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REPORT FROM THE COMMISSION TO THE COUNCIL

Progress report further to the Council Conclusions on Customs Cooperation with the Eastern Neighbouring Countries

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1. INTRODUCTION

The purpose of this document is to assess the progress achieved in the priority areas identified by the Council of the European Union in the "Council conclusions on the progress in customs cooperation with the Eastern Neighbouring Countries" (hereinafter 'Council Conclusions') adopted in the Economic and Financial Affairs Council meeting in Brussels on 28 January 2014.

The document provides an update on customs relations with the Eastern partners and Russia since the previous Commission Progress Report Further to the Council Conclusions on Customs Cooperation with the Eastern Neighbouring Countries (Brussels, 21.11.2013, SWD (2013) 487 final).

2. COUNCIL CONCLUSIONS ON THE PROGRESS IN CUSTOMS COOPERATION WITH THE EASTERN NEIGHBOURING COUNTRIES

The three priority areas, namely 'developing safe and fluid trade lanes', 'promoting risk management and the fight against fraud' and 'investing in customs modernisation in the region' were agreed in High-Level Seminars on Customs Cooperation at the Eastern Border of the EU, held in Budapest on 14 and 15 April 2011 and in Krakow on 20 and 21 October 2011, and identified in the Council conclusions on the Customs Cooperation with Eastern Neighbouring Countries (adopted at the Council meeting in Brussels, 5 December 2011).

In this context, the Council in its conclusions of 28 January 2014 invited the Commission and the Member States to cooperate with the Eastern neighbouring countries with a view to:

1. Develop safe and fluid trade lanes, in particular by:

- defining the conditions, including the requirements of data protection, and launching pilot project(s) on exchanges of advance customs information between the Member States and Eastern Neighbouring Countries leading to better targeted controls and trade facilitation;
- supporting Eastern Neighbouring Countries in the development of authorised economic operator (AEO) systems and in preparing necessary legal preconditions for the possible mutual recognition with the EU;
- encouraging and assisting Eastern Neighbouring Countries to follow the main steps for accession to the Conventions on a Common Transit Procedure and the Simplification of Formalities in Trade in Goods, including in setting up a project group, conducting a gap analysis, preparing a road map, providing training for customs officers and information to business and exploring financial support instruments;
- seeking to ensure the proper and transparent functioning of the TIR Convention 1975 and to create favourable conditions for transit operations at the Eastern Border of the EU.

2. Promote risk management and the fight against fraud, in particular by:

- enhancing operational cooperation, organising further Joint Customs Operations (JCOs) involving Eastern Neighbouring Countries based on the best practice and recommendations of, inter alia, JCO ROMOLUK (2013);
 - defining the rules for monitoring that the volume of tobacco products manufactured is commensurate with legitimate demand.
3. Foster customs modernisation, in particular by:
- identifying differences in customs legislation and procedures, in particular, in most important areas, such as customs declarations, transit, customs valuation, origin of goods, classification of goods, risk management and authorisations issued by the customs authorities in order to develop and implement approximation agendas using as a tool the revised set of the EU customs blueprints and examples of good practices;
 - fully utilising the opportunities offered by current and future EU financing instruments in order to fund equipment, twinning projects, training of customs officers, exchange of experience and best practices.
4. Continue discussions with the Russian customs authorities on the evaluation of the pilot project on information exchange and on the Early Warning Mechanism (EWM), which would serve as a means to provide advance notification of situations that may disrupt EU-Russia trade flows and to propose practical solutions.
5. Engage in an informal technical dialogue on customs matters with supranational institutions established as a result of the creation of a Customs Union between Belarus, Kazakhstan and Russia, with a view to exchanging information, solving practical problems or enabling convergence of customs legislation.
6. Consider preparation and adoption of Strategic Frameworks and setting up Working Groups on Customs Cooperation with Armenia, Azerbaijan, Belarus and Georgia, continue the cooperation with Russia, Republic of Moldova and Ukraine under the respective Strategic Frameworks.
7. Continue the close monitoring of the progress achieved in the above areas and the dialogue between the EU and the Eastern Neighbouring Countries at High-Level Seminars on Customs Cooperation at the Eastern Border of the EU and/or other dedicated customs fora in order to ensure the relevance of actions carried out and to coordinate and adjust the assistance provided.

Finally, the Council invited the Commission to evaluate, together with the Member States, the progress achieved in the priority areas of customs cooperation with Eastern Neighbouring Countries taking into account, inter alia, the initiatives and best practices of the Member States. The Commission was also invited to report to the Council on this progress, in order for it to propose a follow-up to these actions by the end of 2015.

