection of the European Union's financial interests

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAY, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2011) 914 final



EUROPEAN COMMISSION

Brussels, 19.12.2011
COM(2011) 914 final

2011/0454 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the Hercule III programme to promote activities in the field of the protection of the
European Union's financial interests**

{SEC(2011) 1610 final}

{SEC(2011) 1611 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Hercule I programme was based on Decision 804/2004/EC¹ which essentially put on a proper footing and expanded a number of activities in the field of the protection of the financial interests which had developed over time.

Decision 878/2007/EC² extended this programme over the period 2007 to 2013, as Hercule II. This 2007 decision placed specific emphasis on the fight against cigarette smuggling and counterfeiting to reflect the legal obligations of the Commission stemming from the Anti-Contraband and Anti-Counterfeiting Agreement with Philip Morris International signed in 2004. The latter was the first of the agreements signed with international cigarette manufacturers under which, in recognition of more than US\$ 2 billion to be paid by them into national and the Union Budgets over periods of up to 20 years, the Commission and Member States agreed that European efforts to suppress the illegal traffic in tobacco products would be enhanced. The annual provision for Hercule was duly increased from 2007.

As the legal base for Hercule II will expire at the end of 2013, its replacement should ensure the continuity of European support for the activities carried out by the Commission and the Member States with the purpose of providing better information, carrying out studies and providing training or technical and scientific assistance in the fight against fraud.

The Treaty on the Functioning of the European Union (TFEU) reflects public concern about the protection of Union financial interests by providing for the principle of effective and equivalent protection across the Member States and the Union's Institutions, bodies, offices and agencies (Article 325 TFEU, former Article 280 TEC). The importance of gaining and maintaining public trust in the Union's capacity to protect taxpayers' money from fraudsters cannot be overstated, particularly in the present context of budgetary stringency and the negotiation of the Multiannual Financial Framework for 2014-2020 (MFF).

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

2.1. The Hercule II programme comprises a heterogeneous group of actions involving stakeholders who are all important to the fight against fraud, corruption and any other illegal activities affecting the financial interests of the Union but whose contribution takes different forms.

In 2011, the European Anti-Fraud Office (OLAF) has carried out an informal consultation of the following stakeholders, in part on the basis of questionnaires:

- OLAF's Task Group Cigarettes partners (specialist services in Member States concerned in particular with the agreements with the tobacco manufacturers);
- Member State services which use OLAF's Information Support Office - ISO;

¹ OJ L 143, 30.4.2004, p.9.

² OJ L 193, 25.7.2007, p.18.

- the Associations for European Criminal Law and for the Protection of the EU Financial Interests (European Lawyers Associations – ELAs).

These stakeholders were asked to evaluate the implementation of the Hercule II programme and to provide ideas for future objectives.

The Task Group Cigarettes identified a need for continuous and even reinforced support at Union level. Some concrete suggestions were made, covering possible future useful activities, technical matters and simplification. The Commission proposal takes these suggestions into account to a significant extent.

As regards the acquisition by the Commission/OLAF of commercially available data sources of value to operational services in Member States and to OLAF itself, the use of the same data sources facilitates a common approach to risk analysis in Member States. OLAF monitors database usage monthly, promoting effective usage by Member States, allowing for the creation of shared pools where necessary and reacting when usage increases. Such flexibility, added to the Commission's purchasing power when acting on behalf of all Member States, allows significant savings compared to the costs which Member States would incur if they procured the data individually and in practice ensures that some Member States have access to data which they could not otherwise afford. A user survey on external databases in the summer of 2011 confirmed that the Member States recognise the added value of this service in the fight against fraud. The Commission proposal takes full account of the results of this survey.

Training activities allow for a wide dissemination of anti-fraud and anti-corruption measures to better protect the financial interests of the Union. Close and regular cooperation between the competent national authorities and between these authorities and OLAF is a prerequisite to effectively implement the objectives of the treaty, and comply with the principles enshrined in article 325 paragraph 3 TFEU.

Finally, as regards the actions targeting legal professionals, both practitioners and academics, with an interest in developing the legal framework relevant to the protection of the Union's financial interests, the goal is to work towards an academic consensus, which would be supportive to strategic and legislative work related to the protection of Union financial interests. Feedback from ELAs has been positive. Some ELAs advocate simpler procedures for application and final reporting and the Commission proposal takes this into account to a great extent. Some very detailed suggestions for future topics of study or discussion were made. More generally, there was pressure to place more emphasis on national legal systems and their individual problems in the field of the protection of Union financial interests, although the Commission has favoured supporting projects with a clear added value at Union level and should continue to do so.

Regarding other activities financed under Hercule II, there is a continuous dialogue between OLAF and stakeholders, in particular in the sensitive sector of technical assistance where OLAF has received positive feedback over the years and has been able to adjust the details of the actions to reflect this feedback.

2.2. An impact assessment that has been carried out by the Commission. Four options have been considered, also taking account of the impact on the budgetary envelope:

Option 1: to continue the programme with the same level of funding (baseline scenario);

Option 2: to renew the Hercule programme with improved objectives and a better methodology, including in particular a higher maximum rate of co-financing for the activities of technical support such as the procurement of equipment;

Option 3: to significantly alter the distribution between the different spending objectives and put much greater support on operational and law enforcement activities;

Option 4: discontinue the Hercule programme, with the possibility to continue some actions under other Union co-financing programmes and/or to leave other actions to the Member States.

In view of the past experience, which is closely linked to operational activities of both the Member States and OLAF to protect Union financial interests as well as the expected impact for the future, including through developing actions, the option to renew the programme with improved objectives and a better methodology is the preferred option (option 2) with a budgetary envelope in real prices which remains similar to the current envelope (approximately 15 million EUR per year). In contrast, the option to significantly change the distribution between different spending objectives would result in an imbalance to the detriment of specific support for actions of prevention and detection of fraud and it might lead to confusion with regard to the attribution of responsibilities between Member States and the European Union. Member States are with their national authorities and budgets primarily responsible for the fight against fraud by means of justice and law enforcement. Discontinuing the programme would reduce expenditure at Union level, without however creating real economies and offsetting resources at national level or in the framework of another Union programme and therefore put at risk the effective and equivalent protection across the Member States and the Union Institutions, bodies, offices and agencies as enshrined in Article 325 TFEU.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Protection of the European Union's financial interests

Under articles 310(6) and 325 TFEU, the protection of the Union's financial interests against fraud, corruption and any other illegal activities affecting the financial interests of the Union is a shared responsibility between the Commission and Member States.

The Hercule III programme concerns this specific sphere of activity of the European Commission and its cooperation with both Member States competent authorities, as well as with the other European institutions and bodies, more particularly through OLAF.

It is essential that there should continue to be an instrument specifically dedicated to fighting fraud, corruption and any other illegal activities affecting the financial interests of the Union. Support from programmes designed for a wider impact would be less effective in addressing such a specific issue and in political terms, the Union institutions should demonstrate that they share a real determination to deal with this very sensitive subject and to put into practice the principles set out in the Treaty. Accordingly, the Hercule III programme would:

- target exclusively the protection of the financial interests of the Union, in the context of a long term vision which is coherent with other Union objectives, on the basis of the priorities defined each year for this specific field of expertise;

- allow the implementation of other Union programmes to focus on priorities other than the protection of the financial interests;
- fully take into account the results of the actions already co-financed in the past in this field, including in terms of targeted beneficiaries and geographical balance;
- aim to have direct impact on not only some Member States investigations, but also on OLAF investigations.

