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**COMMISSION STAFF WORKING DOCUMENT**

**2nd Biennial Report on Progress in Developing the EU Customs Union and its Governance**

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## I. INTRODUCTION

In its 2016 Communication on developing the EU Customs Union and its Governance<sup>1</sup>, the European Commission set out a strategic vision for the Customs Union that would see the EU Member States and the Commission acting in closer partnership in order to ensure that the Customs Union makes the best possible contribution to EU prosperity and security.

While the implementation of the Customs Union is the responsibility of the individual Member States' customs administrations, the Commission pointed out in the Communication that the nature of the Customs Union implies interdependence between national administrations. The new framework for customs rules and formalities in the form of the Union Customs Code, that entered into force in 2016, can only operate correctly if there is a level playing field with rules applied in a uniform way by all customs administrations and if the Code's EU wide interoperable electronic systems are completed. Moreover, the Customs Union also requires closer cooperation between customs authorities and other law enforcement authorities operating at the EU's borders, including through interoperability between relevant information systems. There is also a need for a more comprehensive long-term strategy for the development and maintenance of customs electronic systems, particularly given the high costs involved. The Communication identified actions to achieve these goals and committed to submitting a regular biennial report to the Council and Parliament on the progress made with the actions.

In March 2017, the Council of the European Union published conclusions<sup>2</sup> welcoming the Communication and requesting a biennial report on developments in the individual areas mentioned, taking into account the objectives, actions and achievements of the Customs Cooperation Working Party, the respective competencies of the Member States and the Commission and the need for economies of scale and cooperation savings.

The Commission in its First Biennial Report<sup>3</sup> was able to report on progress in many areas linked to a better management of the Customs Union. At the same time, the Report identified issues for priority follow-up action as follows:

1. Managing Brexit
2. Strengthening controls and tackling fraud
3. Greater use of monitoring of EU customs law
4. Improving efficiency of customs administrations
5. Harnessing innovation
6. Optimising customs electronic systems and their use
7. Dealing with the challenges of e-commerce
8. Capitalising on the Customs Union to improve EU security

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<sup>1</sup> COM(2016) 813

<sup>2</sup> <http://data.consilium.europa.eu/doc/document/ST-7585-2017-REV-1/en/pdf>

<sup>3</sup> COM (2018) 524

## 9. Continuing to work on international relations.

The Council welcomed the First Biennial Report<sup>4</sup> and invited the Commission to describe in its next biennial report the developments in these priority areas, again taking into account, as appropriate, the objectives, actions and achievements of the Customs Cooperation Working Party.

The present, Second Biennial Report therefore aims to describe progress achieved in the period from 2018 to early 2020 in the above-mentioned priority areas linked to governance of the Customs Union. This report is published and should be read in conjunction with the Commission Action Plan on taking the Customs Union to the next level. This report therefore looks backward at progress achieved in the period since the publication of the last Biennial Report in mid 2018, leaving future actions in these and other priority areas to be addressed in the Action Plan.

## II. BACKGROUND

The EU Customs Union exists since 1968. It covers all trade in goods and it involves both the free movement of goods within the customs territory<sup>5</sup> and a common customs tariff and a common commercial policy in relations with third countries. As a result, all EU Member States apply the same customs duties to imports from outside the EU and the EU acts through its common commercial policy as one trade bloc in drawing up international trade deals.

The customs union is an area of exclusive EU competence<sup>6</sup>, meaning that the EU alone is able to legislate and adopt binding acts. However, the individual national customs authorities of Member States are responsible for the actual implementation of the Customs Union. Many commentators have criticised a perceived non-uniform application of customs rules by Member States, pointing out that this leads both to problems of unfair competition between Member States and to fraud.

EU customs authorities nowadays have a mission that goes far beyond the traditional task of collecting customs duties, VAT and excise on goods entering the customs territory as they also enforce legislation in the health, environmental, safety, security and many other fields. The responsibilities of customs tend to increase whenever new policy developments require implementation at the EU's borders.

### ***Revenue collection***

<sup>4</sup> <https://data.consilium.europa.eu/doc/document/ST-5650-2019-INIT/en/pdf>

<sup>5</sup> The customs territory of the Union consists of the territories of the Member States of the European Union, except for some territories of Member States that are excluded for historical or geographical reasons, plus the territory of Monaco. Under the terms of the Withdrawal Agreement between the UK and the EU, EU customs law applies to the United Kingdom of Great Britain and Northern Ireland and to the Channel Islands and the Isle of Man until the end of the transition period, and to Northern Ireland after the end of the transition period. The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia, on the island of Cyprus, will continue to be part of the customs territory of the Union by virtue of the Withdrawal Agreement.

<sup>6</sup> Article 3 of the Treaty on the Functioning of the European Union — TFEU

- Across the EU, customs deal each second with 27 items declared for a value of EUR 150 000; they collected duties totalling EUR 26 707 million in 2019<sup>7</sup>.
- In 2018<sup>8</sup>, national customs authorities detected an amount of EUR 584 million of unpaid duties to be returned to the EU budget. The detected amount was EUR 121 million less (20.7%) in 2019.

***Fight against terrorism and organised crime***

- In 2019, the total amount of drugs seized by Customs in the EU amounted to 400 tonnes. Comparing quantities reported by 26 MS during the year 2019 with 2018 (472 tonnes), a decrease of quantity of seizure drugs can be noticed.
- Firearms controls are a crucial part in the EU's anti-money laundering and anti-terrorist finance strategy. In 2019, EU Customs authorities seized a total of 3 699 pieces of firearms, which is a big increase (41%) compared to the previous year (2 621 pieces).
- In 2019, the total number of illegal tobacco and cigarettes seized by Customs was 3.5 billion pieces, presenting a 15.3% decrease compared to 2018 (4.1 billion). But almost equal to the 3.3 billion pieces seized in 2017.
- Cash movements are controlled in order to combat the increasing transnational money laundering and terrorism financing activities that are endangering the security of EU citizens. Customs registered almost 13 104 findings of incorrect cash declarations (11.5% of the total declarations) out of the total of 113 036 cash control declarations filled in 2019. These irregularities represented a value of EUR 330.9 million. This is overall an increase compared to 2018, when 102 561 cash control declarations were filled on which Member States registered almost 12 000 findings of incorrect cash declarations, representing a value of EUR 326 million.

***Protection of intellectual property rights – seizures of counterfeit goods<sup>9</sup>***

- The European Commission released figures that show that the number of interceptions of fake goods being imported into the EU increased in 2018, due to a large amount of small parcels in express and postal traffic. Detention figures for seized consignments jumped from 57 433 in 2017 to 69 354 in 2018, though the total amount of articles detained decreased compared to previous years. Almost 27 million articles that infringed on intellectual property rights (IPR) were detained in 2018 with a street value of nearly EUR 740 million.
- The top categories of detained articles were cigarettes, which accounted for 15% of the overall amount of detained articles. This was followed by toys (14%), packaging material (9%), labels, tags and stickers (9%) and clothing (8%). Products for daily personal use in the home such as body care articles, medicines, toys and electrical household goods accounted for nearly 37% of the total number of detained articles.

Customs authorities must always maintain a proper balance between effective customs controls and facilitation of legitimate trade because trade is vital to the economic prosperity of

<sup>7</sup> Source: Directorate General for Taxation and Customs Union, European Commission – Customs Union Performance Network

<sup>8</sup> Source: Directorate General for Budget, European Commission

<sup>9</sup> Source: Report on the EU customs enforcement of intellectual property rights: Results at the EU border, 2018. [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019-ipr-report.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019-ipr-report.pdf)

the EU. The EU and EU Member States are signatories to the Revised Kyoto Convention<sup>10</sup> which promotes trade facilitation through customs procedures that are simple and trade-friendly while also being efficient. The same objective is set out in the WTO Trade Facilitation Agreement to which the EU is also signatory.

In 2018, the EU's share of world trade (15.2%) increased by almost a quarter of a percentage point compared to 2017. *The latest figures<sup>11</sup> available show that every month the EU 27 export and import goods from and to the rest of the world of a value of about 180 and 150 billion EUR respectively.* The workload of EU customs authorities increased as a result of the increase in EU trade with the rest of the world while numbers of customs staff in the same period, at 89,652 for the EU as a whole, saw a modest decrease compared to 2017 (89,771).