3. PROGRESS OVERVIEW

The relations with Georgia¹, the Republic of Moldova² and Ukraine³ were brought to a new level in 2014 with the signing of Association Agreements/Deep and Comprehensive Free Trade Areas (AA/DCFTAs). These agreements aim for the countries' progressive political association and economic integration with the EU, through the implementation of reforms and commitments. The political developments in the region, i.e. the conflict in Ukraine and the tensions between the EU and Russia, and the emergence and expansion of the Eurasian Economic Union (EAEU) have influenced the degree of EU engagement with the countries in the region.

3.1. CUSTOMS COOPERATION WITH GEORGIA, REPUBLIC OF MOLDOVA AND UKRAINE

Cooperation with **Georgia** and the **Republic of Moldova** has progressed positively since the provisional application of the Association Agreement/Deep and Comprehensive Free Trade Area (DCFTA) from 1 September 2014, while for **Ukraine** provisional application of this part of the agreement was postponed until the end of 2015.

Customs cooperation with the Republic of Moldova, Ukraine and Georgia is based on the Strategic Frameworks, endorsed with the Republic of Moldova in October 2011, Ukraine in May 2012 and signed with Georgia in March 2015. Practical implementation of mutually agreed activities and the support has been organised under the Customs 2020 Programme. Regular customs dialogue has taken place to provide the strategic outlook.

The new Agreements have established **Customs Sub-Committees**, entrusted with decision-making powers, to monitor the convergence of legislation and procedures according to the DCFTA commitments. These aim to achieve a high degree of cooperation and regulatory approximation between the contracting parties. Judging by the results of the first committee meetings with Georgia and the Republic of Moldova (March/May 2015), both countries are on track in respecting customs-related commitments within the agreed timelines under the new Agreement.

With **Ukraine**, the **cooperation** on customs has been influenced by the political developments in the country and the organisational developments in the Ukrainian customs administration. During that period there have been projects supported by the Commission and the Member States where some progress can be reported.

¹ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (OJ L 261, 30/08/2014)

² Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 260, 30/08/2014)

³ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (OJ L 161, 29/05/2014)

Along with the alignment of customs legislation to the EU customs acquis, the EU focuses on:

- the development of risk management systems, including a programme for authorised economic operators, and promoting exchanges of customs information;
- assisting in the accession to the Common Transit Convention, thereby offering uninterrupted transit to the heart of the EU;
- assisting in working towards accession to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, thereby fostering regional economic integration for trade in goods.

Developing an **authorised economic operator** (AEO) concept in line with the EU legislation is one of the commitments taken by Georgia, the Republic of Moldova and Ukraine in the new Association Agreements. The current focus is on a comparative analysis of the respective AEO legislations conducted by Commission and Member States experts. Exchange of experience and best practices will be shared by enabling participation in the AEO Network meetings and conducting study visits to EU Member States.

In addition, a pilot project on recognition of EU AEOs at one of the border-crossing points (BCP) on the Moldovan-Romanian border was launched on 1 July 2015 for an initial period of 6 months; the pilot project aims at providing additional benefits for the EU AEOs at the Leuseni BCP (reducing processing time, improving risk targeting, fewer physical and documentary based controls).

In order to improve risk management and facilitate trade between the EU and its Eastern neighbours it was decided to launch a pilot project with Moldova and Ukraine on sending transit data to these countries with a view to implementing the project in 2016.

Future accession of Eastern neighbours to the **common transit procedure** would imply an important step forward in regional integration of transit systems; it would provide simplifications, accelerate border checks and enhance risk management. A short-term transit project was launched in January 2015 in Ukraine with the main objective of providing support and consultancy to the State Fiscal Service in their preparations to accede to the Convention. As a follow-up, a twinning project has been recommended. A twinning project fiche for the alignment with NCTS is being drafted for the Republic of Moldova.

Seminars on the Common Transit Convention were organised in Warsaw in September 2013, in Kyiv in April 2015 and in Tbilisi in June 2015; these seminars were complemented by study visits to Member States. Georgia, the Republic of Moldova and Ukraine have the status of informal observer in the EU-EFTA Working Group on "Common Transit and the Simplification of Formalities in Trade in Goods", where they provide regular updates on progress.