3.2. Simplification

A priority for the Commission and for this programme, as in other programmes under the Multiannual Financial framework (MFF), is to simplify the regulatory environment and to facilitate to the greatest possible extent the access to this programme of the competent national authorities, non-profit organisations and other types of stakeholders in the Member States, candidate and acceding countries, as well as EFTA/EEA countries and partner countries of the European Neighbourhood Policy.

Coherence with the Financial Regulation:

The programme proposal is fully coherent with the Financial Regulation and its implementing provisions. Grants and procurement are the main financial instruments used to implement the programme. The simplification measures proposed in the Commission proposal for the revision of the Financial Regulation, notably the recourse to lump sums, flat rates and unit costs will already limit the administrative burden. In view of the importance of the processing of subsistence and travel costs paid under the programme, the programme will introduce simplification measures offered by the new Financial Regulation and its Implementation Rules in this area. For grants under EUR 50 000 lighter management procedures should be foreseen. In particular, the Commission may authorize reduced requirements in terms of breakdown of costs and estimates, the use of simplified requirements for application as well as for reporting of outcomes.

Another measure of simplification envisaged concerns the direct information and consultation of the Member States' and acceding countries' representatives through the increased use of working groups and experts committees, such as the **COCOLAF (Advisory Committee for the Coordination of Fraud Prevention)** at different stages of the implementation of the Programme. Thus, improvements in the implementation and the procedures may be brought to the Annual Working Programmes based on the feed-back received from the representatives participating to this Committee.

3.3. Respect of the principles of subsidiarity, and proportionality and the added value of the Programme

The Hercule programme relates in part to activities of the European Commission and more particularly OLAF, and cooperation with the other European Institutions and bodies, as well as with Member States. Therefore, by definition, the key objectives of the proposal cannot be attained by action at the national level alone. This programme aims at ensuring equivalent protection in the Member States and in all Union's institutions, bodies, offices and agencies. The programme has a cross-border dimension, reinforcing cooperation between stakeholders in different Member States and with third countries.

The 2011 consultation of the main stakeholders concerned by the implementation of the Hercule II programme has also pointed out that the principles of subsidiarity and proportionality are fully respected; the measures envisaged under the programme do not go beyond those necessary to achieve the objectives of the programme.

The European Commission initiates the Union's annual and multiannual programming (Article 17 TEU). The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes (Article 197 TFEU). Expenditure at Union level on the protection of Union financial interests is therefore justified in terms of subsidiarity where it facilitates cooperation between the Union and Member States or between Member States, without impinging on Member States' responsibilities.

The added-value of the Hercule III programme is demonstrated by the savings that will derive from the collective procurement of specialised equipment and databases to be used by the stakeholders and the savings derived from the collective specialised training. An increased effectiveness of the cross-border operations is expected on the basis of common technical standards and joint training.

In addition, the objectives have been renewed with a specific attention paid to the *specific, measurable, achievable, relevant, and timed* criteria (SMART). This will also help to ensure a proper implementation and monitoring.

3.4. Legal basis

The legal basis for the proposal is Article 325(4) TFEU; the opinion of the Court of Auditors is requested.

4. BUDGETARY IMPLICATION

The programme will cover the period 2014-2020, and the overall budgetary envelope is EUR 110 000 000 in current prices. This amount is in line with the Commission's Communication on the next Multi-Annual financial framework for the period 2014-2020: "A Budget for Europe 2020".³

The legislative financial statement attached to this proposal for a Regulation sets out the budgetary implications and the human and administrative resources needed.

³ COM(2011)500

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Hercule III programme to promote activities in the field of the protection of the European Union's financial interests

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the Court of Auditors⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union and the Member States have set themselves the objective of countering fraud, corruption and any other illegal activities affecting the financial interests of the Union, including cigarette smuggling and counterfeiting. Together with the Commission, the Member States should, in particular, organise close and regular cooperation between the competent authorities.
- (2) Activities with the aim of providing better information, specialised training or technical and scientific assistance help significantly to protect the financial interests of the Union and at the same time to attain an equivalent level of protection across the Union.
- (3) Past support for such initiatives has made it possible to enhance the activities undertaken by the Union and the Member States in terms of fighting fraud, corruption and any other illegal activities affecting the financial interests of the Union. The objectives of the Hercule programme for both the period 2004-2006 and the period 2007-2013 were successfully achieved.
- (4) The Commission has carried out an impact assessment in 2011, so as to evaluate the need to continue or not the programme.
- (5) To continue and even develop the activities at Union and Member State level to counter fraud, corruption and any other illegal activities affecting the financial

⁴ OJ C , p.

interests of the Union, including the fight against cigarette smuggling and counterfeiting, also taking into account the new challenges in a context of budgetary austerity, a new programme should be adopted.

- (6) This Regulation shall be implemented in full compliance with the provisions of Regulation (EC, Euratom) No. XX/XX of XX 2012 on the financial rules applicable to the annual budget of the Union.
- (7) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, penalties.
- (8) The programme is open to participation by acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, as well as partner countries of the European Neighbourhood Policy, provided that these countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective Framework Agreements, Association Council Decisions or similar Agreements.
- (9) The Commission should present to the European Parliament and to the Council an independent interim report on the implementation of this Programme, as well as a final report on the achievement of the objectives of this programme.
- (10) This Regulation complies with the principles of subsidiarity and proportionality. The Hercule III programme facilitates cooperation between the Member States and between the Commission and the Member States in order to protect the financial interests of the Union, without however impinging on Member States' responsibilities, and using resources more efficiently than could be done at national level. Action at EU level is necessary and justified as it clearly assists Member States collectively to protect the EU and national budgets and encourages the use of common EU structures to increase cooperation and information exchange between competent authorities.
- (11) The Programme should run for a period of seven years to align its duration with that of the multiannual financial framework laid down in [Article 1] of the Council Regulation No. XXXX laying down the multiannual financial framework for the years 2014-2020.
- (12) The Commission should adopt the annual work programmes setting out the priorities, the budget breakdown and the evaluation criteria for the grants for actions. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.
- (13) This Regulation establishes, for the entire duration of the Programme, a financial envelope constituting the prime reference, within the meaning of point [17] of the Inter-institutional Agreement of XX/YY/201Z between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound

financial management, for the budgetary authority during the annual budgetary procedure,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

The multi-annual action programme "Hercule III" (hereinafter referred to as "the Programme") is hereby established to promote activities against fraud, corruption and any other illegal activities affecting the financial interests of the Union. The Programme shall run from 1 January 2014 to 31 December 2020.

Article 2

Added value

The Programme shall contribute to:

- (a) developing the activities at Union level and the Member States to counter fraud, corruption and any other illegal activities affecting the financial interests of the Union, including the fight against cigarette smuggling and counterfeiting;
- (b) an increased transnational cooperation at the Union level and in particular to the effectiveness of the cross-border operations;
- (c) an effective prevention of fraud, corruption and any other illegal activities affecting the financial interests of the Union, by offering joint specialised training for staff of national, regional administrations and to other stakeholders.

The programme in particular creates savings deriving from the collective procurement of specialised equipment and databases to be used by the stakeholders and those derived from the collective specialised training.