#### ***Managing trade flows across EU borders<sup>12</sup>***

- EU traders today submit almost 100% of customs declarations electronically. The average availability of customs national IT systems in the EU is 99.95% (2019) and shows an increase of 0.4% on 2018 availability rates. This shows that EU Customs authorities continue to operate a fully electronic and interoperable environment.
- The speed of the customs clearance process is quite high. Customs declarations submitted under standard procedure (i.e. where no simplified procedures are availed of) for import are generally released within 1 hour (91.7% in 2019 and 92.2% in 2018). Clearance within 1 hour for export customs declarations submitted under standard procedure decreased to 82% in 2019 (was 91% in 2018).
- In 2019, 1 945 new Authorised Economic Operator (AEO) authorisations were granted, which means that there were 18 400 valid AEO authorisations at the end of the year, following a continuing growing trend. (2018: 17 135 AEO authorisations).
- In 2019, for 79% of items declared to customs (import and export combined) an AEO was involved in the supply chain. This shows an increase compared to the two previous years (75% and 74% respectively).

Customs authorities within the EU Customs Union apply many EU legislative acts, including: the Union Customs Code that is in force since 2016; the Transit Convention; EU legislation concerning product safety, health and environmental standards; Regulation 515/97 to combat customs fraud; and customs cooperation agreements and provisions on customs and trade facilitation in EU trade and partnership agreements with other countries. *See Annex for more information.*

Customs authorities cooperate with each other and exchange best practices through joint actions, seminars, training courses, project groups, working visits, and cross-border

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<sup>10</sup> World Customs Organisation International Convention on the simplification and harmonisation of customs procedures: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:21973A0518\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:21973A0518(01))

<sup>11</sup> Eurostat: <https://ec.europa.eu/eurostat/web/euro-indicators/international-trade>

<sup>12</sup> Source: Directorate General for Taxation and Customs Union, European Commission – Customs Union Performance Network

operations financed by the EU's two customs action programmes (Customs 2020 and Hercule II/III. *See Annex for more details.*

The Customs Union has undergone a number of digital modernisation steps since its creation. Since the late 1990s when a new system for digital handling of customs transit processes was introduced, many more customs electronic systems have been created. A key element of the customs IT workload is the upgrade of some existing electronic systems and the development of some new systems to manage all customs formalities under the Union Customs Code. The deadline for completion of the total of 17 upgraded or new systems is end 2025 at the latest. The electronic systems comprise 14 trans-European systems (some with both EU-wide and national components) and 3 purely national systems. Other electronic systems aim at supporting customs authorities and/or facilitating importers and exporters. *See Annex for more details on all electronic systems referred to in this report.*

### III. PROGRESS WITH PRIORITY AREAS

The Commission in its first Biennial Report pointed out that the Customs Union cannot be static. Markets, trade and technologies are dynamic and the Customs Union must support these developments. In order to do this, Member States' customs administrations must go beyond the work of ensuring better management of the Customs Union (via a better legal framework, working methods, IT systems etc) and consider new strategies, approaches and ways of working, given in particular the pressures of tighter resources and the possibility of greater responsibilities in the future. In that spirit, the Commission put forward a list of priority issues for ongoing customs policy development. Progress in the last two years on those issues is as follows.

#### 1) Managing Brexit

##### a) The Withdrawal Agreement

The United Kingdom (UK) formally notified its intent to withdraw from the European Union on March 29, 2017. Under the procedure outlined in Article 50 of the Treaty on European Union, the UK was originally due to complete its withdrawal from the EU no later than March 29, 2019 (later extended). On this basis, the European Commission conducted a series of technical seminars, assessments, and coordination activities with Member States from 2018 onwards to prepare for a range of scenarios, including:

- a 'No Deal' outcome (withdrawal of the United Kingdom without a withdrawal agreement);
- UK accession to the Common Transit Convention; and
- an "orderly" withdrawal taking place under the provisions set in a withdrawal agreement.

The Commission's taxation and customs services provided technical support in negotiation rounds for a withdrawal agreement with the UK since their start in June 2017.



Following agreement between the two sides in October 2019 on the text of a Withdrawal Agreement, together with the Political Declaration setting the framework of the future EU-UK partnership, and its ratification by the United Kingdom, the European Parliament gave its consent on 29 January 2020. The Council of the European Union adopted the decision to conclude it on 30 January 2020, allowing for its entry into force as of 1 February 2020. Under the Withdrawal Agreement, a transition period will last until 31 December 2020 with the possibility of an extension once for a period of up to 2 years. The UK announced on 12 June 2020 that it would not seek such extension.

The Withdrawal Agreement establishes the terms of the United Kingdom's orderly withdrawal from the EU and consists of two main documents:

- a) The Withdrawal Agreement itself, including a Protocol on Ireland and Northern Ireland, a Protocol relating to the Sovereign Base Areas in Cyprus and a Protocol on Gibraltar<sup>13</sup>;
- b) A Political Declaration<sup>14</sup> setting out the framework for the future relationship between the United Kingdom and the European Union.

#### b) Activities following the conclusion of the Withdrawal Agreement

A considerable amount of work has taken place or is in preparation in relation to the withdrawal of the UK from the Union which will lead to the reintroduction of customs controls and procedures in the trade in goods with the UK after the end of the transition period irrespective of future arrangements agreed between the UK and the EU. This includes the following:

- *The UK accession to the Common Transit Convention* will reduce formalities at borders and significantly facilitate the movement of goods across the United Kingdom (i.e. on the so called land bridge between Ireland and the rest of the EU);
- *Publication of detailed guidance and notices to stakeholders*, covering the different customs, VAT and excise related aspects of a no-deal withdrawal. As there will be an orderly withdrawal at the end of the transition period, guidance and notices to stakeholders for the end of the transition period have been prepared, including the implementation of the Withdrawal Agreement and matters not covered by the Withdrawal Agreement;
- *Further technical seminars with EU 27* on customs, rules of origin, VAT and excise duties;
- *Further meetings with the "G5" group of Member States* most affected by cross Channel traffic (BE, NL, FR, DE and IE);

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<sup>13</sup> [https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement_en)

<sup>14</sup> [https://ec.europa.eu/info/files/political-declaration\\_en](https://ec.europa.eu/info/files/political-declaration_en)

- *A Communication campaign* (dedicated webpage on the Europa website, social media, multipliers, and limited print channel and the commencement of work on nano e-learning modules on the withdrawal) addressed to traders that have not had experience of customs procedures up to now (mainly SMEs only active within the Single Market).
- *Regular contact with the business community*, mainly through the Trade Contact Group, chaired by DG TAXUD and composed of more than 30 trade associations.
- *IT preparation*, which involves a substantial work on the development and testing activities needed for the disconnection of the UK from the customs and tax trans-European IT systems.
- *Preparation of amendments in the Union Customs Code package* (to reflect changes necessary due to the UK withdrawal and the end of the transition period).

Other ongoing work includes the organisation of dedicated meetings with the UK authorities, UKTF, DG TAXUD and other Commission services to take stock of the implementation efforts of the Protocol on Ireland / Northern Ireland on both sides. Further guidance for stakeholders on the implementation of the Protocol on Ireland / Northern Ireland will also be provided, as customs in Northern Ireland will be required to apply the Union customs legislation. In addition, access will be provided to customs in Northern Ireland to the Union's customs electronic systems where such access is strictly necessary for the application of that legislation. Several organisational and practical implementation issues must be resolved in that respect by the end of the transition period.

### c) Negotiations on the future relationship with the UK

The Council of the EU endorsed the negotiating mandate for a partnership agreement with the UK on 25 February 2020 and negotiations with the UK started in March 2020.

The Political Declaration states as objectives an ambitious trade relationship creating a free trade area that is tariff and quota free across all sectors and that is underpinned by provisions ensuring a level playing field. This relationship should facilitate trade and investment between the Parties to the extent possible, while respecting the integrity of the EU's Single Market & Customs Union. However, it should be noted that in any case the future relationship will not eliminate the need to comply with customs formalities in the EU-UK trade.

On customs cooperation, the objective is to facilitate trade in full respect of Parties' legal order and protecting their financial interests. This means in particular, for the EU, the full application of the Union Customs Code.

The Political Declaration and the negotiating mandate mentioned above also refer to provisions on administrative cooperation on customs and VAT matters, mutual assistance including for recovery of duties and taxes, and exchange of information to combat fraud and other illegal activity.

Customs cooperation may also include recognition of trusted traders' programmes ("Authorised Economic Operators"). It should also guarantee proper Intellectual Property Rights border enforcement.

