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DIRECTORATE-GENERAL

TAXATION AND CUSTOMS UNION

Security, Safety, Trade Facilitation, Rules of Origin & International Cooperation

Protection of citizens and enforcement of IPR

## Summary report on the outcome of the

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# *Public Consultation on the review of Regulation (EC) Nr. 1889/2005 on controls of cash entering or leaving the Community*

This report presents an overview of the public consultation on the review of the Cash Controls Regulation which took place between Feb. 28 and June 1, 2015. It provides a summary of the background, methodology, questions asked and answers received to the online consultation document.

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## Executive Summary

Regulation 1889/2005 on controls of cash entering or leaving the Community implements the Financial Action Task Force's (FATF) recommendation 32 on cash couriers. It came into force in 2007 and imposes an obligation for natural persons carrying cash equal to or in excess of 10 000 EUR or other currencies to file a declaration with competent authorities upon arriving from / departing to a third country.

In 2010, the Commission reported to the European Parliament and the Council on the functioning of the regulation. From this report and feedback received from national experts it followed that, while the regulation overall meets its objectives a number of areas seemed to exist where potential for improvement was seen.

This document presents the outcome of a public consultation which was held to allow stakeholders (natural persons, interest associations, companies and public authorities) to express their views on major policy options in key areas which the Commission identified as being susceptible to improvement as well as to collect input on policy options not at this point considered but which stakeholders judge relevant. A total of 35 valid responses, most of them from natural persons were received and analysed. While the consultation is subject to a number of limitations and the outcome cannot be deemed to accurately represent public opinion, the Commission nevertheless feels important input has been gained in the following main policy areas:

- **Cash in post and freight:** These movements are currently captured via the standard customs declaration which contains less information than what is contained in a cash declaration. A large majority of respondents favour taking further steps, either through an additional declaration or via a disclosure system.
- **Detaining cash amounts below the declaration threshold:** A majority of respondents are of the opinion that competent authorities should be able to temporarily detain cash amounts below 10 000 EUR if there are indications of illicit activity associated with the movement of the cash.
- **Information exchange:** A majority of respondents are of the opinion that information exchange possibilities concerning declarations between competent authorities of Member States need to be strengthened; a large majority also favour the exchange of declaration data for taxation purposes. Opinions are divided on whether this exchange should extend to all declarations or only to infraction data.
- **Awareness-raising:** A majority of respondents are of the opinion that an explicit reference to public awareness raising should be made in the legislation.
- **Enlarging the definition of 'cash':** A small majority of respondents favour not modifying the definition of cash to also include gold, precious stones etc. The main arguments supporting this position are staying in line with international standards and the difficulty in clearly delineating what should be covered by an expanded definition.
- **Harmonising administrative penalties for non-declaration:** There is no majority in favour of harmonising the various national measures relating to penalties in case of false or non-declaration.

## 1. Introduction

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Regulation 1889/2005 on the controls of cash entering and leaving the Community came into force in 2007. It is part of the existing Anti Money Laundering and Counter Terrorism Finance legal framework and implements FATF <sup>1</sup> recommendation 32 on cash couriers. It imposes, inter alia, an obligation for physical persons entering or leaving the European Union who carry cash or cash-equivalents of 10 000 Euro or more to file a declaration with customs or other competent authorities. It enables competent authorities to temporarily hold the cash in case of non-declaration or incorrect declaration pending further investigation and possible confiscation/forfeiture after judiciary intervention. It provides for the possibility of sharing information with competent authorities in other Member States, with the Commission or with third countries under certain circumstances. Finally, the Regulation imposes Member States to provide for penalties in case of non-declaration, even if after investigation there are no indications of illicit activity. Regulation 1889/2005 does not apply to natural persons carrying cash or cash equivalents between two Member States.

Pursuant to Article 10 of Regulation 1889/2005, the Commission submitted a report to the Council and the European Parliament on the application of the Regulation in 2010. The report concluded that, generally, the Regulation is meeting its objective and adequately transposes FATF recommendation 32 into EU law. However, possible improvements in several areas were mentioned.