Article 3

General objective of the Programme

The general objective of the Programme shall be to protect the financial interest of the Union thus enhancing the competitiveness of the European economy and ensuring the protection of the taxpayers' money.

Article 4

Specific objective of the Programme

The specific objective of the Programme shall be to prevent and combat fraud, corruption and any other illegal activities against the Union's financial interest.

This objective shall be measured, inter alia, through the amount of recoveries following fraud cases detected by joint actions and cross border operations, the increased percentage of successful joint operations, and the increased number of cases accepted by the criminal investigative authorities.

Article 5

Bodies eligible for funding

The following bodies shall be eligible for Union funding under the programme:

- (a) national or regional administrations of a Member State or a third country, as identified in Article 6, which promote the strengthening of action at Union level to protect the Union's financial interests;
- (b) research and educational institutes and non-profit making entities provided that they have been established and have been operating for at least one year, in a Member State or in a third country, as identified in Article 6, and promote the strengthening of action at Union level to protect the Union's financial interests.

Article 6

Participation in the programme

1. Participating countries shall be the Member States and the countries referred to in paragraph 2.
2. The Programme shall be open to the participation of any of the following countries:
 - (a) acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union

programmes established in the respective Framework Agreements, Association Council Decisions or similar Agreements;

- (b) partner countries under the European Neighbourhood Policy provided that these countries have reached a sufficient level of alignment of the relevant legislation and administrative methods with those of the Union. The partner countries concerned shall participate to the Programme in accordance with provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Union programmes;
- (c) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement.

3. Representatives of countries forming part of the stabilisation and association process for countries of South-Eastern Europe, the Russian Federation, and certain countries with which the Union has concluded an agreement for mutual assistance in fraud-related matters, and representatives of international and other relevant organisations, may take part in activities organised under the Programme wherever this is useful for the achievement of the objectives referred to in Articles 3 and 4. These representatives shall be chosen on the basis of their skills, experience and knowledge relevant to the specific activities.

Article 7

Eligible actions

The Programme shall provide, under the same conditions set out in the annual work programme referred to in Article 10, financial support for the following actions:

- (a) Provision of specialised technical assistance for national authorities through:
 - providing specific knowledge, specialised and technically advanced equipment and effective information technology (IT) tools facilitating transnational cooperation and cooperation with the Commission;
 - ensuring the necessary support and facilitating investigations, in particular the setting up of joint investigation teams and cross border operations;
 - supporting Member States' capacity to store and destroy seized cigarettes as well as independent analytical services for the analysis of seized cigarettes;
 - enhancing staff exchanges for specific projects, in particular in the field of the fight against cigarette smuggling and counterfeiting;
 - providing technical and operational support for the law enforcement authorities of the Member States in their fight against illegal cross border activities and fraud affecting the Union financial interests, including in particular support for customs authorities;

- building information technology capacity throughout the Member States and third countries as referred to in Article 6(2) by developing and providing specific databases and IT tools facilitating data access and analysis;
 - increasing data exchange, developing and providing IT tools for investigations, and monitoring intelligence work.
- (b) Organisation of specialised training, and risk analysis training workshops, as well as conferences, aimed at:
- further fostering better understanding of Union and national mechanisms;
 - exchanging experience between the relevant authorities in the Member States, and third countries as referred to in Article 6(2) as well as representatives of international organisations as mentioned in Article 6 (3), including specialised law enforcement services;
 - coordinating the activities of Member States, third countries, and international public organisations, as defined in Article 6 (2) and (3);
 - disseminating knowledge, particularly on better identification of risk for investigative purposes;
 - developing high-profile research activities, including studies;
 - improving cooperation between practitioners and academics;
 - further raising the awareness of the judiciary and other branches of the legal profession for the protection of the financial interests of the Union.
- (c) Any other action, provided by the annual work programmes under article 10, which is necessary for attaining the general and specific objectives provided for in Articles 3 and 4.

Chapter II

Financial framework

Article 8

Financial envelope

The financial envelope for the implementation of the programme for the period 2014 to 2020 shall be EUR 110 000 000, in current prices.

Article 9

Types of financial intervention and co-financing

1. The Commission shall implement the Programme in accordance with the Financial Regulation.
2. Union funding for activities provided for under Article 7 shall take the form of:
 - a) grants;
 - b) public procurement.
 - c) reimbursement of costs for participation in activities under the programmes incurred by representatives referred to in article 6(3).
3. The purchase of equipment shall not be the sole component of the grant agreement.
4. The co-financing rate for grants awarded under the programme shall not exceed 80 % of the eligible costs. In exceptional and duly justified cases, defined in the annual work programme referred to in article 10, the co-financing rate shall not exceed 90 % of the eligible costs.

Article 10

Annual work programmes

In order to implement the Programme the Commission shall adopt annual work programmes. They shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. They shall include for grants the priorities, the essential evaluation criteria and the maximum rate of co-financing.

Budget allocated to communication actions to be carried out by the Commission under this Regulation shall also cover the corporate communication of the political priorities of the Union.

Chapter III

Monitoring and evaluation

Article 11

Monitoring, evaluation and management

1. The Commission shall provide annual information on the results of the programme to the European Parliament and to the Council. Information on consistency and complementarity with other programmes and activities at Union level shall be included. The Commission shall continually disseminate the results of the activities supported under the Programme. All participating countries shall provide the Commission with all the data and information necessary to permit the monitoring and evaluation of the Programme.

2. An evaluation of the Programme shall be carried out by the Commission. No later than by 31 December 2017, an evaluation report shall be established by the Commission on the achievement of the objectives of all the measures, results and impacts, the efficiency of the use of resources and its European added value, in view of a decision on the renewal, modification or suspension of the measures. The evaluation shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account evaluation results on the long-term impact of the predecessor measures.

In addition, by 31 December 2021, the Commission shall present to the European Parliament and to the Council a report on the achievement of the objectives of the programme.

The longer-term impacts and the sustainability of effects of the Programme shall be evaluated with a view to feed into a decision on a possible renewal, modification or suspension of a subsequent Programme.

Article 12

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Regulation (Euratom, EC) No 2185/96 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the European Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

Without prejudice to the first and second sub-paragraphs, cooperation agreements with third countries and international organisations and grant agreements and grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

Chapter IV

Final provisions

Article 13

Repeal

Decisions 804/2004/EC and 878/2007/EC of the European Parliament and the Council are repealed with effect from 1 January 2014.

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

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply as of 1st of January 2014.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Operational objectives of the Programme

The operational objectives of the Programme shall be the following:

- (1) to improve the prevention and investigation of fraud and other illegal activities beyond its currently reached levels by enhancing transnational and multi-disciplinary cooperation;
- (2) to increase the protection of the financial interests of the Union against fraud, facilitating the exchange of information, experiences and best practices, including staff exchanges
- (3) to strengthen the fight against fraud and other illegal activities providing technical and operational support to national investigation, and in particular customs and law enforcement authorities;
- (4) to limit the exposure of the financial interests of the Union to fraud, corruption and other illegal activities, as compared to the level of exposure known today, with a view to reducing the development of an illegal economy in key risk areas such as organised fraud, smuggling and counterfeiting, especially of cigarettes;
- (5) to enhance the degree of development of the specific legal and judicial protection of the financial interests against fraud by promoting comparative law analysis.

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

This initiative intends to continue the Hercule programme with improved objectives and methodology.

