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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Draft Council Conclusions on the Second Progress Report on the  
Implementation of the EU Strategy and Action Plan for Customs Risk  
Management  
- Adoption

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Delegations will find the above draft Council Conclusions in the Annex, prepared by the  
Presidency.

**Draft Council Conclusions on the Second Progress Report on the Implementation of the EU Strategy and Action Plan for Customs Risk Management**

**THE COUNCIL OF THE EUROPEAN UNION,**

**HAVING EXAMINED**

The report from the Commission to the Council and the European Parliament: “Second Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management” and its accompanying Commission staff working document;

**RECALLING**

- The Communication from the Commission of 21 August 2014 on the EU Strategy and Action Plan for customs risk management: “Tackling risks, strengthening supply chain security and facilitating trade”<sup>1</sup>;
- The Council Conclusions of 4 December 2014 on the EU Strategy and Action Plan for customs risk management: “Tackling risks, strengthening supply chain security and facilitating trade”<sup>2</sup>;
- The European Commission’ first “Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management, published in July 2016<sup>3</sup>;

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<sup>1</sup> ST 12644/14 + ADD 1

<sup>2</sup> ST 15403/14

<sup>3</sup> ST 11415/16 + ADD 1

- the Council Conclusions of 6 December 2016 on the “Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management”<sup>4</sup>;
- the Commission’s Communication on “Developing the EU Customs Union and its Governance” published in 2016<sup>5</sup>;
- the Special Report No 19/2017 of the European Court of Auditors on import procedures<sup>6</sup>;
- the Council Conclusions on the renewed European Union Internal Security Strategy 2015-2020<sup>7</sup> and the European Agenda on Security;<sup>8</sup>
- The Decision on Financial Risk Criteria aiming at developing a common EU-wide approach on the way to address financial risks in the EU,

#### WELCOMES

- The progress achieved on the implementation of the EU Strategy and Action Plan for customs risk management, both at EU and Member State level as it is reflected in the Second Progress Report;
- The progress achieved so far in terms of strengthening collaboration between all the actors involved and launching new initiatives, in particular, the Commission’s decision on financial risk criteria and the participation of customs administrations in security-related activities);

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<sup>4</sup> ST 12164/16

<sup>5</sup> ST 15818/16 + COR 1

<sup>6</sup> OJ C 418, 7.12.2017, p.7

<sup>7</sup> ST 9798/15

<sup>8</sup> ST 8293/15

- The improvement of cooperation between customs and trade, mainly through the strengthening of the AEO concept;
- The various initiatives that have been taken to improve customs controls through the exchange of certain customs information between customs authorities in the EU and third countries and the efforts invested in establishing a framework for structured exchange of information with third countries;
- The fact that the majority of electronic systems envisaged by the Union Customs Code will be completed by 2020;
- The conditional agreement between the Member States and the Commission in July 2018 on the implementation of the first block of the ICS 2 IT;

#### UNDERLINES

- The strategic objectives and role of customs authorities as gatekeepers of EU borders for the flow of goods, namely protecting the financial interests of the Union and its Member States, protecting the Union from unfair and illegal trade while supporting legitimate business activity, ensuring the security and safety of the Union and its residents, and the protection of the environment, while maintaining a proper balance between customs controls and facilitation of legitimate trade;
- That Risk management is an ongoing process, which is not limited to specific actions with a definitive beginning and end. Customs authorities must continue to innovate and be prepared to respond to new or emerging threats;

- That by implementing the EU Strategy and Action Plan for customs risk management, the Member States together with the Commission contribute under EU and national legislation to the implementation of the European Agenda on Security, and acknowledges that cooperation and coordination with other authorities is also essential;
- The need to create synergies as far as possible and with respect to national legislation between the risk management of customs and information held by JHA agencies as identified in the report of the High Level Expert Group on information systems and interoperability;<sup>9</sup>
- The need to efficiently continue to implement the EU Strategy and Action Plan for customs risk management in line with the work plan for electronic systems as mentioned in Article 280 of the Union Customs Code and as foreseen for the implementation of the Union Customs Code,