On rules of origin the purpose is to incorporate in the Agreement appropriate and modern rules of origin which ensure that only products with sufficient content from the Parties enjoy the preferences, while putting in place mechanisms of proof and verification that guarantee the effective implementation of said rules of origin.

## **2) Strengthening controls and tackling fraud**

The EU has taken many actions in the past few years to fight fraud in the field of customs:

- **Union Customs Code** The Code that is applicable since 2016 has as a main objective that of better protecting the Union financial resources (own resources). It aims at: i) fraud-proofing (closing loopholes, eliminating inconsistent interpretation and application of rules and providing electronic access for customs authorities to relevant information), ii) ensuring more harmonised and standardised application of customs controls by the Member States, based upon a common risk management framework and an electronic system for its implementation, and iii) ensuring a common system of guarantees. These measures are intended not only to better protect the EU's financial interests and the security and safety of EU citizens but also to prevent anticompetitive behaviour at the various EU entry and exit points. Any shortcomings identified are being addressed via ongoing amendments and updates to the Code.

- **Common risk criteria and standards for financial risks** Customs authorities have since 2005 been performing risk management on the basis of an EU Common Risk Management Framework. This framework includes several actions to support Member States in addressing financial risks in a systematic way. In 2018 the Commission adopted an Implementing Decision establishing common risk criteria and standards for financial risks. At the end of 2019, Member States endorsed the guidance on the implementation of the financial risk criteria aimed at providing a common interpretation of the Decision and its main elements to ensure its correct implementation and avoid divergence of interpretation. The Guidance has been conceived as an instrument that can be regularly revised to take account of the constant evolution of the financial risks to the need to identify and react to new threats and trends. The Commission is providing constant support to the Member States in the implementation of Financial Risks Criteria Decision.

- **E-commerce** Customs is also supporting new VAT rules that are being implemented to prevent fraud and ensure a level playing field for e-commerce (low-value consignments). Relevant customs rules concerning collecting VAT and related information exchange have been adopted and the implementation of processes and IT systems is ongoing. The Commission has also established a project group to tackle undervaluation which is particularly acute in the context of e-commerce – see under the heading of e-commerce below.

- **Customs Procedure 42/63** In addition, customs is supporting efforts on the tax side to fight against fraud. Customs Procedure 42/63 (CP42/63) allows goods to be imported or re-imported into the EU without payment of VAT until the goods reach their final Member State

of destination. CP42 is an important simplification for legitimate business, but there are strong concerns that CP42 is being abused to avoid VAT and underpay duties. In 2018, Council Regulation (EU) No 904/2010 was modified to address this problem. Inter alia it provided for access for customs to the VAT Information Exchange System for validating of VAT numbers of importers performing VAT exempt importations and access for tax administrations to the customs Surveillance electronic system for verification of VAT exempt importations. The Regulation took effect in 2020 and should have an impact on the fraud related to VAT exempt importations both on VAT and customs (undervaluation) side.

### **3) Greater use of monitoring of EU customs law**

Monitoring is essentially one of the tools to support efficient and correct implementation of EU customs law and to identify areas where additional measures and legal adaptations may be needed. Monitoring activities can also help in the achievement of a more complete assessment of how well the EU Customs Union is doing as a whole. Some problems identified via monitoring activities may be better addressed through more cooperative tools, such as capacity building, developing best practices and benchmarking. Others will need a stricter framework or immediate EU action.

Monitoring activities are diverse and they can range from sending out questionnaires to Member States, to identifying best practices, to organising visits to concentrating on capacity building. There is provision for joint monitoring activities under the Customs 2020 programme, which allows for the financing of activities involving cooperation between participating countries, their customs authorities and their officials.

The monitoring activities of the past few years have occurred mainly in the following areas and they are likely to extend to other areas in the future:

#### **a) Monitoring of the use of simplifications**

In November 2019, the Commission's customs services started a monitoring exercise for the implementation of simplifications and the re-assessment of customs authorisations. Experts in simplifications from Member States other than those visited participated in these monitoring visits. In total a representative sample of 10 Member States (AT, FR, LT, BE, DK, DE, IT, HR, SI, NL) were or will be visited by early 2021, subject to a normalisation of the situation post-Covid 19.

This monitoring exercise is aimed at ensuring that all EU Member States apply the Union Customs Code correctly and in a harmonised way. In particular, the Commission services wish to assess Member States' application of the simplifications provided for in the Code. The monitoring focused in this first round on simplified declarations and the simplification known as Entry into the Declarant's Records. The objective was to ensure that the Member States visited had correctly performed the reassessments of authorisations to use simplifications that pre-dated the entry into force of the Code. Also assessed was the Member States' application of customs controls and the efficiency and effectiveness of the resources available for these tasks. The monitoring exercise should also take into consideration the efficiency of customs simplifications and trade facilitation measures and may lead in due

course to legislative improvements or clarifications of the guidance on the application of the simplifications.

It is envisaged that a global report on the outcome of this monitoring will be published at the end of the exercise.

### b) Stepping up the Authorised Economic Operators (AEOs) Programme

The Authorised Economic Operator (AEO) Programme was introduced into EU customs legislation in 2005 as part of a range of security amendments to the Customs Code. The aim was to secure and facilitate international trade supply chains in line with the principles laid down in the World Customs Organisation's Framework of Standards to Secure and Facilitate Global Trade (the "SAFE" framework) aimed at deterring international terrorism and securing revenue collection while promoting trade facilitation worldwide. Under the programme, companies who voluntarily meet criteria laid down in the EU customs legislation work in close cooperation with customs authorities to enhance supply chain security. In return, those companies receive benefits laid down in the legislation, including easier admittance to customs simplifications, fewer physical and document based controls and more favourable treatment.

In recent years, commentators including in particular the European Court of Auditors have voiced criticism of the EU AEO programme, stating that AEOs are not compliant with the legal provisions and that Member States do not control AEOs adequately. In its special report No 12/2019 the ECA requested heightened attention on compliance by AEOs with low value duty relief, with a special focus on express couriers and postal operators<sup>15</sup>.

The customs services of the Commission have as a result developed in close cooperation with Member States a comprehensive strategy and methodology to promote a uniform and more robust implementation of the programme and to further strengthen its sustainability. A package of detailed actions has been agreed and launched including field visits to all Member States, mechanisms for closer cooperation between AEO and risk management experts in Member States and a monitoring workshop with AEO and auditing experts.

The implementation of actions started in June 2019 and will continue for several years. Fact-finding visits to 12 Member States have taken place so far and visits to all 27 EU Member States should ideally take place by the end of 2020. All field visits took place on the basis of a common pre-agreed agenda (monitoring, internal controls, link between AEO and risk management and visits to express couriers and posts if they are AEOs), in order to allow comparability. The visits involved the Commission services together with AEO Experts from Member States. The objective of the visits included identifying good practices that other Member States could replicate thereby contributing to a more uniform and harmonious implementation of the AEO provisions at EU level.

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<sup>15</sup> Special Report No 12/2019 on "E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved".

The visits that have taken place so far have demonstrated the existence of many good practices such as training and awareness raising of traders, AEO monitoring and the development of databases. Issues of concern included lack of cooperation between AEO and risk management experts within customs administrations; the lack of a harmonised approach to monitoring activities; and a lack of understanding by express carriers of their responsibilities for irregularities in data provided by their clients.

#### c) Monitoring of implementation of guarantee and remission/repayment provisions

In July 2019, the Commission's customs services initiated a monitoring exercise to assess the implementation of the Union Customs Code provisions on guarantees and remission/repayment by sending a questionnaire to all Member States. Based on the analysis of the replies to the questionnaire, other activities are envisaged, including monitoring visits if considered appropriate.

The overall purpose is to obtain an image of the implementation of these provisions by the national customs administrations, to update the existing guidance if appropriate and to take remedial action if needed.

#### d) Monitoring of the uniform application of EU customs law

The Commission services initiated in 2018 a horizontal enquiry to all Member States in order to monitor the application of Articles 18 and 52 of the Union Customs Code in relation to fees charged by Universal Service Providers for low value postal consignments.

A similar exercise was launched in 2019 in relation to the limitations of the notifications of a customs debt as established by Article 103 of the Code.

The purpose is to obtain an understanding of the implementation by the Member States of these Code provisions, and to undertake further follow-up action, including infringement procedures, if needed.