1.1. Title of the proposal/initiative

Proposal for a Regulation of The European Parliament and of The Council on the Hercule III programme to promote activities in the field of the protection of the European Union's financial interests

1.2. Policy area(s) concerned in the ABM/ABB structure⁵

Policy area 24.0201 : Fight against fraud

1.3. Nature of the proposal/initiative

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

The proposal/initiative relates to a **new action following a pilot project/preparatory action**⁶

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

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

1.4. Objectives

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

This proposal is part of the Commission's package linked to the next Multiannual Financial Framework (co-financing EU programme in the context of the 2014-2020 Multiannual Financial Framework).

The general objective of the Programme shall be to protect the financial interests of the Union thus enhancing the competitiveness of the European economy and ensuring the protection of the taxpayers' money.

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

Activity number: 24 0201 Fight against fraud

(a) The specific objective of the Programme shall be to prevent and combat fraud, corruption and any other illegal activities against the Union's financial interests.

(b) The operational objectives of the Programme shall be the following:

(1) to improve the prevention and investigation of fraud and other illegal activities beyond its currently reached levels by enhancing transnational and multi-disciplinary cooperation;

(2) to increase the protection of the financial interests of the Union against fraud, facilitating the exchange of information, experiences and best practices, including staff exchanges;

⁵ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

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

(3) to strengthen the fight against fraud and other illegal activities providing technical and operational support to national investigation, and in particular customs and law enforcement authorities;

(4) to limit the exposure of the financial interests of the Union to fraud, corruption and other illegal activities, as compared to the level of exposure known today, with a view to reducing the development of an illegal economy in key risk areas such as organised fraud, smuggling and counterfeiting, especially of cigarettes;

(5) to enhance the degree of development of the specific legal and judicial protection of the financial interests against fraud by promoting comparative law analysis.

1.4.3. *Expected result(s) and impact*

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

The beneficiaries/groups targeted by the proposal will mainly be the Member State authorities which are competent in the field of the protection of the EU's financial interests.

Effects shall comprise:

(1) possibility for the beneficiaries to avail themselves of the necessary capacities, including a technically equivalent level of equipment across the EU;

(2) a positive impact on national and EU investigations, including through the facilitation of joint operations, better disclosure of offences and higher quality evidence for the Courts;

(3) beneficiaries will benefit from an appropriate dissemination of specific knowledge and the development of dedicated networks for the protection of the financial interests against fraud;

(4) helping the beneficiaries to reach an academic consensus supporting the Commission, in particular as regards the effective legal protection of the financial interests.

1.4.4. *Indicators of results and impact*

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

| SPECIFIC OBJECTIVE | To prevent and combat fraud corruption and other illegal activities | |
|---|--|--|
| Result indicators | Latest known result | Medium term target (result) |
| 1.the amount of recoveries following fraud cases detected by joint actions and cross-border operations; | Amounts recovered following OLAF cases in 2010: 67.9 million EUR. | Increase of this amount by 5-10% |
| 2. the increased percentage of successful joint operations | 3 joint customs operations supported in 2010 | Increase of 30% in the number of joint successful operations. |
| 3. the increased number of cases accepted by the criminal investigative authorities | Percentage of cases dismissed by the criminal investigative authorities 43.9% | Decrease of cases dismissed by the criminal investigative authorities by 5-10% |

Main indicators for monitoring the implementation operational objectives:

(1) Indicator for expected result 1: The development of the perception by the beneficiaries of the effective support of the Programme to a better information exchange via common databases and equivalent specialised equipment purchased and put into place in the Member States;

2) Indicator for expected result 2: concrete operational impact as expressed for instance by increased percentage of successful joint operations .

(3) Indicator expected result 3: concrete impact on development of relevant professional networks as shown for instance by an increased number of beneficiaries participating in the dissemination of specific knowledge;

(4) Indicator expected result 4: The development of the perception by the beneficiaries of the effective support of the Programme to achieve academic consensus with a view to support the Commission in the effective legal protection of the financial interests.

1.5. Grounds for the proposal/initiative

Article 325 TFEU: close and regular cooperation between the competent authorities of the Member States, together with the Commission, in the field of the protection of the financial interests of the Union against fraud.

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

Taking into account past experience and results under Hercule I and II, Hercule III shall address several new challenges to protect the EU budget from 2014 (budgetary austerity, , Commission new anti-fraud strategy -COM(2011)376 final). See also under 1.5.4 (need for coherence and synergies).

1.5.2. Added value of EU involvement

The Hercule III programme is expected to contribute to:

- - an increased transnational cooperation at the Union level and notably to the effectiveness of the cross-border operations on the basis of general technical assistance, resulting in a better level of equipment across the EU, thereby facilitating joint operations and international support for operations;

- - an effective prevention of fraud, corruption and any other illegal activities affecting the financial interests of the Union offering joint specialised training for staff of national and regional administrations, as well as for other stakeholders involved and also establishing useful networks between these authorities and organisations;

- - an improved framework for the fight against fraud, corruption and any other illegal activities affecting the financial interests of the Union research and educational institutes and non-profit making bodies, ensuring support for seminars, conferences, law studies, dissemination of specialist knowledge and networking activities.

1.5.3. Lessons learnt from similar experiences in the past

Two evaluations of the Hercule programme have been conducted so far by the Commission services. The results of these consultations in the Member States show in particular that they are grateful to be given the opportunity to improve the effectiveness of their performance in protecting the financial interests of the EU and to reduce the operational cost of their law enforcement activities directed at the latter.

The intermediate review of the Hercule II programme (2007-2013) comprises the lessons learnt as well as the suggestions made by the stakeholders consulted. As a result, Hercule III takes into account the shortcomings identified by external stakeholders, in particular as regards the absence of possible support for technical assistance, due to a maximum rate for co-financing by the Commission below the rate applicable to other measures and the need to increase staff exchanges possibilities.

1.5.4. Coherence and possible synergy with other relevant instruments

The impact assessment shows that the Hercule programme is the only EU programme specifically dedicated to the protection of the financial interests of the Union. Hercule III should continue to support, for the period covered (2014-2020), a set of activities that are complementary to the activities covered by other programmes. To that end, a continuous dialogue at both national and EU level will be organised in order to avoid potential overlaps and ensure overall coherence.

The financing programme Hercule III (2014-2020) will further promote measures implementing the Commission Anti-Fraud Strategy (CAFS, COM (2011) 376, 24.6.2011). The annual assessment under article 11 paragraph 1 of the Regulation will serve as a basis to monitor the results of the programme. The reporting requirements by 2013 under the CAFS will include relevant results in the implementation of the current Hercule II (2007 - 2013) financing programme

1.6. Duration and financial impact

Proposal/initiative of **limited duration** (7 years: from 2014 to 2020).

- Proposal/initiative in effect from 1/1/2014 to 31/12/2020
- Financial impact from 2014 to 2023 (from 2021 to 2023 only for payment appropriations)

1.7. Management mode(s) envisaged⁷

Centralised direct management by the Commission

Centralised indirect management with the delegation of implementation tasks to:

- executive agencies
- bodies set up by the Communities⁸
- national public-sector bodies/bodies with public-service mission
- persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

Shared management with the Member States

Decentralised management with third countries

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

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

Comments

A simplified procedure for grants under EUR 50000 will be introduced in line with the requirements under the Financial Regulation and its Implementing Rules.