Discussions with Member State experts in cash controls on the implementation of the Regulation as well as international developments lead the Commission to believe that there may be a scope for improving the Regulation.

The Commission initiated a public consultation to receive the views of stakeholders on the possible action to be taken to address the identified gaps.

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<sup>1</sup> The Financial Action Task Force (FATF) is an inter-governmental body setting standards by means of recommendations for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

## **2. Scope of the consultation**

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### **2.1 Aspects on which stakeholder input is sought**

Based on the 2010 Commission report to the European Parliament and the Council, feedback from national experts and recent analysis of the implementation of Regulation 1889/2005, the following key aspects were identified as requiring stakeholder input:

1. Cash shipped in post and freight shipments
2. Exchange of cash declaration information between competent authorities
3. Use of cash declaration data for taxation purposes
4. Allowing authorities to act upon and detain amounts lower than the ordinary declaration threshold in case of suspicious circumstances
5. Awareness-raising of the public
6. Enlarging the definition of "cash"
7. Harmonisation of administrative penalties

### **2.2 Identification of stakeholders**

From the available information, which includes statistical data regarding declarations filed and infractions recorded, the most concerned stakeholders are:

1. Private persons carrying cash on their person, in their luggage or conveyance or shipping/receiving shipped cash
2. Companies or entities involved in shipping cash (courier companies, financial institutions, shipping companies, the official mail services)
3. Professional associations and interest representatives
4. Public authorities

### **2.3 Selection of the consultation instrument**

Considering the wide range of stakeholders and the technical nature of certain questions, it was decided to develop an open public consultation based on the "EU Survey" template which was going to be available via the internet after publication via "My Voice in Europe" and could be completed by any interested party.

## 3. The consultation

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### 3.1 Concept

The consultation was conceived as a multi-page document where an introduction was given about the subject, information was provided about the consultation itself as well as background documents (links to legislation and international standards).

Subsequently, there were sections on

1. Identification of the respondents (stakeholder category, personal data, authorisation to seek contact and/or publish the contribution etc.),
2. Questions regarding the subject matter for which input was sought,
3. A final section where any opinion on any subject not addressed in the previous questions could be expressed by the respondents.

### 3.2 Question methodology

After a brief introduction to the topic, the questions were asked in a "closed/multiple choice" format with the choices corresponding to the major policy options under consideration. Where relevant, an option corresponding to a baseline scenario (no change vs. current situation) was proposed. Providing an answer to each question except for the accessory questions and the final question requesting any additional information judged relevant by the respondent was mandatory and checked via input validation. In order not to restrict answers to policy alternatives that were being considered by the Commission, and not to overburden respondents who did not want to answer all questions, the following provisions were made:

- It was possible to select a "No opinion / don't know" option for each question.
- After each question, an optionally-fillable free text field asked "Please tell us WHY you selected this option"; it was explained to contributors that knowing the reasoning behind their choice would facilitate understanding and interpretation of the results.
- With each question an option was provided where the respondent could select "Other" as answer and formulate an own contribution in a free text field (unrestricted length).
- Certain main questions were of a highly technical nature. In order not to overburden respondents, follow-up questions to these were only shown if a respondent provided any other answer than "No opinion/don't know" or "No".
- A final question at the conclusion of the survey invited respondents to provide any remarks on topics that were not previously addressed in the survey but which they considered relevant for the review process.

### 3.3 Consultation methodology

The open public consultation was developed using the "EU Survey" template and published on the "My voice in Europe" webpage in three language versions in order to ensure a good public reach/expenditure ratio: English, French, German.

An introduction to the publication in the same three languages on the Commission/DG TAXUD webpage was also published, with a direct link to the online consultation document.

Additional publicity measures:

- Publication on "My voice in Europe" triggers an automatic alert to any registered entity, more specifically the interest representatives. Moreover, the consultation is visible to the public via the "My voice in Europe" webpage.
- The Commission sent out a Twitter message regarding the publication of the consultation.
- Web search engine providers were notified about the consultation. A Google/Bing search on "cash controls consultation" and related queries resulted in a list of search results with the consultation survey on number one.
- The consultation was announced to meetings of the "Cash Controls Experts Group", the "EU FIU's Platform meeting" and the "Risk Analysis Experts Group" accompanied by an invitation to provide input either in a private capacity or as public authority.

