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#### COVER NOTE

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From: World Customs Organisation  
To: Delegations

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Subject: DRAFT COORDINATED PAPER  
World Customs Organisation  
5<sup>th</sup> Meeting of the Working Group on Revenue Compliance and Fraud  
(WGRCF)  
21-23 November 2018

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Delegations will find attached the document in subject

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**DRAFT COORDINATED PAPER**

**World Customs Organisation**

**5<sup>th</sup> Meeting of the Working Group on Revenue Compliance and Fraud (WGRCF)**

**21-23 November 2018**

**I. Opening and Adoption of the agenda**

- a) Introduction
- b) Election of the Chair and the Vice-Chair
- c) Opening remarks by the Chairperson

***No position is necessary***

- d) Adoption of the draft agenda and summary document (Doc: CR0042E; CR0043E)

***Common position***

***The EU and its Member States support the adoption of the draft agenda and recall the need to have the working documents at least four weeks in advance of the meeting.***

- e) Approval of the Report of the 4<sup>th</sup> Meeting of the WGRCF (Doc: CR0041E)

***Common position***

***The EU and its Member States support the approval of the report of the fourth meeting of the WGRCF.***

**II. Revenue Package Phase III (Doc: CR0044E)**

The June 2018 Policy Commission took note of the new and updated materials prepared by the Secretariat under Phase III and noted the completion of work on the Phase III Action Plan. The Secretariat will provide further information on the tools produced under Phase III.

***Common position***

***The EU and its Member States take note of the activities reported by the WCO Secretariat.***

### **III. Revenue Package Phase IV (Doc: CR0045E)**

Following the successful completion of Phase III of the Revenue Package, the Secretariat is now seeking input from the WGRCF regarding potential tasks and topics for consideration under Phase IV.

Illicit financial flows, valuation, origin, classification (especially tariff engineering), revenue fraud and compliance issues related to e-commerce and Customs debts have been proposed by the Secretariat.

The WG is going to discuss a work plan and key topics for Phase IV in its meeting in November. Based on the discussions the Secretariat will prepare an Action Plan to be submitted to the December Policy Commission for approval, if appropriate.

#### **Common position**

*The EU and its Member States support the proposals made by the Secretariat to include illicit financial flows in Phase IV. It is closely linked to the valuation issue and the WCO should take into account ongoing work at the OECD in the context of transfer pricing documentation, including the template for country-by-country reporting. In this issue, it is crucial that Customs and tax authorities work together.*

*On the valuation related documents produced in Phase IV, we would appreciate if they were presented to the Technical Committee of Customs Valuation before they become final.*

### **IV. Post-Clearance Audit (PCA) (Doc: CR0046E)**

The WCO has developed different tools and undertakes capacity building activities to support Members in implementing PCA in the most effective and efficient way.

The Working Group is invited to:

- Provide guidance on the future activities on PCA
- Support the implementation of the new advance PCA Workshop package

#### **a) Progress report on implementation and future activities**

#### **Common position**

*The EU and its Member States consider Post Clearance Audit (PCA) an important tool as part of the risk management process and encourages its use to target and tackle risks effectively and efficiently, depending on the type and level of risk faced. PCA is an effective tool, which allows risks to be addressed at the most appropriate time contributing to smoother borders and facilitating trade.*

*The EU and its Member States are in favour of continuation of this work in building a common and consistent approach in how members use post clearance audit as a method of control. The sharing of best practice and building capabilities are key steps in ensuring the uniform application of controls tailored to the specific risks encountered by each member.*

*The EU and its Member States therefore support the implementation of the new advance PCA workshop.*

**b) Member case studies**

*No position is necessary*

**V. Tariff Misclassification (Doc.: CR0047E)**

a) Identity Crises – Tariff misclassification is the underestimated problem – Presentation by the Secretariat

The impact of misclassification was discussed during the November 2016 meeting of the Working Group. After further study, the Secretariat is of the opinion that tariff misclassification should be further clarified on its definition, scope and impact.