⁷ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

⁸ As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

See Article 11 of the proposal according to which:

- annual information on results, including consistency and complementarity with other EU programmes, shall be provided to the European Parliament and to the Council;
- an independent assessment of the implementation of the objectives of the programme (no later than 31 December 2017) is foreseen;
- in addition, a final report to the budgetary authority will be made on the achievement of the objectives of Hercule III by the end of 2021.

2.2. Management and control system

2.2.1. Risk(s) identified

The level of risk is considered low for the grant agreements, since for 90% of the cases the beneficiaries are public administrations or law enforcement services in the Member States.

For the contracts awarded after a procurement process the risks are narrowed since an important part of the expenditure is legally and financially covered by a framework contract concluded for 1 year with the possibility to extend 3 times.

In line with the Commission requirements, a risk assessment exercise will be performed each year.

Important risks identified in grant files are:

- Lenient interpretation by the beneficiary of the grant conditions regarding eligibility of costs occurred in the implementation of the action;
- Expenses declared by the beneficiary which don't fall under the scope of the grant agreement;
- Staff costs not sufficiently substantiated.

2.2.2. Control method(s) envisaged

The control procedures for both sections of the programme (grants & procurements) are in compliance with the Financial Regulation.

Ex-ante verifications (commitment & payments)

OLAF has chosen for a financial management plan which is a partially decentralised model for which all of the ex-ante verification is done in the central Budget Unit. In OLAF, *all files are verified by at least 3 agents (the file manager and financial verifying agent in the budget unit and the operational verifying agent in the unit responsible for the expenditure) before they are accepted by the Authorising Officer by sub-delegation.*

Every head of unit has been granted a sub-delegation from the Director-General consequently every head of unit is responsible for the implementation of his part of the programme.

- Ex-ante controls are carried out by the FVA on every transaction which requires an approval of the AOSD.
- Controls are done on the sensitive variables following the results of the risk assessment carried out in the context of the Accounting Quality Report (such as: LE and BA, G/L accounts, budget lines, amounts and calculations, etc...).

In 25% of the Hercule files, an OLAF agent is present on the day action of the in order to supervise the good implementation of the funds (e.g. conferences and trainings).

Grants

- The grant agreement signed by the beneficiaries defines the conditions applying to the financing and activities resorting under the grant, including a chapter on control methods. OLAF participates in actions financed with members of its own staff.

-Depending on various variables (the amount of the contract, the complexity of the file) an ex-post on the spot control is carried out by the financial and operational file operators. During those controls the quality as well as the financial impact of the output is evaluated. OLAF intends to carry out approximately 10 on the spot checks per year.

Procurement

- Detailed terms of reference are drafted and form the basis of the specific contract. Anti-fraud measures are foreseen in all contracts concluded between OLAF and the external party.

-OLAF performs controls of all deliverables and supervises all operations and services carried out by our frame work contractor.

Additionally, in compliance with Article 12 of the proposal, measures are foreseen at the level of the beneficiaries (supporting documents shall be made available to the Commission). Audits may be carried out during the contract or the agreement and for a period of five years following the last payment in order to lead, where appropriate, to recovery decisions by the Commission. The rights of access of Commission staff as well as outside authorised personnel are defined and the Court of Auditors and OLAF shall enjoy the same rights.

The controls established enable OLAF to have sufficient assurance of the quality and regularity of the expenditure and reduce the risk of non-compliance. The depth of the assessment reaches generally Level 3 and in some cases Level 4 where an on the spot

check has been carried⁹. The above mentioned controls reduce the potential risks virtually to zero and reach 100% of the beneficiaries.

The costs entailed to implement the above control strategy represent 1,24% of the budget. This estimation is based on the control measures already in place for the Hercule II programme

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

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

See Article 12 (2) of the proposal. The Commission shall carry out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96 and, where necessary, investigations shall be conducted by OLAF in accordance with Regulation (EC) No 1073/1999 of the European Parliament and of the Council.

⁹ Control with reference to and including access to the underlying documentation that is available at the stage of the process in question.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines

| Heading of multiannual financial framework | Budget line | Type of expenditure | Contribution | | | |
|--|---|------------------------|--------------------------------------|---|-------------------------|--|
| | Number [Description] | Diff./non-diff (10) | from EFTA ¹¹ countries | from candidate countries ¹² | from third countries | within the meaning of Article 18(1)(aa) of the Financial Regulation |
| 1 | 24.0201 Community action programme to promote activities in the field of the protection of the Union's financial interests (Hercule III programme) | Diff | YES | YES | NO | NO |

¹⁰ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

¹¹ EFTA: European Free Trade Association.

¹² Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

In current prices

| | | |
|--|---|----------------------------|
| Heading of multiannual financial framework: | 1 | Smart and inclusive growth |
|--|---|----------------------------|

in million EUR with 3 decimal places.

| DG: OLAF | | | Year 2014 ¹³ | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | Year 2021-2023 | TOTAL |
|---|-------------|-------------|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|----------------|---------|
| • Operational appropriations | | | | | | | | | | | |
| 24 0201 | Commitments | (1) | 14,800 | 15,100 | 15,400 | 15,700 | 16,000 | 16,300 | 16,700 | 0 | 110,000 |
| | Payments | (2) | 12,000 | 12,500 | 13,000 | 13,500 | 14,000 | 14,500 | 14,600 | 15,900 | 110,000 |
| Appropriations of an administrative nature financed from the envelope for specific programmes ¹⁴ | | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Number of budget line | | (3) | | | | | | | | | |
| TOTAL appropriations for DG OLAF | Commitments | =1+1a +3 | 14,800 | 15,100 | 15,400 | 15,700 | 16,000 | 16,300 | 16,700 | 0 | 110,000 |
| | Payments | =2+2a +3 | 12,000 | 12,500 | 13,000 | 13,500 | 14,000 | 14,500 | 14,600 | 15,900 | 110,000 |

| | | | | | | | | | | | |
|------------------------------------|-------------|-----|--------|--------|--------|--------|--------|--------|--------|---|---------|
| • TOTAL operational appropriations | Commitments | (4) | 14,800 | 15,100 | 15,400 | 15,700 | 16,000 | 16,300 | 16,700 | 0 | 110,000 |
|------------------------------------|-------------|-----|--------|--------|--------|--------|--------|--------|--------|---|---------|

¹³ Year N is the year in which implementation of the proposal/initiative starts.