### 3.4 Timeframe

The consultation ran from 28 February 2015 until and including 31 May 2015, for a total of 14 weeks.

### 3.5 Limitations

Any public consultation is subject to a number of limitations, some inherent to the process, others to the methodology chosen. Some of these limitations as they pertain to this consultation are:

- The results of this public consultation cannot in any way be interpreted as correctly representing the overall public opinion. Representativeness cannot be achieved without rigorous definition of the queried group, both qualitatively and quantitatively. Achieving these objectives through an open public survey is not possible.
- The language selection aimed at reaching as wide an audience as possible while keeping costs under control. This measure however excludes a significant number of potential contributors.
- The format of an internet survey precludes the participation by persons who do not have access to the internet.
- Potential for manipulation: in order to prevent attempts to steer answers in a certain direction, measures such as the use of "Captcha" technology were taken to prevent automatic form submission.



Despite these limitations, the concept allowed to reach a substantial part of the population and gain valuable insights into the opinions of the respondents.

## 4. Consultation results

### 4.1 Number of contributions received

In total, 34 contributions were received via the online application. In addition, 3 contributions were received via e-mail sent to the functional mailbox associated with the consultation. The 3 contributors agreed that their contributions be encoded so as to allow analysis.

A total of 2 contributions were eliminated from consideration, one due to the nature of the responses (the term "test" filled into each field, no contact name or address given) and one consisting of a reply which was saved as "draft" but not submitted and for which the contact person did not reply to an e-mail asking him to formally submit the draft document or explicitly allowing the Commission to do so on his behalf.

### 4.2 The respondents

Are you responding as		Answers	Ratio
An individual citizen		27	77.14 %
A private company		0	0.00 %
A public authority		5	14.29 %
An interest representative (association or professional organisation)		3	8.57 %

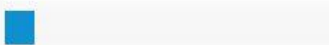
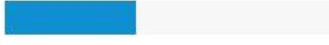
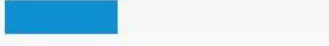
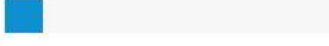

The majority of respondents indicated that they were responding as individuals. The number of contributions from public authorities (3 Member States, 2 local public authorities) was rather limited, as was participation from the private sector. Two out of three interest representatives were registered as such and provided their identification number.

Finally, although 94 % of respondents (n=33) agreed to the publication of their contribution, only 45 % (n=15) consented to the publication of their name and personal data.

### 4.3 The questions and answers provided

An overview is provided below of the questions asked in the consultation document, followed by the answers per policy option. Where "other" was selected or additional comments were made, these are mentioned explicitly.

### 4.3.1 Question 1

Question : Which option do you consider most appropriate for treating cash amounts greater than or equal to 10 000 Euro shipped in post/courier/freight?			
		Answers	Ratio
<b>Option A:</b> Do not change the present regulatory framework and continue to apply the regular customs declaration system to cash in post/courier/freight shipments.		3	8.57 %
<b>Option B:</b> Apply the standard customs declaration system with the additional possibility for the competent authorities to request the sender or recipient of the cash to disclose information related to that cash.		14	40 %
<b>Option C:</b> Make the filing of a cash declaration ( <u>separate and in addition to the customs declaration</u> ) mandatory for any cash amounts greater than or equal to 10 000 Euro entering or leaving the EU.		12	34.29 %
<b>Option D:</b> As option C but with a declaration exemption for shipments of cash from one registered financial institution (e.g. a bank) to another as well as for companies acting strictly as a transporter of cash between financial institutions.		4	11.43 %
<b>Other</b> (please specify)		0	0 %
<b>Don't know / No opinion</b>		2	5.71 %

40% of respondents favour an approach where the competent authorities would have the right to request additional information from the sender in case cash is sent through mail/courier company/in freight.