### **4) Improving efficiency of customs administrations**

Efforts to improve efficiency of customs administration in recent years have taken place within the framework of the Customs 2020 programme, which provides a wide range of tools to support and improve the proper functioning and modernisation of the customs union.

The programme supports the achievement of the Customs Union priorities, mainly through the setting-up of a paperless customs environment (i.e. the development of customs electronic systems). The vast majority of programme funding (approx. 80 %) goes into the operation of European Information Systems while the remainder covers the cost of customs cooperation and training.

While the programme's activities are mostly aimed at customs administrations, there are indirect benefits from economic operators in the form of more efficient processes from the

programme's efforts to ensure that national customs administrations work and share information in a better way. More directly, economic operators can use certain Customs Information Systems as part of simplified and standardised customs procedures, take part in some joint actions and participate in certain eLearning modules. Although the programme does not involve European citizens directly, it addresses issues related to safety, security and trade facilitation that are important to them, such as fighting smuggling and fraud and protecting citizens from security threats

### ***Key Achievements in recent years***

- *IT developments* Since the launch of the programme, many IT developments and adaptations of the IT environment to the Union Customs Code have taken place, bringing the total number of European Information Systems (EIS) in operations to 54. These developments were essential for a well-functioning and modern customs union. During 2019, the Customs 2020 programme continued to finance the development of new EIS projects, in close cooperation with national customs authorities and in line with the deadlines agreed with the Member States and trade.

- *Joint actions* In 2019, customs officials continued to exchange views and best practices in the joint actions organised under the programme. Working practices, administrative procedures and guidelines were developed and shared among the national administrations following the joint actions. These outcomes help countries to increase the performance, effectiveness and efficiency of the customs administration. Some recommendations were produced regarding dual-use goods, and others on customs detection technology. As in previous years, more than 98% of the responding participants in these joint actions declared that from a professional point of view, the activities were very useful or useful for them. In the coming years, it is intended to maintain a similar high level of relevance perception.

- *Expert teams* represent an increasingly used tool from the programme toolbox supporting enhanced operational collaboration, either on a regional or on a thematic basis. The expert team approach allows customs experts of Member States to engage in depth cooperation on operational issues in a way that goes beyond traditional cooperation and for a longer term (expert teams are active for between 12 and 36 months). During the year 2019, all four existing customs expert teams (on the EU Eastern and South-Eastern Land Border 2 (CELBET 2), Customs Laboratories (CLET), Binding Tariff Information (BTI) and the Customs IT Collaboration (ETCIT<sup>16</sup>)) continued their work, and three of these teams started on a next phase, leading to potential long lasting operational cooperation. In general, all the existing expert teams show an increased involvement and commitment of the participating countries and produce concrete results and outputs. They also develop working methodologies that are beneficial for the entire EU.

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<sup>16</sup> Expert team on new approaches to develop and operate Customs IT systems

- *E-Learning*: The Customs 2020 programme finances also the development of eLearning courses on topics of common interest in collaboration with customs administrations and representatives of trade. As in previous years, the Commission services in 2019 continued to support in particular the implementation of the Union Customs Code in its learning modules. In total, by end 2019 the EU eLearning portfolio contains more than 30 eLearning courses in the customs area. By end 2019, this full EU eLearning portfolio was reproduced in a content-updated and technically innovated format (also allowing for use on mobile devices).

- *Competency-based staff development/training* Customs 2020 continued to support national customs administrations with the national implementation and/or introduction of competency-based staff development and training, based on the EU Customs Competency Framework<sup>17</sup>, through a series of common and/or country-specific implementation training events in 2018 and 2019. In addition, in 2019 the European Commission introduced an award for customs study programmes, awarding 7 Universities for their MA/BA level customs programmes, thus acknowledging their leading role in raising Customs performance and professionalism. As in 2018, cross-country expertise sharing/-building was provided throughout 2019, e.g. in form of common learning events. Innovative common knowledge building and/or sharing formats were also tested in 2019, such as EU Training webinars, eBooks and nano-learning. These build the foundation for further enhanced structured EU Customs Training cooperation in the years to come. Specific EU Training support was provided in 2019 in the context of the preparation for the withdrawal of the UK from the EU, such as through the development of fast-track upskilling and onboarding<sup>18</sup> customs training programmes for use by national administrations.

## **5) Harnessing innovation**

The Commission services have continued working, together with Member States, in several fields to harness innovation and new technology in order assist customs in their tasks while also facilitating trade. The following activities are of particular note in this regard:

### **a) Single Window**

The Commission has worked intensively in recent years on the development of single window initiatives to harness the full potential of cooperation between customs and other authorities.

A single window would enable an economic operator to fulfil all regulatory requirements relating to imports by submitting data in a standardised manner to multiple recipients via a single-entry point. Although, as noted above, customs, besides enforcing customs legislation, enforces more than 60 pieces of non-customs EU legislation at the EU borders, the clearance process requires economic operators to complete non-customs formalities separately and in some cases on paper.

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<sup>17</sup> [https://ec.europa.eu/taxation\\_customs/eu-training/eu-customs-competency-framework\\_en](https://ec.europa.eu/taxation_customs/eu-training/eu-customs-competency-framework_en)

<sup>18</sup> In the context of the preparation for the withdrawal of the UK from the EU; onboarding is used to refer to target recruitment.



The complexity associated with building an EU single window environment for customs was notably attributable to the involvement of a high number of authorities and the multiplicity of their respective procedures and IT systems in the EU Member States.

The work involved two strands:

- Developing a central electronic system, implying close collaboration customs services of the Commission with other concerned Commission services (agriculture, climate change, environment, jobs and growth, home affairs, fisheries, trade and health). A pilot system known as the EU Customs Single Window Certificates Exchange was established in 2014 to allow the automated verification of sanitary and phyto-sanitary certificates, initially involving the exchange of certificates between 5 Member States participating on a voluntary basis. The project was expanded in early 2017 to accommodate new certificates and enhance overall function. In addition, the project was extended to a larger number of Member States, with 9 participating by the end of 2018. By the end of 2020, the platform is projected to support 8 certificates.
- Preparing a legislative proposal to regulate the EU Single Window environment for customs. A public consultation in October 2018 received 382 responses from economic operators, public authorities, academia, and representatives of other organisations across 25 Member States. More than 80% of the respondents had a direct involvement in customs operations and therefore provided valuable business insights on the perceived benefits of an EU Single Window environment for customs, as well as identifying further measures to enhance trade facilitation. The impact assessment and draft legal package were progressed in 2019.

## b) Other innovative technology solutions

### - *Data analytics*

In the course of the last two years the Commission has developed data analysis methods and tools to fully utilize available customs data so as to strengthen the Customs Union. The European Court of Auditors and the European Parliament have issued recommendations in this area.

The main available data source is the Surveillance system that monitors the import and export of specific goods into/from the Union's common market. All imported goods and, since 1 April 2020, all exported goods are monitored by the Surveillance system. Surveillance data are extracted from the import and export customs declarations managed by the Member States' Customs Declaration Processing Systems. At the moment, the Surveillance database contains over 2.6 billion Standard Declaration Records, thus providing an immense source of information for analysis purposes.

In parallel to developing new analytical IT tools, the Commission has enhanced its capacity for doing ad hoc analysis on Surveillance data, to monitor compliance with customs and customs related legislation, support policy development and provide trade data to several users in the Commission.

In 2019, Commission services conducted a Joint Analysis Capability pilot that showcased the importance of analysing trade patterns in enhancing the detection of areas of risk. The

Commission services are now creating data analysis tools that perform automated analysis covering all data and numerous parameters at the same time. The groundwork has also been prepared for tools that proactively monitor the compliance of customs declarations with customs legislation and thus ensure the uniform implementation of the Union's tariff.

- ***Blockchain***

In 2018, the taxation and customs services of the Commission continued their efforts to explore the possible use of blockchain technology in the context of e-Customs and taxation policies. In particular, they organised a workshop financed by the Customs 2020 programme in Malta in May 2018 where the Member States' customs and taxation communities were represented to share their understanding of and plans for this technology. The workshop was successful and concluded that blockchain is not a panacea, but deserves to be explored by public authorities to smoothen the delivery of their objectives as well as to support collaboration with economic operators. The Commission services are continuing to explore whether blockchain should be factored into the design of new policies and TransEuropean Systems. An important criterion is to test whether it can be realistically deployed and operated across Member States. Only with this assurance can opportunities and real projects be reasonably pursued in collaboration with all stakeholders.