¹⁴ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research

| | | | | | | | | | | | |
|---|-------------|-------|--------|--------|--------|--------|--------|--------|--------|---------------|----------------|
| | Payments | (5) | 12,000 | 12,500 | 13,000 | 13,500 | 14,000 | 14,500 | 14,600 | 15,900 | 110,000 |
| • TOTAL appropriations of an administrative nature financed from the envelope for specific programmes | | (6) | | | | | | | | | |
| TOTAL appropriations under HEADING 1A of the multiannual financial framework | Commitments | =4+ 6 | | | | | | | | | |
| | Payments | =5+ 6 | | | | | | | | | |

If more than one heading is affected by the proposal / initiative:

| | | | | | | | | | | | |
|---|-------------|-------|--------|--------|--------|--------|--------|--------|--------|---------------|----------------|
| • TOTAL operational appropriations | Commitments | (4) | | | | | | | | | |
| | Payments | (5) | | | | | | | | | |
| • TOTAL appropriations of an administrative nature financed from the envelope for specific programmes | | (6) | | | | | | | | | |
| TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount) | Commitments | =4+ 6 | 14,800 | 15,100 | 15,400 | 15,700 | 16,000 | 16,300 | 16,700 | 0 | 110,000 |
| | Payments | =5+ 6 | 12,000 | 12,500 | 13,000 | 13,500 | 14,000 | 14,500 | 14,600 | 15,900 | 110,000 |

| | | |
|--|----------|--------------------------------|
| Heading of multiannual financial framework: | 5 | " Administrative expenditure " |
|--|----------|--------------------------------|

EUR million (to 3 decimal places)

| | | Year 2014 ¹⁵ | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL |
|------------------------------------|----------------|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|---------------|
| DG: OLAF | | | | | | | | | |
| • Human resources | | 1,842 | 1,842, | 1,842, | 1,842, | 1,842, | 1,842, | 1,842, | 12,894 |
| • Other administrative expenditure | | 0,050 | 0,050 | 0,050 | 0,050 | 0,050 | 0,050 | 0,050 | 0,350 |
| TOTAL DG OLAF | Appropriations | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 13,244 |

| | | | | | | | | | |
|--|--------------------------------------|-------|-------|-------|-------|-------|-------|-------|---------------|
| TOTAL appropriations under HEADING 5 of the multiannual financial framework | (Total commitments = Total payments) | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 1,892 | 13.244 |
|--|--------------------------------------|-------|-------|-------|-------|-------|-------|-------|---------------|

EUR million (to 3 decimal places)

| | | Year 2014 ¹⁶ | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | Year 2021-2023 | TOTAL |
|--|-------------|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|----------------|----------------|
| TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework | Commitments | 16,692 | 16,992 | 17,292 | 17,592 | 17,892 | 18,192 | 18,592 | 0 | 123.244 |
| | Payments | 13,892 | 14,392 | 14,892 | 15,392 | 15,892 | 16,392 | 16,492 | 15,900 | 123,244 |

¹⁵ Year N is the year in which implementation of the proposal/initiative starts.

¹⁶ Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on operational appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

| Indicate objectives and outputs ↓ | | | Year 2014 | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL | | | | | | | | | |
|--|----------------|----------------------------|-----------------|--------------|-----------------|--------------|-----------------|--------------|-----------------|-------|-----------------|------|-----------------|------|-----------------|------|-------------------------|------|--|
| | OUTPUTS | | | | | | | | | | | | | | | | | | |
| | Type of output | Average cost of the output | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Number. outputs | Cost | Total Number of outputs | Cost | |
| OPERATIONAL OBJECTIVE N° 1 | | | | | | | | | | | | | | | | | | | |
| Improve the prevention and investigation of fraud and other illegal activities by enhancing transnational and multi-disciplinary | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | |
|---|--|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|-----|--------|
| cooperation | | | | | | | | | | | | | | | | | | |
| Action 1: Common IT infrastructures | | | | | | | | | | | | | | | | | | |
| Output 1: Co-financing of the purchase of technical hardware to be used in investigations | | 0.150 | 24 | 3.600 | 25 | 3.800 | 26 | 3.900 | 27 | 4.000 | 27 | 4.100 | 29 | 4.200 | 29 | 4.300 | 187 | 27.900 |
| Output 2: IT developments in the intelligence field facilitating data access and analysis. | | 0.800 | 1 | 0.800 | 1 | 0.900 | 1 | 0.900 | 1 | 1.000 | 1 | 1.000 | 1 | 1.100 | 2 | 1.200 | 8 | 6.900 |
| Sub-total Specific Objective N°1 | | | | 4.400 | | 4.700 | | 4.800 | | 5.000 | | 5.100 | | 5.300 | | 5.500 | | 34.800 |
| OPERATIONAL OBJECTIVE N° 2 | | | | | | | | | | | | | | | | | | |
| Increase the protection of the financial interests of the Union against fraud facilitating the exchange of information, | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | |
|---|--|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|
| experiences and best practices | | | | | | | | | | | | | | | | | | |
| Action 1: Training | | | | 0.550 | | 0.550 | | 0.550 | | 0.550 | | 0.550 | | 0.600 | | 0.600 | | 3.950 |
| Output 1: Co-financing of training activities in the fight against fraud | | 0.055 | 10 | 0.550 | 10 | 0.550 | 10 | 0.550 | 10 | 0.550 | 10 | 0.550 | 11 | 0.600 | 11 | 0.600 | 72 | 3.950 |
| Action 2: Organisation of seminars and conferences | | | | 0.750 | | 0.750 | | 0.750 | | 0.750 | | 0.750 | | 0.750 | | 0.750 | | 5.250 |
| Output 1: Organisation of training activities in the fight against fraud | | 0.100 | 6 | 0.600 | 6 | 0.600 | 6 | 0.600 | 6 | 0.600 | 6 | 0.600 | 6 | 0.600 | 6 | 0.600 | 42 | 4.200 |
| Output 2: Conference on work carried out in the intelligence field | | 0.150 | 1 | 0.150 | 1 | 0.150 | 1 | 0.150 | 1 | 0.150 | 1 | 0.150 | 1 | 0.150 | 1 | 0.150 | 7 | 1.050 |
| Action 3: Coordination of activities relating to the protection of the Union's financial interests | | | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 2.100 |
| Output 1: Meetings between the national authorities of the Member States and third countries | | 0.15 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 14 | 2.100 |
| Action 5: Dissemination of scientific knowledge relating to Union action | | | | 0.075 | | 0.075 | | 0.075 | | 0.075 | | 0.075 | | 0.080 | | 0.080 | | 0.535 |

| | | | | | | | | | | | | | | | | | | | | |
|---|--|-------|----|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|
| of “forensic computing” | | | | | | | | | | | | | | | | | | | | |
| Output 2: Subscription to strategic databases necessary to investigations | | 0.438 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 4 | 1.750 | 28 | 12.250 |
| Output 3: Subscription to various small databases according to the needs of the investigations | | 0.048 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 10 | 0.480 | 70 | 3.360 |
| Sub-total for Specific Objective n°3 | | | | 2.350 | | 2.350 | | 2.350 | | 2.350 | | 2.350 | | 2.350 | | 2.350 | | 2.350 | | 16.450 |
| OPERATIONAL OBJECTIVE N° 4 | | | | | | | | | | | | | | | | | | | | |
| Limit the exposure of the financial interests of the Union to fraud and other illegal activities as compared to the level of exposure currently known with a view to reducing the development of an illegal economy in key risk areas such as organised fraud, smuggling and counterfeiting of cigarettes | | | | | | | | | | | | | | | | | | | | |
| Action 1 Training, organisation of conferences and seminars | | | | | 1.125 | | 1.125 | | 1.225 | | 1.225 | | 1.325 | | 1.420 | | 1.520 | | | 8.965 |
| Output 1: Training in the field of joint surveillance operations | | 0.09 | 8 | 0.705 | 8 | 0.705 | 8 | 0.805 | 8 | 0.805 | 10 | 0.905 | 11 | 1.000 | 12 | 1.100 | 65 | | 6.025 | |