In addition, 34.29 % are in favour of a system where a mandatory cash declaration would have to be filed in addition to the regular customs declaration, thereby imposing an extra administrative burden. An additional 11.43 % of respondents are in favour of filing a mandatory extra declaration but would mitigate the administrative burden by providing for an exemption for financial institutions as well as for companies acting strictly as a transporter of cash.

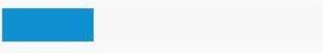

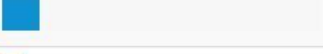

In the "Why did you provide this answer?" field associated with this question, representative remarks were:

- "There really is no good reason for transfer of large cash amounts in the 21<sup>st</sup> century."
- Choices for option B (disclosure obligation) or option D (additional declaration with exemptions for financial institutions and transporters) were mainly motivated by respondents acknowledging that additional controls are in their opinion required but no extra administrative burden should be imposed ("Good balance between adequate control and limitation of paperwork").

- Some respondents who opted for option "C" (mandatory extra declaration in addition to the customs declaration) motivated their choice by pointing out that the customs declaration itself does not contain all pertinent information and that filing an additional declaration was an acceptable burden ("A separate declaration would make things more simple and clearer.").

It should be noted that only 8.5 % of respondents favoured maintaining the status quo (Option A: only obligation to declare by natural persons carrying 10 000 EUR or more).

### 4.3.2 Question 2

Question : Should a standardized written declaration form be used in all Member States?			
		Answers	Ratio
Yes, on a voluntary basis, as it happens presently		10	28.57 %
Yes, but with the format of the declaration specified in legislation		19	54.29 %
Other (please explain below)		4	11.43 %
Don't know / No opinion		2	5.71 %






An absolute majority (54.29 %, n=19) of respondents are in favour of using a standardised form, the format of which should be specified in the legislation. Another 28.57 % of respondents are in favour of maintaining the present system, where the large majority of Member States use the same form (which can be modified to reflect national elements) but without there being binding legislation to do so.

In the "Why did you provide this answer" field associated with this question, some representative remarks were:

- "One same approach in all countries is better".
- "1 EU, 1 form".
- "If the present system works there is no need to impose it by law."
- A remark made by a couple of contributors was that Member States should have the option of customising the form to take into account additional information regarding domestic cash controls or national legislation.

### 4.3.3 Question 3

Question : Regarding the sharing of information between Member States, would you be in favor of:

		Answers	Ratio
<b>Option A:</b> Maintain the sharing of information regarding declarations filed and infractions detected at the level presently foreseen in Regulation 1889/2005: only in case there are indications of illicit activity AND with the information sharing being optional.		4	11.43 %
<b>Option B:</b> Make the sharing of information regarding infractions mandatory between Member States via legislation but keep the sharing of regular declaration data optional.		12	34.29 %
<b>Option C:</b> Make the sharing of information regarding infractions and regular declarations between Member States mandatory via legislation.		13	37.14 %
<b>Other</b> (Please specify below)		5	14.29 %
<b>Don't know / No opinion</b>		1	2.86 %

Compared to the baseline scenario in current legislation (A), which obtained support from 11.43 % (n=4) of respondents, there seems to be a clear majority of 72.28 % (n=25) respondents in favour of increasing the sharing of information regarding declarations or infractions between Member States.

The opinion is almost evenly split between respondents who want to make the sharing of all declaration data mandatory via legislation and respondents who only want to impose the sharing of information about infractions.

In the "why did you select this answer" field associated with this question, some remarks were:

- "I cannot believe this was not yet possible, with the IT systems that exist".
- "There is one legal basis; it makes sense that all information is shared."
- "Respect the privacy of declarants who follow the law".
- "This is the only effective way to ensure transparency and tackle fraud".

#### 4.3.4 Question 4

**Question :** In your opinion, should competent authorities of Member States be empowered to temporarily detain cash amounts below the threshold of 10 000 Euro if there are indications that illegal activities are associated with the movement of the cash?

		Answers	Ratio
Yes		26	74.29 %
No		8	22.86 %
Don't know / No opinion		1	2.86 %

A clear absolute majority of 74.29 % (n=26) of respondents are of the opinion that, in cases where authorities have indications of illicit activities associated with the cash in question or with the movement, they should be empowered to temporarily detain the cash in question even in case the amount is lower than the threshold value.

