



Council of the  
European Union

Brussels, 9 December 2016  
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**NOTE**

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From: Presidency  
To: Delegations

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Subject: Draft Council Conclusions on Enhanced Exchange of Customs Related  
Information with Third Countries

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Delegations will find in the Annex the above revised draft Council Conclusions, as amended by the Presidency at the request of one delegation. The amendments are indicated in bold underlined.

The Presidency takes the view that these amendments do not substantially alter the text and the agreement which was reached at the working party meeting on 5 December 2016. Delegations are invited, however, to indicate by 12 December 2016 cob whether they cannot accept the draft Conclusions as amended. In the absence of comments the draft Conclusions will be submitted to Coreper and the Council for adoption as an item without discussion.

**Draft Council Conclusions on Enhanced Exchange of Customs Related Information with  
Third Countries**

**The Council of the European Union**

HAVING REGARD TO:

- the important role of cooperation and exchange of customs related information with third countries, in particular in the area of the Customs Union and common commercial policy;
- the Council Conclusions on the progress in customs cooperation with the Eastern Neighbouring Countries<sup>1</sup>;
- the Report from the Commission to the Council - Progress Report further to the Council Conclusions on Customs Cooperation with the Eastern Neighbouring Countries<sup>2</sup>;
- the Council Conclusions on EU Strategy and Action Plan for customs risk management: tackling risks, strengthening supply chain security and facilitating trade<sup>3</sup>;
- the Report from the Commission to the Council and the European Parliament - Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management<sup>4</sup>;
- the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade;

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<sup>1</sup> Doc. ST 16955/2/13 REV 2

<sup>2</sup> Doc. ST 10388/16

<sup>3</sup> Doc. ST 15403/14

<sup>4</sup> Doc. ST 11415/16

## ACKNOWLEDGING THAT:

- Cooperation and exchange of customs related information between the Customs Authorities of the EU Member States and those of third countries at multilateral, regional or bilateral levels can improve customs risk management and may:
  - make legitimate trade cheaper and faster by simplifying customs controls and procedures;
  - contribute to the security and safety of the Union by strengthening controls to stop counterfeited, pirated and hazardous goods, arms, explosives and dual use goods;
  - lead to increased effectiveness of customs risk analysis or risk assessment in the prevention and detection of illegal trade, including customs fraud;
  - provide the information required to prosecute and sanction offenders;
  - reduce corruption at the external borders;
  - facilitate recognition of controls and trade partnership programmes;

## RECALLING

- The conferral of competences to the EU resulting from the Treaty on the Functioning of the European Union (TFEU) and the interinstitutional procedures for the EU to negotiate and conclude international agreements or to adopt legislation in the field of customs in relation to the EU common commercial policy;
- that Article 12(2) and (3) of the Union Customs Code (UCC) provides that confidential information acquired by the Customs Authorities of the EU Member States in the course of performing their duty may be communicated to competent authorities of third countries for the purpose of customs cooperation “*in the framework of an international agreement or Union legislation in the area of the common commercial policy*” and insofar as an adequate level of data protection is ensured;

- Article 19 of the Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters and international agreements and protocols concluded by the EU with third countries;

#### EMPHASISING:

- the importance of a constructive partnership between the Member States and the Commission in the context of the definition of the EU relations with third countries on customs-related issues, as well as in the implementation of these relations, including in areas which fall under exclusive EU competence and,
- the need for timely and transparent involvement of the relevant Council bodies including customs working parties to ensure the optimal functioning of this partnership.

#### UNDERLINING THE NEED:

- to develop EU customs cooperation with third countries including the relationship between the Customs Authorities of the EU Member States and those of third countries;
- to develop, in line with the EU legislation on data protection and without prejudice to existing mechanisms, the exchange of information between the Customs Authorities of the EU Member States, and those of third countries in such a way as to facilitate legitimate trade, improve customs risk management, ensure the proper implementation of measures related to the safety of products, and enhance the development of trusted supply chains, involving Authorised Economic Operators;

INVITES THE MEMBER STATES AND THE COMMISSION:

- to continue to promote EU and international customs standards in bilateral agreements in the area of common commercial policy and to continue developing country-specific customs cooperation;
- to consider how to develop the interoperability of customs IT systems in order to promote the exchange of advance information and to facilitate the movement of goods in a global context;
- **to ensure a transparent and sound legal base for exchange of information as identified above;**
- to further improve the partnership between the MS and the Commission in the context of relations with third countries, including by involving the relevant Council **bodies, including customs working parties**, to ensure optimal functioning;

INVITES THE COMMISSION:

- by the end of 2017, to consider coming forward with proposals for a policy framework and **where necessary** Union legislation on the exchange of information between the Customs Authorities of the EU Member States and those of third countries in the area of common commercial policy.

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