## **6) Optimising customs electronic systems and their use**

### **a) Union Customs Code electronic systems**

A major element of the work in the field of optimising customs electronic systems over the past few years has been that of completing the 17 electronic systems that must be upgraded or deployed under the Union Customs Code. This work has involved several components, as follows:

- ***Planning for the development of the systems***

Under the Union Customs Code, the Commission is required to set out in a Work Programme the planning for the development and deployment of the electronic systems provided for in the Code. In December 2019 the Commission adopted a revised version of the Work Programme<sup>19</sup>. This revision was in line with the revision of the Code in early 2019<sup>20</sup> to allow more time for the completion of the Code's electronic systems. It had proved impossible for several reasons to complete all 17 systems by the previously set deadline of 2020 so, under the revision of the Code, the period for completion of some of the systems was effectively extended to 2025. Therefore, the revised Work Programme that was drawn up in close consultation with Member States sets out the planning for the completion of the various components and phases of the systems up to 2025. It aims at a pragmatic and realistic timing

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<sup>19</sup> Commission Implementing Decision (EU) 2019/2151 of 13 December 2019

<sup>20</sup> Regulation (EU) 2019/632 of the European Parliament and of the Council, OJ L 111/54 of 25/4/2019

that has regard in particular to the interconnections and dependencies between the systems and also to resource constraints within Member States.

**- *Developing the electronic systems provided for under the Union Customs Code***

The Commission and Member States have continued to work intensively to ensure the deployment of all 17 Union Customs Code electronic systems in accordance with the timetable in the revised Work Programme.

In December 2019, the Commission adopted its first annual report<sup>21</sup> on the progress achieved to date in the development of the electronic systems since the Code's entry into force on 1 May 2016. The Report concluded that while both the Commission and the Member States face challenges in ensuring the full deployment of the electronic systems by the relevant deadlines, tangible progress is being made. Six central systems have now been deployed and two further systems will be completed 31 December 2020. Thus, in total, by end 2020, eight of the fourteen trans-European systems will be operational. The six remaining trans-European projects, three of which include major components for completion by Member States, are on track to meet the deadlines set. Member States are due to complete the upgrade of their three national systems by 2022, other than the export component of the National Special Procedures system which is closely linked to the trans-European Automated Export System and therefore should be deployed at the same time as the latter.

In short, the systems to be completed in the period 2020-2025 are mostly on track, in line with the planning of the projects defined in the Work Programme. However, there are some risks of delays and complex transitions, linked to constraints in terms of availability of the necessary financial resources (in particular in light of the available budget under the next MFF), expertise and commitments at EU and Member State levels. The risks are heightened due the complexity of the interdependencies between national and trans-European components and due to the many stakeholders involved.

However, full utilisation for data analytics purposes will be possible only when Member States complete the deployment of their upgraded import and export systems and are therefore in a position to provide 41 rather than the current 16F data elements, including in particular more information on economic operators

Of particular importance to the work on data analytics are the *Surveillance 3* and *Import Control 2 (ICS2)* electronic systems. The data analysis and reporting platform *Surveillance 3* that utilises EU level trade data (imports and exports), that are provided on a daily basis by the national customs authorities, was successfully deployed in October 2018. Two data analysis projects are underway: Trade Flows Analysis to monitor trade flows and trade flow changes, and Credibility Checks to address erroneous values entered in declarations. However, full utilisation for data analytics purposes will be possible only when Member States complete the deployment of their upgraded import and export systems and are therefore in a position to provide 41 rather than the current 16 data elements, including in particular

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<sup>21</sup> COM(2019) 629 final Under the above-mentioned 2019 revision of the Code, the Commission is required to report annually on progress with the implementation of the systems.

more information on economic operators. As regards *ICS2*, which collects advance electronic data on all goods and shipments prior to their arrival to the Union customs territory, the Commission services completed its preparatory work on safety and security analytics capabilities. This is to be presented for Member States' approval in Q4 2020 (for more on *ICS2* see section 8 (“Capitalising on the Customs Union to improve EU security” below).

## b) Work on electronic systems other than those related to the Union Customs Code

Of the considerable number of other completed or ongoing IT projects the following are particularly noteworthy:

### - *Information systems for supporting tariff classification*

When goods are declared to customs in the European Union, they must be classified according to the Combined Nomenclature (CN) or any other nomenclature which is wholly or partly based on the Combined Nomenclature. The CN subheading stated in declarations for imported and exported goods determines which rate of customs duty applies or which non-tariff measures apply and how the goods are treated for statistical purposes or for other European Union policies. A newly developed Classification Information System (CLASS) that is in place since 1 July 2019 provides a single platform where all classification related information is available to assist importers. This information includes:

- Conclusions of the Customs Code Committees;
- Classification Regulations;
- Rulings of the European Court of Justice;
- Combined Nomenclature (CN) and CN Explanatory Notes;
- TARIC information.

The CLASS system contributes to the correct classification of goods and thus the correct collection of customs duties.

### - *COPIS (Anti Counterfeiting and Piracy System)*

Work continued on improvements to the COPIS system which enables right holders to ask the intervention of customs in order to take measures against goods infringing certain IPR. Activities in the last two years included work aimed at providing economic operators with the possibility to electronically submit an application via the enforcement database of the European Intellectual Property Office. After analysis, work has started on the development of an EU Intellectual Property Rights trader portal to facilitate the submission and management of all applications.

### - *Customs Risk Management System 2 (CRMS 2)*

The CRMS2 project aims at reshaping the CRMS system created in 2005 to increase the clarity of the different functions to be fulfilled. It is being developed by the Commission services on the basis of a business case document (2016) and a vision document (2018) that

Member States adopted. The inception and elaboration phases have been completed and the current phase is construction.

- ***Customs Union Performance – Management Information System (CUP-MIS)***

Today CUP delivers a systematic assessment of the performance of the Member States' Customs authorities based on the strategic and policy objectives. Establishing an information system for collecting, processing, validating and reporting of customs relevant data, would support the improvement of the functioning of the EU Customs Union by assessing the effectiveness, efficiency and uniformity of customs activities and operations. Work on the development of such a system commenced in 2018 within the Commission services and is ongoing.

- ***Smart and Secure Trade Lanes***

The SSTL is a pilot project between several EU Member States and China and Hong Kong Customs, aimed at strengthening end-to-end supply chain security and providing trade facilitation to participating economic operators through maritime, air and rail trade lanes between the involved countries. Work has continued in particular by the development of a business case and vision document including business process models for the external and EU internal data exchange for the maritime automated data exchange. Any developments beyond pilot project status would require a specific legal basis and the automation of data exchanges.

### **c) Long term IT strategy for customs**

The Commission and Member States share the objective of delivering customs IT projects efficiently and in-line with national budgetary priorities. To this end, active measures are taken to avoid duplication of efforts by stakeholders in the development of electronic systems for customs. The scale of upgrades to existing systems and creation of new IT systems necessary to implement the Union Customs Code reinforces the need for cost-effective allocation of resources by the Commission and Member States.

Following Council conclusions of July 2017<sup>22</sup>, the Commission in 2018 completed an in-depth report in April 2018 on the long-term IT strategy for customs systems<sup>23</sup>. The report responds to the Council's request to consider a permanent structure for the management of customs IT projects, while reiterating the current priority of continuing the implementation of the Code and realising greater efficiencies through deeper collaboration between Member States and with the EU Commission.

The Council of the EU adopted further conclusions in 2018<sup>24</sup> on the basis of the Commission's report, inviting the Commission and the Member States, in cooperation with

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<sup>22</sup> Outcome of the Council Meeting, 3572nd Council Meeting, Economic and Financial Affairs, Brussels 11.7.2017. Draft Council conclusions on the Way forward to Developing Customs IT Systems, 13543/17, Brussels 24.10.2017.

<sup>23</sup> Report from the Commission to the European Parliament and the Council on the IT strategy for customs, COM (2018)/178 final – 11.4.2018.

<sup>24</sup> Council conclusions 2018/C 4/02, 6.1.2018

the relevant stakeholders, to explore new approaches to develop and operate future customs IT systems. The Commission as a result established an Expert Team on new approaches to develop and operate customs IT systems (ETCIT) in 2018 with the participation of 13 Member States<sup>25</sup>, led by Estonia. The main objective of ETCIT is to explore how customs IT systems could be developed and operated in the future, in particular through cost-benefit analysis of new approaches, consideration of pilot projects, elaboration of guidelines to improve applicable legislation and governance, and recommendations for procurement and funding of future initiatives. The ETCIT activities started in October 2018 with the participation of more than 25 experts and work is continuing.