However, it should be noted that many of those respondents further elaborated upon their opinion with the qualification that the temporary detention should under no circumstances be arbitrary and that some guidelines need to be laid down in order to better describe what type of element can be considered as indicative of illegal activity.

Additionally, some other elements which were mentioned in the comments to the question are:

- "To prevent circumvention of the rule. It should however be clear that the indications have to be sufficiently clear and objective".
- "This already exists in the UK under national legislation and works very well."
- "Indications of illegal activities" is too low a bar. In extremis this could lead to a pensioner's purse being emptied simply on the basis of a vague 'suspicion'".

#### 4.3.5 Question 5

**Question:** Would you consider it useful to facilitate the exchange of information on cash controls for tax purposes (administration and enforcement of domestic laws of the Member States concerning taxes)?

		Answers	Ratio
Yes		30	85.71 %
No		3	8.57 %
No opinion / Don't know		2	5.71 %

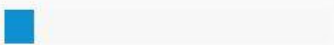

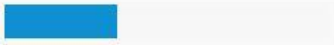
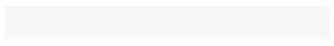
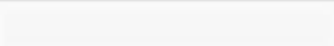
A large majority of 85.71 % (n=30) of respondents are favouring facilitating the exchange of cash control information between Member States and between various authorities within one Member State, for tax purposes.

Additionally, some other elements which were mentioned in the comments to the question are:

- "Because there are more tax dodgers than terrorists but they also undermine society".
- "Fight against tax fraud should be a priority in Europe."
- "Not at this level (10 000 EUR), risk of divergent and discriminatory treatment among Member States".
- "Too high administrative burden"

#### 4.3.6 Follow-up question to question 5

**Important remark:** The following question was shown only in case any other answer than "No opinion/don't know" or "No" was provided to question 5. The percentages mentioned are relative to the original group who answered question 5, hence do not add up to 100 %.


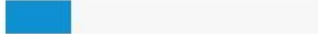



Question : As you replied 'Yes' to the previous question, in your opinion, which are the modalities according to which Member States' tax authorities should be granted access to cash declaration / infraction data for tax purposes, including the fight against tax fraud and tax evasion?			
		Answers	Ratio
<b>Option A:</b> Maintain the sharing of information regarding declarations filed and infractions detected at the level presently foreseen: it is up to Member States to designate competent authorities under Regulation 1889/2005 and to determine which authorities gain access to the declaration data.		3	8.57 %
<b>Option B:</b> Make the sharing of information regarding infractions between Member States' competent authorities and tax authorities mandatory via legislation but keep the sharing of regular declaration data optional.		15	42.86 %
<b>Option C:</b> Make the sharing of information regarding infractions and regular declarations mandatory via legislation.		12	34.29 %
<b>Other</b> (please explain)		0	0 %
<b>Don't know / No opinion</b>		0	0 %

A small minority of respondents favour maintaining the present status quo, where the sharing of information of declaration data for tax purposes should be left to national legislation.

Of the approximately 77 % (n=27) of respondents (options B+C) who are in favour of further steps to facilitate the exchange of declaration data for taxation purposes in the Member State in question or between Member States, opinions are almost split (42.86 % vs 34.29 %) on whether all available information (declarations + infractions) should mandatorily be shared or if the mandatory sharing of information should be restricted to data regarding infractions, with the sharing of regular declaration data being determined by national legislation.

Considered in combination with the answers provided to the previous question, there does seem to be a clear will to further facilitate and develop the sharing of declaration or infraction data for taxation purposes.

#### 4.3.7 Question 6

Question: In your opinion, should an explicit reference to awareness-raising of the public be made in the legislation?			
		Answers	Ratio
No, the current framework suffices		5	14.29 %
Yes, as a recommendation to Member States		7	20 %
Yes, as an obligation to Member States		20	57.14 %
Other (please explain)		1	2.86 %
Don't know / No opinion		2	5.71 %

An absolute majority of 57.14 % (n=20) of respondents supports a policy option where it would be made mandatory for Member States to inform the public about the duty to declare cash movements. An additional 20 % (n=7) considers that an explicit reference should be made about awareness-raising in the legislation by means of a recommendation to the Member States, not an obligation. Maintaining the current framework, where no mention about awareness-raising is made in the legislation, is supported by 14.29 % (n=5) of respondents.


