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MEETING DOCUMENT

From:	Presidency
To:	Working Party on Customs Union
Subject:	Single Window Regulation - Presidency steering note on compromise proposals

Delegations will find in the Annex the above mentioned document in view of the Customs Union

Working Party on 26 April 2022.

**Presidency steering note
Draft Single Window Regulation**

Courtesy translation

Compromise proposals under discussion on cybersecurity, data sharing, processing of personal and non-personal data and interoperability of information systems

In the context of the negotiations between the Council and the European Parliament, it was agreed to establish a horizontal “package” approach to the treatment of several concepts that would guide the implementation of the draft Single Window Regulation, namely (1) cybersecurity, (2) data sharing, (3) processing of personal and non-personal data and (4) interoperability between European and national information systems.

The compromise proposals on these areas have been the subject of ongoing negotiations and are not yet included in the 4-columns Table, but the Presidency wishes to bring the main orientations to the attention of all delegations.

Delegations are invited to share their views on the compromise solutions envisaged, on the understanding that nothing is agreed until everything is agreed.

1. Cybersecurity

The issue of cybersecurity is now proposed to be addressed in revised recital 6a (new) (line 12 together with an additional reference in Article 3.2:

Recital 6a new:

The European Union Single Window Environment for Customs should integrate high cybersecurity solutions to prevent to the extent possible attacks that could cause disruptions to the customs and non-customs systems, harm security of trade -or inflict damages to the economy of the Union. The standards of cybersecurity should be designed to evolve at the same pace as the regulatory requirements for network information security evolve. The Commission and the Member States should follow the appropriate recommendations issued by the European Union Agency for Cybersecurity (ENISA) regarding cybersecurity of EU CSW-CERTEX and the national single window environments for customs.

Article 3(2):

The European Union Single Window Environment for Customs and its components shall be designed, interconnected and operated in accordance with Union laws concerning the protection of personal data, the free flow of non-personal data and cybersecurity, using the most appropriate technologies in relation to the specific data and electronic systems concerned, and their purposes.

This new recital 6a and the reference in Article 3(2) would replace the European Parliament’s amendment regarding Article 17c (*Cybersecurity framework*) which was composed of three separate paragraphs. Lines 167, 168, 169 and 170 would thus be deleted.

As a consequence, references to the concept of cybersecurity in Parliament’s proposals within the scheme would also be deleted: Article 8(1) (line 92), the title of Chapter IV (line 111), Article 10(1) (line 113) and the title of section 3 (line 149).

2. Data sharing

With regard to data sharing, it is envisaged to replace the European Parliament’s amendment regarding new Article 17(b) with a revised recital 10a to enable the provision of analytical tools for the purpose of combating all infringements subject to customs authorities.

Recital 10a new:

The European Union Single Window Environment for Customs needs to include fail-safe instruments, and needs to be designed with a view to contributing, feeding and fostering data analytics capabilities of Customs, including through the use of intelligence assisted tools for detection of infringements subject to customs controls or investigated by Customs, including as concern goods safety and security and protection of the financial interests of the EU.

As a consequence, Parliament's amendment regarding Article 17(b) (*Data Sharing*) (line 165 and 166) would thus be deleted, together with the references to data sharing contained in the title of Chapter IV (line 111) and in the title of Section 3 (line 149).

3. Processing of personal and non-personal data

On this subject, a horizontal approach would be defined according to a compromise based on the positions of the Parliament and the Council and set out in the revised recital 10.

Recital 10:

Any processing of personal and non-personal data in EU CSW-CERTEX should take place in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council (the 'GDPR'), Regulation (EU) 2018/1725 of the European Parliament and the Council ('IDPR') and without prejudice to Regulation (EU) 2018/1807 of the European Parliament and the Council (the 'Regulation on the free flow of non-personal data'). It should be conducted within a safe and secure environment protected from cyber-threats. To that end, suitable organisational and technical cybersecurity measures, such as encryption, should be used. Furthermore, any processing of personal and non-personal data in EU CSW- CERTEX should allow information sharing between the national environments for customs and Union non-customs systems without any storing of personal data, with the exception of technical logs required to identify the data sent to a given system. It should also transform data, where necessary, to enable information exchange between both digital domains. The information technology facilities used for data transformation should be located in the Union.

As a consequence, the Parliament's amendment regarding the title of Article 6 (line 68) would be maintained (*'Processing of personal and non-personal data in EU CSW-CERTEX'*) while its amendments regarding Articles 6(1a) new and 6(1b) new (line 69 and 70) would be deleted, leading to a return to the Council's position on Article 6(5) (line 83).

There is not yet a compromise solution regarding line 82.

4. Interoperability

This concept would be subject to a horizontal approach under Article 1(2) (line 44) as revised (tbc):

Article 1(2):

It lays down rules for the national single window environments for customs and rules within the European Union Single Window Environment for Customs on digital administrative cooperation and information sharing through interoperable data sets.

Consequently, the references relating to this concept would be deleted in Articles 8(1) (line 92), 10(1) (line 113), 11(a) (line 125) and the title of Section 3 (line 149).