## 7) Dealing with the challenges of e-commerce

The challenges of e-commerce for customs are by now well known. The volume of low value goods imported into the EU is growing each year by 10-15%. While applying effective controls to tackle fraud as a priority and collecting applicable duties to these goods on import, Customs must at the same time support and facilitate the development of this form of trade which brings great benefits to businesses and citizens.

- **VAT e-commerce package** The Commission services are on track concerning the preparatory work for the implementation of the VAT e-commerce package<sup>26</sup>. The Commission proposals to postpone the entry into application of the VAT e-commerce package by 6 months to 1 July 2021 was agreed in a Council common position on 24 June 2020.

An effective and coherent EU regulatory framework on the customs side in order to ensure collection of VAT and customs duties for budgets of the Member States and the EU is being put in place. The necessary adaptations to the UCC framework, including those that serve as a basis for IT developments, were thoroughly discussed with the relevant stakeholders during 2018 and 2019 and should all be adopted by the end of 2020.

The related IT activities were split into six business cases. The detailed planning was included in the IT master plan in May 2018.

Close cooperation within Member States between the customs and tax administrations is the key to success. The business community is investing huge efforts in preparing for the implementation of the VAT package. Relevant stakeholders were consulted on the legal drafts and are also involved in the ongoing technical discussions on the explanatory notes and guidance documents both on the VAT and customs side.

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<sup>25</sup> Belgium, Czechia, Cyprus, France, Italy, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovakia and Sweden.

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Council Directive (EU) 2017/2455 amending Directive 2006/112/EC;  
Council Regulation (EU) 2017/2454 amending Regulation (EU) 904/2010;  
Council Implementing Regulation (EU) 2017/2459 amending Implementing Regulation (EU) 282/2011

- **Postal Services** In addition, the Commission and Member States have been working intensively with EU postal and express operators to ensure that, as of 2021, they provide a minimum set of advance cargo information on goods in postal and express consignments transported by air, prior to the loading of those goods. . This will be possible as a result of the deployment of the first release of the Import Control System 2 (ICS2) from 15 March 2021 – see below.

## 8) Capitalising on the Customs Union to improve EU security

### a) Import Control System

- **Air cargo security** ICS2 is a large-scale system and underpins the customs pre-arrival safety and security programme. It will provide a new platform for collection of advance electronic data on all goods and shipments prior to their arrival to the Union customs territory and from different trade sources. The Commission services almost completed the construction of the two central components of ICS2 (shared trader interface and common repository) by the end of 2019 and development and testing work is ongoing with a view to launching the first release of the system (air express and postal consignments) on 15 March 2021.

In the context of operationalisation of this first release, the Commission has in the last few years agreed with the Member States' customs authorities, in close collaboration with national internal security and civil aviation security authorities, on a set of common risk criteria and standards for air cargo security pre-loading risk analysis. A Commission implementing decision establishing these criteria, to be supported by the common operational guidance, was prepared for adoption in the second half of 2020.

- **Legal modifications** The Commission and Member States also progressed with necessary ICS2-related modifications to the legal base under the Union Customs Code, with the majority of legal provisions for new advance cargo information requirements, transformed collaborative risk analysis and the ICS2 system itself being agreed upon and the relevant implementing and delegated acts set to be adopted in the course of 2020.

- **Improvements to data** In parallel, detailed work and progress was made towards the introduction of massive new flows of better data under Release 2 of ICS2 that will mean the collection of a full set of pre-arrival information for all goods in air transport.

- **Data analytics capabilities** In the context of the preparations for Release 2, work took place on the elaboration of ICS2 Safety and Security analytics capabilities, that will be subject to Member States' approval in Q4, 2020. The ICS2 Safety and Security Analytics capability will, if agreed, enable the Member States' collaborative analysis of massive flows of advance cargo data gathered at EU level to deliver real-time operational safety and security threat signals while goods are moving through the supply chain (for all modes of transport – air, maritime, road, rail). As the analytics capability will be integrated into the ICS2 communications workflow and customs risk based control operations at the external border (sending the signals to the Member States alongside the declaration concerned), the results of risk analysis and controls will be fed back systematically for each case, enabling the customs

experts to evaluate and continuously improve targeting. This capability will also help the Commission to contribute, within its competence under the common risk management framework, to establish common priority projects such as common priority control areas actions, crisis response or support to customs policy evaluation. A pilot exercise is already underway with the Member States as is preparatory work on establishing an operational Expert Team of Member State experts for the development and exploitation of the capability.

#### b) Work with other security and border management authorities

- ***Guidelines on Customs cooperation with Border Guards*** The Commission services issued new guidelines on further development of the cooperation between Customs and Border Guards in December 2018. The guidelines aim to strengthen the importance and strategic dimension of cooperation, identify innovative and sustainable solutions for joined-up border management and ensure that close cooperation takes place at all levels in both authorities. The areas covered are comprehensive and include synchronised checks and joint operations, joint planning of infrastructure and procurement, equipment use, training, information exchange, risk analysis and investigations.

- ***Enhancing customs cooperation and systems interoperability with security and border management authorities*** In 2019, the EU introduced new rules on interoperability between EU large scale information systems in the area of Justice and Home Affairs. Development of an interoperability framework concerning information systems for security, border and migration management<sup>27</sup> is currently underway. In addition, an expert group of security, border management and customs experts convened by the Commission completed a preliminary assessment of the interoperability of security and border management systems with customs systems in the field of security and security risk assessment and presented its findings to Council's Standing Committee on Operational Cooperation on Internal Security (COSI) in February 2019. The assessment report recommended a feasibility study to look in depth at interlinks between the Schengen Information System (SIS), Europol data and the customs Import Control System 2 (ICS2). It also identified potential hurdles, problems and restrictions in the operational, technical and legal domains for the study to consider.

The report also recommended that the interoperability of other potentially relevant customs' systems with SIS and Europol data be assessed later in a separate project. In this context, interoperability of ICS2 data with those in PNR, EURODAC, VIS, EES and ETIAS was considered of very limited use. In addition, the report recommended that a parallel policy discussion should take place to examine the conditions under which other law enforcement authorities could be granted access to ICS2 data for investigative purposes on a duly justified case-by case basis.

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<sup>27</sup> Schengen Information System (SIS), Europol Information System (EIS), Entry/Exit System (EES), Visa Information System (VIS), European Travel Information and Authorisation System (ETIAS), European Dactyloscopy (EURODAC), European Criminal Records Information System on third-country nationals (ECRIS-TCN).



- **Security Union:** In early 2018, a deep dive of the EU Security Union focussed on the role of customs in the fight against organised crime, and highlighted the need to recognise customs as an equal partner requiring active cooperation with law enforcement authorities.

- **EU SOCTA:** As a member of the EU Serious and Organised Crime Threat Assessment (EU SOCTA) Advisory Group, the Commission services are actively contributing to a better integration of customs in the EU Serious and Organised Crime Threat Assessment. This is the first step of the EU Policy Cycle to tackle organised and serious international crime/EMPACT (European Multidisciplinary Platform Against Criminal Threats).

**Cooperation with Europol:** The Commission in May 2018 wrote to those Member States which do not yet have a liaison officer stationed at Europol or do not have access to the Secure Information Exchange Network Application (SIENA). The letter drew attention to need to utilise the potential for close cooperation between customs authorities, police and other law enforcement services.

## 9) Deepening international relations

The Commission is in charge of negotiating, and ensuring the implementation of, international agreements covering customs issues, whether these are dedicated agreements, such as Customs Cooperation and Mutual Administrative Assistance Agreements (CCMAAs), or broader ones containing customs elements, such as Free Trade Agreements (FTAs), sometimes known as Economic Partnership Agreements (EPAs). It continued working intensively in this area in 2018 and 2019. The overall objective is to facilitate legitimate trade while ensuring effective and efficient controls to counter illicit trade, and to fight fraud.

- **Transit** The Commission services contributed on behalf of the EU to the work on the legal framework for the eTIR international transit procedure that was agreed in October 2019 at the United Nations Economic Commission for Europe (UNECE)<sup>28</sup> after a decade of preparatory work and challenging international negotiations. The work will pave the legal path for an electronic TIR customs transit procedure and will bring the TIR Convention in line with business needs and the EU's customs policy. Its formal adoption is scheduled for early 2020.