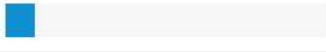
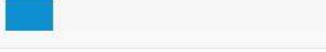
Additionally, some other elements which were mentioned in the comments to the answer given are:

- "Because a law is obeyed if it is known and then there is no excuse about ignorance."
- "People have to respect the law but they need to know it first"
- "Unnecessary additional expenditure should be avoided. The issue is currently well understood by travellers"
- "Ignorance can never be a defence but people have to explicitly be made aware of their duty to declare."

### 4.3.8 Follow-up question to question 6

**Important remark:** The following question was shown only in case any other answer than "No opinion/don't know" or "No" was provided to question 6. The percentages mentioned are relative to the original group who answered question 6, hence do not add up to 100 %.

Question: Should any publicity / awareness raising campaigns be harmonized so as to present the same 'look and feel' to travelers, irrespective of the Member State through which they enter or leave the EU?

		Answers	Ratio
Yes		20	57.14 %
No		3	8.57 %
Don't know / No opinion		5	14.29 %

An absolute majority of respondents are in favour of a harmonised approach across Member States. Arguments offered in support mostly revolved around the idea that, as the legislation is harmonised in the EU, campaigns for awareness-raising should also be harmonised. Respondents were of the opinion that this would improve citizens' comprehension and recognition of the information, regardless of the Member State of entry or exit.

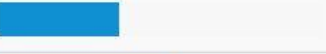

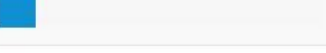
The respondents who answered negatively were of the opinion that Member States should be free to determine the way in which this is achieved.

Optionally, respondents were offered the possibility to explain how such harmonized campaigns could in their opinion best be realised. Some answers provided were:

- "Ads in airports, on the internet, folders, information provided by plane/boat operators..."
- "It could be achieved via an international graphic design contest."
- "By delegating responsibility for those campaigns to the EC - surely Commission is capable of running one campaign"
- "By internet ads on travel sites, ads on airplanes/ships. In airport."

### 4.3.9 Question 7

Question: Would you consider it useful to expand the definition of 'cash'?

		Answers	Ratio
Yes		13	37.14 %
No		18	51.43 %
Don't know / No opinion		4	11.43 %



The consultation document explains that the existing definition of "cash" under Regulation 1889/2005 follows the international standards. However, it is not inconceivable that criminal groups could attempt to escape the obligation to declare by converting cash into other goods that can easily be carried but do not have to be declared via a cash declaration (though they might be subject to a normal customs declaration).

From the answer it seems that an absolute majority of respondents favour not modifying the definition (51.43 %, n=18), a large minority of 37.14 % (n=13) is in favour of expanding the definition.

Additionally, some other elements which were mentioned in the comments to the question are:

- "The definition of "cash" should stick to international standards"
- "Enlarging the definition is easy, but where does one stop? What to include, what not to include?"
- "It would be best to keep this in line with international standards."
- "Yes, the definition should be enlarged, but only if this can happen on international level".

The respondents who answered "Yes" to the question concerning expanding the definition of cash were asked an additional question: "Please explain briefly why you answered "YES" and tell us which elements (which goods, commodities etc.) should, in your opinion, be included in the new definition".

Answers to this optional question include:

- "Only legally-obtained traveller cheques and bank drafts should be eliminated. By that I mean elements which can be proved as having been obtained through legal means."(sic).
- "It is difficult to adequately define but all high value and liquid assets should be included so certainly gold and jewels should be included".
- In past, the Czech AML [anti-money laundering] legislation included obligation to declare commodities of high value, such as precious metals or stones, in the value of EUR 10,000 or higher. Based on recommendation of the European Commission that such items are covered by customs legislation, we have changed national legislation and repealed the provisions concerning obligation to declare commodities of high value, such as precious metals or stones. Movement of mentioned goods cross borders of EU is monitored by customs declarations.