| | | | | | | | | | | | | | | | | | | |
|--|--|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|-----|--------|
| in the fight against cigarette smuggling | | | | | | | | | | | | | | | | | | |
| Output 2: Conferences in the field of cigarette smuggling | | 0.150 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 14 | 2.100 |
| Output 3: Cigarettes Task Force annual conferences | | 0.120 | 1 | 0.120 | 1 | 0.120 | 1 | 0.120 | 1 | 0.120 | 1 | 0.120 | 1 | 0.120 | 1 | 0.120 | 7 | 0.840 |
| Action 2: Technical assistance to national authorities involved in the fight against fraud, including the fight against cigarette smuggling | | | | 4.450 | | 4.450 | | 4.550 | | 4.650 | | 4.750 | | 4.700 | | 4.800 | | 18.700 |
| Output 1: Cigarette databases and IT developments facilitating data access and analysis relating to cigarettes | | 0.150 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 14 | 1.800 |
| Output 2: Co-financing of the activity of technical equipment specific to investigations forming part of the fight against cigarette smuggling | | 0.148 | 25 | 3.700 | 25 | 3.700 | 26 | 3.800 | 26 | 3.900 | 27 | 4.000 | 28 | 4.100 | 28 | 4.200 | 185 | 19.900 |
| Output 3: Support for joint operations in the fight against cigarette smuggling | | 0.075 | 2 | 0.150 | 2 | 0.150 | 2 | 0.150 | 2 | 0.150 | 2 | 0.150 | 2 | 0.150 | 2 | 0.150 | 14 | 0.750 |
| Output 4: Cross-checks on confiscated cigarettes | | | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 2 | 0.300 | 1 | 0.150 | 1 | 0.150 | 12 | 1.800 |
| Action 3: Promoting exchanges of staff in the fight against | | | | 0.500 | | 0.500 | | 0.500 | | 0.500 | | 0.500 | | 0.500 | | 0.500 | | 3.500 |

| | | | | | | | | | | | | | | | | | | |
|---|--|-------|---------------|-------|---------------|-------|---------------|-------|---------------|-------|---------------|-------|---------------|-------|---------------|-------|------------------|-------|
| cigarette smuggling | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| TOTAL | | | 6.075 | | 6.075 | | 6.275 | | 6.375 | | 6.575 | | 6.620 | | 6.820 | | 44.815 | |
| OPERATIONAL OBJECTIVE N° 5 | | | | | | | | | | | | | | | | | | |
| Enhance the degree of development of the specific legal and judicial protection of the financial interests against fraud by promoting comparative law analysis. | | | | | | | | | | | | | | | | | | |
| Action 1: Scientific studies | | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 0.300 | | 2.100 | |
| Output 1: Comparative law studies | | | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 7 | 0.350 |
| Output 2: Conferences and seminars in the field of the protection of financial interests | | 0.050 | 4 | 0.200 | 4 | 0.200 | 4 | 0.200 | 4 | 0.200 | 4 | 0.200 | 4 | 0.200 | 4 | 0.200 | 28 | 1.400 |
| Output 3: Annual meeting of the chairmen of the Associations of European lawyers | | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 1 | 0.050 | 7 | 0.350 |
| TOTAL COST | | | 14,800 | | 15,100 | | 15,400 | | 15,700 | | 16,000 | | 16,300 | | 16,700 | | 110,000 – | |

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

| | Year 2014 ¹⁷ | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL |
|--|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-------|
|--|-------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-------|

| | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------|--------------|
| HEADING 5 of the multiannual financial framework | | | | | | | | |
| Human resources | 1.842 | 1.842 | 1.842 | 1.842 | 1.842 | 1.842 | 1.842 | 12.894 |
| Other administrative expenditure | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.350 |
| Subtotal HEADING 5 of the multiannual financial framework | | | | | | | | |

| | | | | | | | | |
|--|--|--|--|--|--|--|--|--|
| Outside HEADING 5¹⁸ of the multiannual financial framework | | | | | | | | |
| Human resources | | | | | | | | |
| Other expenditure of an administrative nature | | | | | | | | |
| Subtotal outside HEADING 5 | | | | | | | | |

¹⁷ Year N is the year in which implementation of the proposal/initiative starts.

¹⁸ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research

| | | | | | | | | |
|---|--|--|--|--|--|--|--|--|
| of the multiannual financial framework | | | | | | | | |
|---|--|--|--|--|--|--|--|--|

| | | | | | | | | |
|--------------|-------|-------|-------|-------|-------|-------|-------|---------------|
| TOTAL | 1.892 | 1.892 | 1.892 | 1.892 | 1.892 | 1.892 | 1.892 | 13.244 |
|--------------|-------|-------|-------|-------|-------|-------|-------|---------------|

3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units)

| | Year 2014 | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 |
|--|---------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| • Establishment plan posts (officials and temporary agents) | | | | | | | |
| 24 01 06 –A3 01 01 (Headquarters and Commission's Representation Offices) | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 |
| XX 01 01 02 (Delegations) | | | | | | | |
| XX 01 05 01 (Indirect research) | | | | | | | |
| 10 01 05 01 (Direct research) | | | | | | | |
| • External personnel (in Full Time Equivalent unit: FTE)¹⁹ | | | | | | | |
| XX 01 02 01 (CA, INT, SNE from the "global envelope") | | | | | | | |
| XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations) | | | | | | | |
| XX 01 04 yy²⁰ | - at Headquarters ²¹ | | | | | | |
| | - in delegations | | | | | | |
| XX 01 05 02 (CA, INT, SNE - Indirect research) | | | | | | | |
| 10 01 05 02 (CA, INT, SNE - Direct research) | | | | | | | |
| Other budget lines (specify) | | | | | | | |
| TOTAL | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 | 14,5 |

XX is the policy area or budget title concerned.

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

Description of tasks to be carried out:

| | |
|--------------------------------|---|
| Officials and temporary agents | 14,5 officials (5,5 AD and 9 AST) 14,5 officials x 127.000€ = 1,842Mio |
|--------------------------------|---|

¹⁹ CA= Contract Agent; INT= agency staff ("*Intérimaire*"); JED= "*Jeune Expert en Délégation*" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

²⁰ Under the ceiling for external personnel from operational appropriations (former "BA" lines)

²¹ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

| | |
|--------------------|--|
| External personnel | |
|--------------------|--|

3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the 2014-2020 multiannual financial framework as proposed by Communication COM (2011)500.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework²².

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties
- The proposal/initiative provides for the co-financing estimated below:

3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
 - on own resources
 - on miscellaneous revenue

EUR million (to 3 decimal places)

| Budget revenue line: | Appropriations available for the ongoing budget year | Impact of the proposal/initiative ²³ | | | | | ... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6) | | |
|----------------------|--|---|----------|----------|----------|--|--|--|--|
| | | Year N | Year N+1 | Year N+2 | Year N+3 | | | | |
| Article | | | | | | | | | |

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

²² See points 19 and 24 of the Interinstitutional Agreement.

²³ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.

Specify the method for calculating the impact on revenue.

ANNEX to
the LEGISLATIVE FINANCIAL STATEMENT

Name of the proposal/initiative:

Proposal for a regulation OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the Hercule III programme to promote activities in the field of the protection of the European Union's financial interests

- (1) NUMBER and COST of HUMAN RESOURCES CONSIDERED NECESSARY
- (2) COST of OTHER EXPENDITURE of an ADMINISTRATIVE NATURE
- (3) METHODS used for the CALCULATION of COSTS

Relating to human resources

- (1) Relating to other administrative expenditure

This annex will accompany the legislative financial statement during the inter-services consultation.