- **Agreements on customs security measures with Norway and Switzerland.** Discussions on amendments of these agreements commenced in 2019 with a view to ensuring equivalence of security measures at external borders in line with the reinforced risk management framework under the Union Customs Code and should enter into force by the deployment of ICS2 in March 2021.

- **Convention on pan-Euro-Mediterranean preferential rules of origin (PEM Convention)** In 2019, a set of revised rules of origin were agreed after years of negotiations with the PEM Convention Contracting Parties. The Council adopted a decision on the position to be taken on behalf of the European Union within the Joint Committee established by the Regional

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<sup>28</sup> <https://www.unece.org/trans/bcf/etir/welcome.html>

Convention and endorsed the new rules. The revised rules of origin of the Regional Convention provide for modern and trade friendly rules that will enable increased and better opportunities for regional integration beyond the EU's borders, thus facilitating trade flows and supply chains whilst benefitting EU businesses and consumers. The application of the revised rules will start on a transitional basis between the Contracting Parties willing to do so. The Pan Euro Med rules of origin today govern around 60% of the EU preferential trade.

**- *Implementation of the trade and customs chapters of the Euro-Mediterranean Association Agreements.*** The Commission services also contributed to the implementation of the trade and customs chapters of the Euro-Mediterranean Association Agreements with its partners (Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia and Palestine), participating actively in the respective Sub-Committees scheduled on regular bases.

**- *EU-Morocco agreement*** This agreement, amending Protocols 1 and 4 to the EU Morocco Association Agreement, entered into force on 19 July 2019 extending the tariff preferences granted to Moroccan products to products originating from the Western Sahara. In 2020, Council adopted a mandate on the modalities to exchange information with Morocco to assess the impact of the above agreement.

**- *Implementation of the Stabilisation and Association agreements with the Western Balkans : assistance to enlargement candidates for accession.*** In addition to bilateral FTAs, the Stabilisation and Association Agreements foresee close regional and bilateral cooperation. Tools used include cooperation of the countries in question with the Central European Free Trade Agreement, participation in the Customs 2020 programme and the provision of assistance to the countries in customs modernisation. Montenegro and Serbia are working towards compliance with their Chapter 29 benchmarks. The Customs acquis was presented to Albania and North Macedonia in advance of this year's decision to open accession negotiations. The Commission issued its opinion concerning Bosnia and Herzegovina membership application in 2019 and conducted a first customs monitoring mission in Prishtina in 2019.

**- *EU-Turkey Custom Union*** The Council's position on a possible modernisation of the Customs Union has remained unchanged, which implies that no progress could be made on a possible revision of the agreement. The Commission services are following closely the additional duties and the request to submit additional proofs of origin imposed by Turkey, which remains one of the main concerns in the correct implementation of the EU Turkey Customs Union.

**- *EU-Andorra, San Marino and Monaco.*** On the basis of a Council mandate, the EU is currently negotiating an Association Agreement with the Principality of Andorra, the Principality of Monaco and the Republic of San Marino offering them access to the EU internal market comparable to the access given to the non-EU members of the European Economic Area. The negotiations which started in March 2015 have been covering all technical chapters related to the four basic Internal Market freedoms . Negotiations related to free circulation of goods and customs matters have highly advanced these last years and will pursue during 2020-2021.

**- Eastern Partnership.** The Commission services actively contributed to the implementation of the tax and customs chapters of the Deep and Comprehensive Free Trade Agreements (DCFTA) with *Ukraine, Moldova and Georgia*. The Commission services organised customs sub-committees and participated in tax sub-committees, providing clear guidance for harmonisation of the partners' legislation with EU law. Customs chapters were agreed and closed with Uzbekistan and Azerbaijan in relation to the on-going Enhanced Partnership and Cooperation Agreement negotiations. In 2019, the Council gave the Commission a mandate to start negotiations on a Customs Cooperation and Mutual Administrative agreement with Belarus.

**World Customs Organisation** The EU (Commission) and Member States participated actively in discussions at the World Customs Organisation (WCO), promoting the standards of the Union Customs Code and other customs-related EU policies. This was particularly the case in regard to the comprehensive review of the Revised Kyoto Convention, the Framework of Standards for cross border commerce and Digital Customs and Data Analytics. They also played a significant role in working bodies such as the WCO Framework of Standards to Secure and Facilitate Global Trade (SAFE) and the Harmonised System (HS) Committee.

**EU FTAs** Worked continued in 2018 and 2019 to ensure the proper negotiation and implementation of customs-related aspects of EU international agreements. The EU-Japan Economic Partnership Agreement (EPA) and the EU-Singapore Free Trade Agreement (FTA) entered into force on 1 February and 21 November 2019 respectively. An FTA with Viet Nam was signed on 30 June 2019. Political agreement was also reached in June 2019 on a trade agreement with Mercosur states (Argentina, Brazil, Paraguay and Uruguay). The EU concluded the negotiations of Protocols on rules of origin as stepping stones to EPAs with the Ivory Coast and Ghana. It also concluded the negotiation of technical amendments to the Protocol on rules of origin to the interim EPAs between the EU and Eastern and Southern African States and the EU and the Pacific States. Negotiations of FTAs with Chile, Australia, New Zealand and Indonesia continued. The modernisation of the interim EPA between the EU and the Eastern and Southern African States kicked off in 2019.

**In regard to implementation,** initial difficulties in the implementation of the EPA with Japan, which threatened the correct applications of tariff preferences, were solved. Discussions with Korea on a common understanding of Rules of Origin verification procedures were finalised and the common understanding to be formally agreed in 2020. Work ensuring the smooth implementation of the agreement with Canada, which began in 21 September 2017, was evidenced by the positive 4th EU – Canada Joint Customs Cooperation Committee (JCCC) meeting held on 22 June 2018 in Brussels. Subsequently, discussions progressed towards mutual recognition of the EU and Canada Authorised Economic Operator (AEO) programmes. In addition, meetings of Joint Customs Co-operation Committees took place in relation to other FTAs and CCMAAs in order to ensure the effective implementation of these agreements. These included meetings with China (on Intellectual Property Rights, fight against fraud & supply chain security), Hong Kong (on Intellectual Property Rights), Central America and Colombia-Peru-Ecuador. In the case of China, the Commission has launched an evaluation of the current EU-China CCMAA.

- **Monitoring activities** The Commission services continued to monitor the implementation of the origin rules and procedures for preferential trade arrangements, in order to protect the EU's financial interests and ensure fair trade between the EU and the third countries that are benefitting from preferential trade arrangements. This monitoring of compliance with the rules on preferential origin also strengthens the Union's credibility when negotiating free trade agreements.

- **Registered Exporter** system The deployment of this system continued, with a growing number of beneficiaries benefitting from the specific training provided by the Commission.

- **Binding Valuation Information (BVI)** A reflection process concerning the establishment in the Union of decisions relating to binding information in the field of customs valuation continued, building on the provisions of the WTO Customs Valuation and Trade Facilitation Agreements, and on a number of FTAs concluded by the EU. BVIs can play an important role in facilitating international trade, increasing predictability concerning the value of goods for traders while helping customs authorities in their task of ensuring efficient and effective controls.

#### IV. CONCLUSION

With this report, the Commission services have complied with the request of the Council in its conclusions of 25 January 2019 on the First Biennial Report to describe in a further biennial report the developments in the nine priority areas linked to governance of the Customs Union.

## *Annex: legislation, programmes and electronic systems*

### a). Legislation enforced by customs authorities

1) The EU Union Customs Code , together with its delegated and implementing acts,<sup>29</sup> that is applicable since 2016 is the main framework legislation governing customs declarations, procedures and formalities within the Customs Union. In line with the Revised Kyoto Convention, the Code puts in place rules aimed at greater legal certainty and trade facilitation combined with better protection of the financial and economic interests of the EU and Member States and of the safety and security of EU citizens. In particular, it aims at a paperless and fully automated customs union with new and upgraded, interlinked, electronic systems for the completion of all customs formalities. The Union Customs Code, together with its delegated and implementing acts, is already working effectively and its full benefits will be available after 2025 when its seventeen associated electronic systems will be in place. The Commission holds regular discussions with Member States and business associations to find solutions to any problems identified and several amendments to the legislative package have been adopted as a result.