Note de cadrage de la Présidence
Projet de règlement « Guichet unique »

Propositions de compromis en cours d'examen et relatives aux paquets de négociation sur la cybersécurité, le partage des données, le traitement des données personnelles et non personnelles et l'interopérabilité des systèmes d'information

Dans le cadre des négociations entre le Conseil et le Parlement européen, il a été convenu de déterminer une approche horizontale par « paquet » pour le traitement de plusieurs notions et concepts venant encadrer la mise en œuvre du projet de règlement sur l'environnement unique douanier, à savoir, notamment, (1) la cybersécurité, (2) le partage des données, (3) le traitement des données personnelles et non-personnelles et (4) l'interopérabilité entre les systèmes d'information européens et nationaux.

Les propositions de compromis sur ces domaines ont fait l'objet de négociations non encore totalement finalisées ni inscrites au sein du tableau 4-colonnes mais dont la Présidence souhaite porter les orientations à l'attention de l'ensemble des délégations.

L'avis des délégations est sollicité sur les solutions de compromis envisagées, étant bien entendu qu'il ne saurait y avoir d'accord sur un point que s'il y a un accord sur l'ensemble du texte.

1. Cybersécurité

L'enjeu de la cybersécurité serait désormais traité dans le considérant 6a (nouveau) révisé (ligne 12), en lien avec l'insertion d'une mention supplémentaire dans l'article 3.2 :

Considérant 6a nouveau :

The European Union Single Window Environment for Customs should integrate high cybersecurity solutions to prevent to the extent possible attacks that could cause disruptions to the customs and non-customs systems, harm security of trade -or inflict damages to the economy of the Union. The standards of cybersecurity should be designed to evolve at the same pace as the regulatory requirements for network information security evolve. The Commission and the Member States should follow the appropriate recommendations issued by the European Union Agency for Cybersecurity (ENISA) regarding cybersecurity of EU CSW-CERTEX and the national single window environments for customs.

Article 3.2 :

The European Union Single Window Environment for Customs and its components shall be designed, interconnected and operated in accordance with Union laws concerning the protection of personal data, the free flow of non-personal data and cybersecurity, using the most appropriate technologies in relation to the specific data and electronic systems concerned, and their purposes.

Ce considérant 6a nouveau et la mention de l'article 3.2 viendraient se substituer au projet du Parlement européen de l'article 17c (*Cybersecurity framework*) qui était composé de trois paragraphes distincts. Les lignes 167, 168, 169 et 170 seraient ainsi supprimées.

Par voie de conséquence, les références à la notion de cybersécurité présentes dans les propositions du Parlement au sein du dispositif seraient également supprimées : l'article 8(1) (ligne 92), le titre du chapitre IV (ligne 111), l'article 10(1) (ligne 113) et au titre de la section 3 (ligne 149).

2. Partage des données

Concernant le partage des données, il est envisagé de remplacer le projet du Parlement européen de nouvel article 17(b) par un considérant 10a (nouveau) révisé visant à permettre l'alimentation d'outil analytique au bénéfice de la lutte contre l'ensemble des infractions contrôlées et réprimées par les autorités douanières.

Considérant 10a nouveau :

The European Union Single Window Environment for Customs needs to include fail-safe instruments, and needs to be designed with a view to contributing, feeding and fostering data analytics capabilities of Customs, including through the use of intelligence assisted tools for detection of infringements subject to customs controls or investigated by Customs, including as concern goods safety and security and protection of the financial interests of the EU.

Par voie de conséquence, la proposition d'article 17(b) (*Data sharing*) (ligne 165 et 166) du Parlement serait ainsi supprimée, ainsi que les références au partage des données présentes dans le titre du chapitre IV (ligne 111) et dans le titre de la section 3 (ligne 149).

3. Traitement des données personnelles et non personnelles

Sur ce sujet, une approche horizontale serait définie selon un compromis entre les positions du Parlement et du Conseil et formulée dans le considérant 10 révisé.

Considérant 10 :

Any processing of personal and non-personal data in EU CSW-CERTEX should take place in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council (the 'GDPR'), Regulation (EU) 2018/1725 of the European Parliament and the Council ('IDPR') and without prejudice to Regulation (EU) 2018/1807 of the European Parliament and the Council (the 'Regulation on the free flow of non-personal data'). It should be conducted within a safe and secure environment protected from cyber-threats. To that end, suitable organisational and technical cybersecurity measures, such as encryption, should be used. Furthermore, any processing of personal and non-personal data in EU CSW- CERTEX should allow information sharing between the national environments for customs and Union non-customs systems without any storing of personal data, with the exception of technical logs required to identify the data sent to a given system. It should also transform data, where necessary, to enable information exchange between both digital domains. The information technology facilities used for data transformation should be located in the Union.

Par voie de conséquence, la proposition du Parlement pour le titre de l'article 6 (ligne 68) serait maintenue (« *Processing of personal and non-personal data in EU CSW-CERTEX* »), tandis que ses projets d'articles nouveaux 6.1a et 6.1b (ligne 69 et 70) seraient supprimés, entraînant de fait un retour à la position du Conseil pour l'article 6.5 (ligne 83).

Restera en discussion la ligne 82.

4. Interopérabilité

Cette notion ferait l'objet d'une approche horizontale dans le cadre de l'article 1, paragraphe 2 (ligne 44) ainsi révisé (à confirmer) :

Article 1, paragraphe 2 :

It lays down rules for the national single window environments for customs and rules within the European Union Single Window Environment for Customs on digital administrative cooperation and information sharing through interoperable data sets.

Par voie de conséquence, les mentions relatives à cette notion seraient supprimées aux articles 8.1 (ligne 92), 10.1 (ligne 113), 11a (ligne 125) et au titre de la section 3 (ligne 149).