The tables included in the present serve to fill in the tables in the legislative financial statement.

The present annex is an internal document to be kept within Commission services.

(1) Number and cost of human resources considered necessary

X The proposal/initiative requires the use of human resources, described as follows:

EUR million (to 3 decimal places)

| HEADING 5 of the multiannual financial framework | Year 2014 | | Year 2015 | | Year 2016 | | Year 2017 | | Year 2018 | | Year 2019 | | Year 2020 | | TOTAL | | |
|--|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-------|----------------|--------------|
| | FTE | Appropriations | FTE | Appropriations | |
| • Establishment Plan Posts (officials and temporary agents) | | | | | | | | | | | | | | | | | |
| 24 01 06 – A3 01 01 (at headquarters and in Commission representation offices in Member States) | AD | 5,5 | 0.699 | 5,5 | 0.699 | 5,5 | 0.699 | 5,5 | 0.699 | 5,5 | 0.699 | 5,5 | 0.699 | 5,5 | 0.699 | 38.5 | 4.893 |
| | AST | 9 | 1.143 | 9 | 1.143 | 9 | 1.143 | 9 | 1.143 | 9 | 1.143 | 9 | 1.143 | 9 | 1.143 | 63 | 8.000 |
| XX 01 01 02 (in delegations) | AD | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. |
| | AST | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. |
| • External personnel²⁴ | | | | | | | | | | | | | | | | | |
| 24 01 06 00 (the global envelop) | CA | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. |
| | INT | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. |
| | TA | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. |

²⁴ CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

| | | | | | | | | | | | | | | | | | | | |
|---|-----|-------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|-------------|--------------|--------------|---------------|
| | SNE | p.m. | p.m. | | |
| XX 01 02 02 (in delegations) | CA | p.m. | p.m. | | |
| | INT | p.m. | p.m. | | |
| | JED | p.m. | p.m. | | |
| | LA | p.m. | p.m. | | |
| | SNE | p.m. | p.m. | | |
| Other budget line (please specify) | | | | | | | | | | | | | | | | | | | |
| Sub-total – HEADING 5 of the multiannual financial framework | | 14.5 | 1.842 | 101.5 | 12.894 |

24 is the policy area or budget title concerned

| Outside HEADING 5 of the multiannual financial framework | Year 2014 | | Year 2015 | | Year 2016 | | Year 2017 | | Year 2018 | | Year 2019 | | Year 2020 | | TOTAL | |
|--|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-------|----------------|
| | FTE | Appropriations | FTE | Appropriations |
| • Establishment Plan Posts (officials and temporary agents) | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | |
|---------------------------------------|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| XX 01 05 01 (indirect Research) | AD | p.m. |
| | AST | p.m. |
| 10 01 05 01 (direct Research) | AD | p.m. |
| | AST | p.m. |

• External personnel²⁵

| | | | | | | | | | | | | | | | | | | |
|--|------------------------|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| XX 01 04 yy Appropriations for external personnel authorised on former "BA" lines | At headquarte rs | CA | p.m. | |
| | | INT | p.m. |
| | | SNE | p.m. |
| | In delegation s | CA | p.m. |
| | | INT | p.m. |
| | | JED | p.m. |
| | | LA | p.m. |

²⁵ CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

| | | | | | | | | | | | | | | | | | | |
|--|--|---------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| | | SN E | p.m. |
| XX 01 05 02 (Indirect research) | | CA | p.m. |
| | | IN T | p.m. |
| | | SN E | p.m. |
| 10 01 05 02 (Direct research) | | CA | p.m. |
| | | IN T | p.m. |
| Sub-total – Outside HEADING 5 of the multiannual financial framework | | | p.m. |

EUR million (to 3 decimal places)

| | Year 2014 | | Year 2015 | | Year 2016 | | Year 2017 | | Year 2018 | | Year 2019 | | Year 2020 | | TOTAL | |
|--|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-----------|----------------|-------|----------------|
| | FTE | Appropriations | FTE | Appropriations |
| TOTAL HEADING 5 and Outside HEADING 5 of the multiannual | 14.5 | 1.842 | 14.5 | 1.842 | 14.5 | 1.842 | 14.5 | 1.842 | 14.5 | 1.842 | 14.5 | 1.842 | 14.5 | 1.842 | 101.5 | 12.894 |

| | | | | | | | | | | | | | | | | | | |
|---------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| financial framework | | | | | | | | | | | | | | | | | | |
|---------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

The human resources required will be met by the allocations already assigned to management of the action and/or to be redeployed, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of existing budgetary constraints

Cost of other expenditure of an administrative nature

X The proposal/initiative requires the use of appropriations of an administrative nature, described as follows:

EUR million (to 3 decimal places)

| | Year 2014 | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| HEADING 5 of the multiannual financial framework | | | | | | | | |
| <u>At headquarters:</u> | | | | | | | | |
| 24 01 06 00 A3 01 02 11 - Missions and representation costs | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.050 | 0.350 |
| 24 01 06 00 - Conferences and meetings | p.m. |
| 24 01 06 00 - Meetings of Committees ²⁶ | p.m. |
| 24 01 06 00 - Studies and consultations | p.m. |
| 24 01 06 00 - Management & information IT systems | p.m. |
| 24 01 06 00 - Further training | p.m. |

²⁶ Specify the type of committee and the group concerned.

| | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 24 01 06 00 - Equipment and furniture | p.m. |
| 24 01 06 00 04 - Services & other operating expenditure | p.m. |
| <u>In delegations:</u> | | | | | | | | |
| 24 01 06 00 - Missions, conferences and representation costs | p.m. |
| 24 01 06 00 - Further training of staff | p.m. |
| 24 01 06 00 - Acquisition, renting and related expenditure | p.m. |
| 24 01 06 00 - Equipment, furniture, supplies and services | p.m. |
| Sub-total HEADING 5 of the multiannual financial framework | 0.050 | 0.350 |

24 is the policy area or budget title concerned

EUR million (to 3 decimal places)

| | Year 2014 | Year 2015 | Year 2016 | Year 2017 | Year 2018 | Year 2019 | Year 2020 | TOTAL |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------|
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------|

| Outside HEADING 5 of the multiannual financial framework | | | | | | | | |
|--|------|------|------|------|------|------|------|------|
| 24 01 06 - Administrative and technical assistance (<u>excluded</u> external personnel), financed by operational appropriations (former "BA" lines) | p.m. |
| - at Headquarters | p.m. |
| - in delegations | p.m. |
| 24 01 06 00- other management expenditure for indirect research | p.m. |
| 24 01 06 00 - other management expenditure for direct research | p.m. |
| Sub-total Outside HEADING 5 of the multiannual financial framework | p.m. |

24 is the policy area or budget title concerned

| | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| TOTAL HEADING 5 and Outside HEADING 5 of the multiannual financial framework | 0.050 | 0.350 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|

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

- (1) Methods of calculation used to estimate costs

Relating to human resources

Give details of the method of calculation used for each category of staff (assumptions, average costs, etc.)

HEADING 5 of the multiannual financial framework

Reminder: Average costs for each category of staff are available on the BudgWeb site:

http://www.cc.cec/budg/pre/legalbasis/pre-040-020_preparation_en.html#forms

Outside HEADING 5 of the multiannual financial framework

N/A