The WGRCF is invited to:

- consider the issue of tariff misclassification and express their level of interest in undertaking further studies or developing additional tools or guidance,
- actively share their national practices in defining deliberate and non-deliberate misclassification and how deliberate fraud can be identified and evidence,
- specifically present cases of misclassification to the WGRCF.

*Common position*

*The EU and its Member States welcome this agenda item. We do not have a definition of misclassification in the EU legislation. We can agree with the WCO Secretariat that tariff misclassification covers all reporting of goods under an incorrect tariff classification at the border, whether from error or fraud. It may affect the application of economic measures, customs control and trade statistics. Misclassification can be conducted on purpose (fraud) or be triggered by ignorance of classification rules (mainly from traders) or incorrect application of such rules by administrations.*

*We understand that the remedies differ according to the cause, ranging from prevention, fight against fraud, training and/or actions to facilitate the application of the Nomenclature and classification rules, and taking into account the need to facilitate legitimate trade.*

*For instance, in case of misclassification due to the incorrect application of the HS rules, we understand that we should all draw the attention of the WCO HS Committee. Each item put on the agenda of the HS Committee is an example of (presumed) non-deliberate misclassification.*

*We support the WCO proposal to carry out further studies or development of additional tools or guidance and enhance sharing national practices on tackling deliberate and non-deliberate misclassification*

*The EU might present cases of misclassification to the WGRCF.*

b) Systemic misclassification of various alcohol products – Presentation by the Australian Border Force (CR\_15\_Conceptnote\_alcohol\_E)

**No position is necessary**

**VI. Other forms of Commercial Fraud (Doc.: CR0048E)**

a) Potential review of the existing WCO Technical Materials on Commercial Fraud

Customs commercial fraud remains a priority area of work for the WCO. Various WCO materials with relevance to Commercial Fraud have been developed over the past 15 years.

The Working Group is invited to:

- to reflect and identify commercial fraud tools which could be potentially updated to best respond to current needs; and
- identify gaps in other commercial fraud areas for which the development of new tools could be considered.

**Common position**

*The EU and its Member States welcome the WCO efforts to address commercial fraud. We believe that reviewing the existing tools and update them accordingly to respond effectively to current developments is the appropriate way to move forward.*

*We are of the opinion that this exercise should be given a wider timeframe to ensure quality work, namely to identify the respective gaps in the tools, propose a list of potential reviews and finally amend the tools.*

b) Member case studies

**No position is necessary**

**VII. Free Zones exploitation - Revenue implications (Doc. : PC0531E1a)**

- a) General introduction
- b) Member case study
- c) Future WCO activities

In recent years, public attention has focused on the potential misuse of Free Zones. WCO, its Members and other international organisations have expressed the need for better Customs procedures and Customs controls in Special Customs Zones (SCZ).

The WCO is considering whether new instruments dealing with Free zones should be developed. The OECD Task Force on Countering Illicit Trade will publish the final version of “OECD Guidance to counter Illicit Trade: Enhancing Transparency in Free Trade Zones” in the near future, after public consultation and input from WCO.

The paper provides a summary of the results of the WCO online survey on SCZs and of the key findings of the initial analysis.

Delegates are invited to:

- share national experiences of SCZs (including those of Members with no SCZs) and examine the overview of the online survey on SCZs;
- exchange thoughts on possible innovative Customs procedures and controls using data and modern technologies, to be applied experimentally in SCZs, considering the characteristics of SCZs and treating challenges as opportunities;
- and discuss awareness-raising activities that could be carried out by the Customs community as a whole to ensure effective Customs procedures/control while contributing to the economic benefits of SCZs.