#### NOTES THAT

- The partnership of customs with trade, together with cooperation with international partners, needs to be further explored and enhanced in order to promote competitiveness, to ensure supply chain security and to facilitate legitimate movement of goods and at the same time, apply and implement effective and efficient customs controls;
- Cooperation of law enforcement authorities in interlinking customs controls and risk management on the one hand, and fraud and crime prevention, detection and investigation measures on the other hand, needs to be constantly evaluated;
- Some of the electronic systems envisaged by the Union Customs Code systems will be deployed gradually and depend on financing under the next generation of EU customs funding programmes,

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<sup>9</sup> ST 10151/17, 14 June 2017

## STRESSES

- The importance of ensuring the respect of fundamental rights when implementing the EU Strategy and Action Plan for customs risk management;
- The importance of ensuring data protection, as laid down in particular in the General Data Protection Regulation;<sup>10</sup> and Directive (EU) 2016/680 of the EP and the Council.
- The need to deliver the electronic systems as foreseen by the UCC in a timely manner in order to allow customs administrations to manage financial and security risks while facilitating trade;
- The need for the Commission to regularly report to the Council and the Parliament on the progress of the EU Strategy and Action Plan for customs risk management.

RECOMMENDS MEMBER STATES AND THE COMMISSION, each within their respective competence,

- To utilise all available resources, to accelerate the implementation of essential IT systems, in order to meet the objectives of the EU Strategy and Action Plan for customs risk management;
- To pursue the reform of the EU import control system (ICS 2), acknowledging the agreement between the Member States and the Commission in July 2018, on the implementation of the first block of the ICS 2 IT;

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<sup>10</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88

- To increase the efficiency and effectiveness of customs controls based on risk analysis, taking into account the recommendations of the special report from the European Court of Auditors published in December 2017;
- To study the possible role of Customs Union Performance (CUP) in the measurement of effectiveness in the risk management area, by exploring the possibility of using, where possible, the same indicators;
- To emphasise customs risk management and the role of customs, based on strengthened multi-agency cooperation at the external border of the EU, as the leading authority for the control of goods and the fight against illegal trade in goods;
- To improve synergies between customs and other law enforcement authorities in the area of organised crime, security and fight against terrorism both at the national and EU level; to enhance cooperation between customs authorities and police (for example through Europol), border guards (for example through Frontex) and tax authorities;
- To further explore the technical, operational and legal aspects of interoperability of the security and border management systems with customs systems;
- To enhance the exchange of information related to risks between Member States and between Member States and third countries, in line with the provisions of the Union Customs Code and the Treaty on the Functioning of the European Union;

- To continue the exchange of experiences and working methods and the identification of common problems, notably at specific borders (air, sea, land) in a streamlined manner;
- To implement the Commission's decision on Financial Risk Criteria, which will enable Member States to address financial risks in an equivalent manner at the external border, thereby avoiding an undue burden on legitimate trade;
- To continue working constantly on enhancing the implementation of the EU AEO Programme and to optimise the AEO concept in line with globally agreed standards;
- To continue developing work on a EU Customs Single Window environment, and studying the role it could have in risk management, keeping in mind the cooperation needed between Member States and between Member States and the Commission;

#### INVITES THE COMMISSION

- To develop in close cooperation with the Member States, on the basis of the proposals mentioned in the second progress report, an efficient reporting mechanism to measure the impact of outcomes and results of specific actions deriving from the EU Strategy and Action Plan;
- To ensure that the UCC and its implementing and delegated acts provide sufficient legal basis to communicate and exchange data, risk analysis results, control orders and control results between the Member States involved in the ICS 2 process;



- To continue working on the development of a framework for structured exchange of information with third countries;
  - To set up, with the interested Member States, a working group within the Risk Management Strategy Implementation Coordination (RIMSCO) group, which could contribute to defining the indicators that will facilitate the implementation of the EU Strategy and Action Plan;
  - To submit a report on the implementation of the EU Strategy and Action Plan for customs risk management to the Council within the two years' time frame. This report will also assess the need for an updated Strategy.
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