#### 4.3.10 Question 8

Question: In your opinion, should a regulatory review address this issue with the intention of establishing greater harmonization of penalties applied by Member States?			
		Answers	Ratio
Yes		17	48.57 %
No		9	25.71 %
Don't know / No opinion		9	25.71 %

There is no absolute majority in favour of establishing harmonised penalties for the failure to declare. It was explicitly mentioned in the questionnaire that these penalties would be intended to deal with the failure to declare only and have no relation with the licit or illicit origin or destination of the cash.

Nevertheless, the largest group of respondents (48.57 %, n=17) is favouring an initiative to harmonise the sanction regime to some extent, with a minority of 25.71 % (n=9) being opposed to harmonisation initiatives and an equal group holding no strong opinion on the matter.

In the "Why did you select this answer" field associated with this question, some remarks were:

- "Member states should not have their independence compromised in this area."
- "A harmonising would lead to an equal procedure in EU, but I think it's up to the MS national legislation."
- "National competence of the individual states"

#### 4.3.11 Follow-up question to question 8

**Important remark:** Answering the following question was optional. It was displayed only in case question 8 was answered with "Yes".

Please explain below how, in your opinion, this could be achieved.

Some answers provided were:

- "At least minimum and maximum sanctions should be provided"
- "Plain level field concerns require an effective harmonisation"(sic)
- "If the same rules apply all over the EU, the penalty (at least for non-declaration) should also be equal"
- "Devise a common set of rules to treat non-declaration and enshrine these in legislation"

From the feedback provided it seems that concerns about equal treatment of persons in the same situation, regardless of the Member State of entry or exit, is the driving force behind the opinion that harmonisation of penalties should be considered.

#### 4.3.12 Question 9

**Question:** Are there any other remarks you would like to make regarding the review process or do you wish to share additional information which might be beneficial to our review process of Regulation 1889/2005? If yes, please specify below.

The question was conceived as an open-ended, facultative text field of unlimited length. Only three responses were received. As the question is intended to cover any aspects not treated by other questions but which were deemed relevant by the contributors, answers are represented in full (translated into English where required). One lengthy contribution dealt largely with intra-Community and national measures concerning cash payments which fall outside the scope of the review and of the questionnaire. It has been substantially reduced for reasons of readability and relevance.

- "Consider a differentiated cash limit. Lower cash limit for bringing cash in (perhaps 5000 Euro), reducing the ability to fund illegal activity within the EU and encouraging greater use of electronic means."
- **Abbreviated and redacted comment:** Respondent remarked that in his sector (purchase and sale of new and second-hand vehicles) in many cases the buyers are African businessmen operating in conditions where the local banking system is neither as transparent nor as performant as in the EU, as a consequence many transactions are paid for in cash, which might cause problems regarding the legislation.
- "France supports the legal recognition of the concept of "community of interests" in EU legislation as far as the obligation to declare is concerned. This notion allows to add up and consider as one amount sums carried by two persons that are linked by kinship or professionally. The notion allows to consider that, once a common interest is established, through kinship (parents with under-age children) or marriage (or legal partnership), the threshold of 10 000 EUR be applied to the community and not to each individual considered separately. When they travel together, spouses would then be individually obliged to declare sums carried that are equal to or greater than 10 000 EUR even if each of them carries less than 10 000 EUR. This "common interest" notion would extend to other couples than spouses: employer and employees, employees of the same company travelling together using the same means of transport."

## 5. Annexes and additional information

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- Information regarding this public consultation as published on the webpage of the Commission can be accessed here:  
[http://ec.europa.eu/taxation\\_customs/common/consultations/customs/cash\\_2015\\_02\\_en.htm](http://ec.europa.eu/taxation_customs/common/consultations/customs/cash_2015_02_en.htm). The full consultation document can be accessed as a .pdf-file from the link above, as can the background documents.
- The detailed results of the consultation with individual replies (where permitted by the authors) can be accessed here:  
<https://ec.europa.eu/eusurvey/publication/Taxud-B1-cash-survey>