The Pan-Euro-Mediterranean Convention on preferential rules of origin (PEM), as a zone of cumulation of manufacturing processes with the EU and other PEM members, fosters regional economic integration for trade in goods. The Republic of Moldova ratified the PEM Convention on 28 May 2015; it became a Party to the Convention on 1 September 2015. Georgia requested to accede to the PEM Convention in October 2015;

Ukraine has informed the Commission about the internal discussions regarding its accession to the Convention. Several seminars were organised on rules of origin in 2014 and 2015 for these three countries (Kyiv on 5 June 2014, Chisinau on 3 November 2014, Tbilisi on 17 March 2015).

The fight against **cigarette-smuggling** and other forms of illicit trade in tobacco products remains a high priority for the EU in relation to the Eastern neighbours. The Commission is actively implementing the Action Plan of the Communication on stepping up the fight against cigarette-smuggling and other forms of illicit trade in tobacco products, in close cooperation with the Member States.

Based on good experience from the previous joint customs operation (ROMOLUK I), in which both the Republic of Moldova and Ukraine participated, OLAF organised another joint customs operation (**ROMOLUK II**) on cigarette-smuggling in 2015.

The assistance provided by the EU to Georgia, the Republic of Moldova and Ukraine to support the implementation of the AA/DCFTA and to improve the customs capacities of the Eastern Partners is essential. The **EU Border Assistance Mission to Moldova and Ukraine** (EUBAM) has provided valuable assistance on customs legislation and practice, including on anti-fraud activities.

3.2. CUSTOMS COOPERATION WITH BELARUS

In recognition of a number of positive steps taken by Belarus since 2014, which have led to an improvement in EU-Belarus relations, the Council agreed on 15 February 2016 to lift most restrictive measures against Belarus and to step up the implementation of the list of concrete measures to deepen the EU's policy of critical engagement with Belarus. This list of measures was endorsed by COREPER in January 2015 and includes activities in the area of customs.

In this context the Commission has suggested to resume expert contacts.

The EU has also financed projects in the framework of the Eastern Partnership Programme.

3.3. CUSTOMS COOPERATION WITH RUSSIA

The ongoing political crisis and customs and trade irritants have influenced the cooperation. Russia has implemented irritants with negative effect on EU operators:

- since July 2013 Russia has restricted the geographical application of the TIR Convention to a few border-crossing points at the EU-Russia border and has required additional (national) guarantees for goods in transit through Russia. These disruptions are continuing to date;
- for several months in 2014 the Russian border authorities also put in place enhanced control measures targeting Lithuanian road carriers that also led to disruptions;
- since September 2014, there have also been disruptions of transit through Russia between the EU and the Central Asian and the South Caucasus countries due to the import ban imposed by Russia on EU agri-food products in response to EU sanctions for Russia's intervention in Ukraine.

The Strategic Framework for Customs Cooperation endorsed in November 2010 provided the overall direction for the cooperation. However, implementation remained very limited. The Early Warning Mechanism was not followed up and the joint evaluation of the pilot project on information exchange was not completed. Nevertheless, a new roadmap for the implementation of the Strategic Framework was prepared at the end of 2015 and agreed early in 2016.

3.4. TRILATERAL EU-RUSSIA-UKRAINE TALKS

Talks to address Russian concerns regarding the implementation of the EU-Ukraine DCFTA started informally in November 2013 between the EU and Russia, before the signature of the AA/DCFTA (27 June 2014); these talks were extended to Ukraine in June 2014.

The Minsk Declaration by the Normandy-four leaders of 12 February 2015, concerning the broader issue of the Ukraine crisis, refers to the trilateral talks on the AA/DCFTA mentioning that their aim is to 'achieve practical solutions to concerns raised by Russia with regard to the implementation of the DCFTA'.

On customs matters, Russia could not demonstrate how the DCFTA provisions might cause increases in the risk of fraud in bilateral Ukraine-Russia trade and why any concerns about potential fraud cannot be addressed in the existing bilateral agreements and customs cooperation frameworks (i.e. Ukraine-Russia, EU-Russia and EU-Ukraine).

As of 1 January 2016 Russia suspended the Commonwealth of Independent States (CIS) trade preferences in relation to Ukraine; Russia also banned agricultural imports from Ukraine and introduced additional sanctions with restrictions to transit from Ukraine to Kazakhstan through Russia. In return, Ukraine also introduced import and transit restrictions on Russian goods.

3.5. EURASIAN ECONOMIC UNION

The treaty establishing the EEU was signed on 29 May 2014 by Belarus, Kazakhstan and Russia, and came into force on 1 January 2015. Armenia joined on 2 January 2015 and Kirghizstan on 12 August 2015. The EEU was created on the basis of the Customs Union formed in 2010 by Russia, Belarus and Kazakhstan.