2) The EU Customs Union involves "transit" arrangements both within the customs territory and with many third countries. Transit is the procedure that allows for the temporary suspension of duties, taxes and commercial policy measures that are applicable at import, allowing customs clearance formalities to take place at the point of destination rather than at the point of entry into the customs territory. The transit procedure applicable between the EU Member States also applies to Andorra and San Marino. There are transit arrangements with the four EFTA countries (Iceland, Liechtenstein, Norway and Switzerland), Serbia, FYROM and Turkey under the Convention on a common transit procedure of 1987 as amended<sup>30</sup>. The operation of the common transit procedure with the UK has been ensured as the UK deposited its instrument of accession to the Convention on 30 January 2019. The EU also has transit arrangements with the almost 60 countries that have signed up to the 1975 transit convention (the TIR or "Transport Internationaux Routiers" - convention<sup>31</sup>).

3) The temporary admission into the EU customs territory is permitted for goods from the 70 or so countries that have signed up to the 1990 World Customs Organisation (WCO) Istanbul Convention on Temporary Admission<sup>32</sup>.

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<sup>29</sup> [https://ec.europa.eu/taxation\\_customs/business/union-customs-code/ucc-legislation\\_en](https://ec.europa.eu/taxation_customs/business/union-customs-code/ucc-legislation_en)

<sup>30</sup> Decision No 1/2016 of the EU-EFTA Joint Committee on common transit of 28 April 2016 amending the Convention of 20 May 1987 on a common transit procedure [2016/858]

<sup>31</sup> <http://www.unece.org/tir/system/history/tir-history.html>

<sup>32</sup> <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?redirect=true&treatyId=533>

4) In the performance of their wide range of tasks other than the collection of customs duties, VAT and excise, customs authorities enforce at the EU borders more than 60 pieces of EU legislation for the protection of citizens, the environment and the integrity of the single market. These include, for example, veterinary, sanitary, phytosanitary, agricultural and environmental regulations as well as legislation on product safety and compliance.

5) Regulation 515/97 is the main legal tool to combat customs fraud through cooperation and the exchange of information between Member States. Exchanges of information between EU Member States are also made within the framework of the customs risk management system for risk-related information provided for under the Union Customs Code.

6) Customs authorities exchange information with other countries to ensure compliance with customs provisions and the completeness of revenue collection within the framework of the EU's customs cooperation arrangements with other countries.

## b). Customs programmes

Customs authorities cooperate with each other and exchange best practices using the tools, methodologies and financing of the EU customs action programmes. Cooperation takes place through joint actions as well as IT and human capacity building.

Two EU action programmes finance cooperation between customs authorities to protect the EU's financial interests: Customs 2020 and Hercule II/III through different angles, tools and budgets.

The Customs 2020 programme aims at supporting the functioning and modernisation of the customs union in order to strengthen the internal market by means of cooperation between participating countries. Over [85%] of its budget (522 M€ in current prices) is devoted to the customs electronic systems, covering the development, operation and maintenance of the EU parts of these systems. The remainder of the budget is for collaborative approaches, namely joint actions (such as project groups and expert teams) and training activities (such as training courses and human competency building).

The Hercule programme administered by the European Anti-Fraud Office protects the EU's financial interests by supporting action to combat irregularities, fraud and corruption affecting the EU budget.

Proposals for renewal of those programmes beyond 2020 are included in the Multiannual Financial Framework that is due to be adopted at the end of 2020. The future customs programme aims at ensuring the further development of customs electronic systems and at enhancing operational collaboration on thematic or geographic basis.

## c). Customs electronic systems

The Customs Union has undergone a number of digital modernisation steps since its creation. There was a major breakthrough in the late 1990s with the introduction a new system for

digital handling of customs transit processes based on the first EU-wide system of exchanges of electronic messages. Many more customs electronic systems have been created since then. Nowadays, close to 100% of customs declarations are handled digitally.

A key element of the customs IT workload is the upgrade of some existing electronic systems and the development of some new systems to manage all customs formalities under the Union Customs Code. The deadline for completion of the total of 17 upgraded or new systems is end 2025 at the latest. The electronic systems consist of 14 trans-European systems (some with both EU-wide and national components) and 3 purely national systems as follows:

### ***Trans-European Systems***

1. *Customs Decisions*: This project aims at harmonising the processes related to the application for a customs decision, the decision taking and the decision management across the EU.
2. *Binding Tariff Information (BTI)*: Every decision providing an economic operator with information on the commodity code that will be applied by the customs authority to goods that the economic operators wants to import or export are made public on the BTI data base. This project aims at upgrading the trans-European Binding Tariff system in line with the Union Customs Code and its provisions (e.g. changes of validity period). The project is closely linked to the Surveillance 3 system described below.
3. *Authorised Economic Operators (AEO) upgrade*: The project aims at improving the business processes related to AEO applications and authorisations, taking into account the changes to the legal provisions of the Code.
4. *Automated Export System (AES)*: This project implements the Code requirements for export and exit and is composed of two components: trans-European (AES) and national (National Export Systems upgrade).
5. *New Computerised Transit system (NCTS) upgrade*: The aim of this trans-European project is to upgrade the existing system, which automates the transit procedures and control of the movements covered under the TIR procedure within the EU.
6. *Registered Exporter System (REX)*: The REX project aims at implementing a system that will provide up-to-date and complete information on registered exporters established in non-EU countries exporting goods to the EU under preferential trade arrangements.
7. *Economic Operators Registration and Identification subsystem 2 (EORI2)*: This project aims at upgrading the existing trans-European EORI system, which registers and identifies EU and third country economic operators.

8. *Guarantee Management (GUM)*: This project aims at assuring the effective and efficient management of the different types of guarantees. The project has both a trans-European and a national component.
9. *Information Sheets (INF) for Special Procedures*: The aim of this project is to develop a new trans-European system for administrative cooperation and the standardised exchange of information between customs authorities across Member States.
10. *Surveillance 3*: This project aims at providing an upgrade of the Surveillance 2+ system to allow data analysis and report on existing and future data elements from declarations for improved customs risk analysis, the fight against fraud, policy design, market analysis, post-clearance controls and statistical purposes.
11. *Import Control System upgrade (ICS2) for strengthening the Security of the Supply Chain at Entry*: The project aims at creating a new trans-European system replacing the existing Import Control System. The main objective is to strengthen the security of the supply chain by optimising the exchange of advanced cargo information and by addressing the weaknesses of safety and security processes and/or data quality in order to improve risk analysis.
12. *Centralised Clearance for Import (CCI)*: The project aims at creating a trans-European system to allow traders to centralise lodging of their customs declarations for imports within one customs administration whilst goods will be physically presented in other Member State(s).
13. *Proof of Union Status (PoUS)*: The project aims at the creation of a new trans-European system to store, manage and retrieve the electronic Proof of Union Status documents.
14. *Uniform user management & digital signatures – UUM&DS (Direct Trader Access to EIS)*: The UUM&DS Project aims at implementing a system that provides traders with direct and harmonised access to new EUwide services, including the central services.

### ***National Systems***

15. *National Import Systems (NIS) upgrade*: The project aims at implementing all Code requirements related to the national import domain. It covers the national customs declarations processing systems as well as other related systems.
16. *Notification of Arrival, Presentation Notification and Temporary Storage*: The goal of this project is to define the processes for Notification of Arrival of the means of transport, Presentation of the goods and Declaration for Temporary Storage and to support harmonisation across the Member States.
17. *Special Procedures*: This project aims at accelerating, facilitating and harmonising Special Procedures across the Union by means of providing common business process models.



Among a long list of other customs electronic systems aimed at supporting customs authorities and/or facilitating importers and exporters are the following systems that are referred to in this document:

*TARIC (the integrated Tariff of the European Union):* This is a multilingual database integrating all measures relating to EU customs tariff, commercial and agricultural legislation.

*COPIS (AntiCounterfeiting and anti-Piracy Information System):* This is intended to enhance intellectual property rights protection by improving the cooperation and sharing of information between right-holders and Member States' customs administrations and between all the customs offices of the Member States.

*Anti-fraud Information System (AFIS):* This secured system allows Member States to exchange information related to breaches of customs legislation between each other and with the Commission.

*Risk Management Electronic System:* The electronic Customs Risk Management System (CRMS) to support real-time electronic exchange of risk information among Member States and between the Commission and the Member States connects 841 customs offices including all international ports and airports, major land frontier posts and all national risk analysis centres.