Some technical level contacts have taken place between services of the European Commission and the Eurasian Economic Commission.

3.6. CUSTOMS COOPERATION WITH ARMENIA AND AZERBAIJAN

In October 2014 **Armenia** signed its accession treaty to the Eurasian Economic Union, which entered into force on 2 January 2015. Following Armenia's decision in 2013 not to initial the negotiated AA/DCFTA, Armenia and the EU continue their political and trade dialogue in areas where this is compatible with Armenia's new obligations. Negotiations started in December 2015 on a new EU-Armenia legally binding and overarching agreement upgrading bilateral relations currently based on a Partnership and Cooperation Agreement.

Customs cooperation between the EU and **Azerbaijan** has been rather limited since Azerbaijan decided to suspend the negotiations of the Association Agreement. At the **Eastern Partnership Summit** in Riga (May 2015) Azerbaijan confirmed its interest in a new EU-Azerbaijan agreement. This initiative was welcomed by the EU in line with the Reviewed European Neighbourhood Policy envisaging a new EU differentiated approach towards **Eastern Partnership** countries addressing their particular needs and priorities. Discussions on the scope of the future agreement started in December 2015 with the aim to obtain a mandate to start negotiations still in 2016. This would include customs cooperation.

3.7. EASTERN PARTNERSHIP ACTIVITIES

The **Eastern Partnership** (EaP) is a common endeavour by the EU and Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova, and Ukraine to further support sustainable reform processes in these countries.

Within the **Eastern Partnership Platform 2** on Economic integration and convergence with EU policies a series of trainings for customs managers on trade facilitation aspects was initiated. Two events were conducted in September 2014 in Warsaw and in September 2015 in Cracow. 48 participants from six EaP countries were trained on verification of origin, classification, valuation, protection of intellectual property rights, post-clearance audit, ethics and anti-corruption measures. 160 hours of lectures, presentations, exercises and case studies were provided. Continued support of Member States is needed in this area.

The EaP Expert Panel on Integrated Border Management (IBM) seeks to facilitate the exchange of best practices on IBM and strengthen the cooperation between customs services and border guards in Partner Countries. The EaP Flagship Initiative on Integrated Border Management has provided opportunities for EaP countries to submit project proposals aimed at customs modernisation and trade facilitation. The projects developed under this Initiative will assist the EaP countries in the implementation of IBM strategies, integrity, trade facilitation, risk management, detection of drugs and smuggled cigarettes/tobacco products, protection of intellectual property rights and fight against corruption⁴.

The recently published new addition of the Customs Blueprints prepared by the European Commission with the support from the customs experts of Member States and Candidate countries should be used to help improve and build up operational and administrative capacity in the customs services of the EaP Countries (in particular in Georgia, Republic of Moldova and Ukraine). The blueprints are intended to be used as benchmarks against which the EaP Countries can measure shortfalls in the different business areas and subsequently make improvements. The content of the Blueprints was presented at the EaP IBM Panel in Riga, June 2015. Follow-up activities, e.g. in the form of workshops, may be organised in the future.

⁴ In this regard it is worth mentioning the **Eastern Partnership IBM** capacity building project led by Frontex to facilitate the movement of persons and goods across borders in the six EaP countries.

4. CONCLUSION

Substantial progress has been achieved since the previous Commission Progress Report Further to the Council Conclusions on Customs Cooperation with the Eastern Neighbouring Countries (Brussels, 21.11.2013, SWD (2013) 487 final).

Customs cooperation with the Eastern Partnership countries, in particular with Ukraine, the Republic of Moldova and Georgia has intensified. The Commission focused on the implementation of the AA/DCFTAs and the Strategic Frameworks for customs cooperation by supporting customs reforms. Progress was made in implementation of the AEO programmes, accession to the Common Transit Procedure and accession to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin. The countries concerned participated in the Customs 2020 Programme, Technical Assistance and Information Exchange instrument (TAIEX) activities and twinning projects which assisted them in obtaining better understanding of EU customs activities and thus implementing good practices. The Member States supported the capacity building activities.

Customs cooperation with Russia was limited during this period and was influenced by political and trade developments. The Commission has insisted on Russia implementing fully the TIR Convention and abstaining from unjustified customs controls. Dialogue is important to avoid disruptions in trade flows.

Cooperation in the customs area with Belarus and the Eurasian Economic Union was limited.