### **Common position**

*The EU and its Member States welcome the WCO's initiative to work thoroughly in this issue. This issue and the same working document were on the agenda of the last PTC. The EU Customs legislation allows the establishment of free zones by EU Member States as enclosed areas whose perimeter and exit and entry points must be subject to customs supervision. Customs authorities of the EU Member States have also an active role as regards the buildings and activities performed in free zones and may prohibit certain operators from performing activities within free zones if they do not provide the necessary assurance of compliance.*

*We agree with the findings of the initial analysis. In particular, we are of the view that free zones offer a valuable service for traders. Within the EU we do not have Special Customs Zones. In addition, the WCO tools and instruments, in particular the RKC, only refer to Free Zones. It might therefore be advisable to use the same terminology to avoid any misunderstandings. Furthermore, we consider that Customs authorities should carry out regular checks to ensure that Special Customs Zones (SCZ) are not used for illegal activities and should be involved in the procedure of establishment and construction of SCZ, as well as in the procedure regarding the admission of operators performing activities within SCZ.*

*Regarding the proposed WCO plans in this field, The WCO should take into consideration the work done by the OECD, in particular the forthcoming document "Guidelines for countering illicit trade related to Free Zones". We also propose that the RKCWG reviews the terminology used as regards Free Zones.*

### **VIII. Special session on Illicit Financial Flows (IFFs) and Customs enforcement (Doc.:CR0049E)**

The Working Group is invited to:

- Take note of WCO current and future initiatives to support the fight against IFFs;
- Discuss the main challenges faced in detecting and preventing money laundering, bulk cash and precious minerals smuggling;

- Reflect on the current coordination mechanisms as well cooperation models between relevant stakeholders and provide guidance on how to improve existing practices;
- Provide input on potential amendments to the WCO Action Plan on Customs and the Fight against Illicit Financial Flows and comments on the outline of the Customs – Financial Intelligence Unit Cooperation Handbook; and
- Provide guidance on the WCO’s approach and future work.

### **Common position**

*The EU and its Members States take note of the WCO initiatives to support the fight against Illicit Financial Flows (IFFs). We strongly support the G20 initiative and support the WCO work. Customs Authorities should continue to strive to combat IFFs. Customs role at the (External) border could prove fundamental to tackle successfully money laundering by IFFs; and cooperation between Customs authorities, tax authorities and Financial Intelligence Units is crucial. Other international organisations are also paying particular attention to this issue.*

*This year the EU has adopted new rules to reinforce our rules to prevent money laundering and terrorist financing. These new rules provide useful tools to authorities in order to combat IFF by broadening the access of information on beneficial ownership, improving transparency in the ownership of companies and trusts. EU rules now provide for cooperation between tax authorities, and financial intelligence units, and impose reporting obligations on a number of key players such as financial institutions or notaries and improved checks on transactions involving high-risk third countries.*

*We also have a new set of rules for common cash control provisions that will tighten the controls on persons entering or leaving the EU and enhance information exchange between authorities (Customs and Financial Intelligence Units) and EU Member States.*

*As regards the WCO Action Plan, we consider that an identification of existing WCO instruments and tools that may support the fight against IFF might also prove beneficial. This would be essential and a starting point to assess whether either new instruments and tools should be developed or existing ones amended. It is furthermore essential that the WCO continue to closely monitor and participate in the ongoing work in other international organisations on IFF issues. When appropriate, the Action Plan should include a timetable for a number of activities such as in point 2.1. In addition, we are of the view that customs controls might also be extended to new ways used by criminals to circumvent current rules, including cash sent in postal parcels or freight shipments and to prepaid cards.*

### **1. WCO initiatives to support the fight against money laundering and terrorism financing**

- a) Update on the development of the Customs – FIU Cooperation Handbook
- b) Case study
- c) Operational and capacity building activities
- d) FINCRIME
- e) Update on the dialogue with the G20 on the WCO Study Report on Trade Mis-invoicing

*There is no working document available.*

**Common position.**

*We are of the view that cooperation between Customs authorities and FIUs is crucial for fighting against money laundering and terrorism financing. To date, cooperation between Customs and FIUs varies across the EU. Nevertheless, there is a large consensus on the need to enhance cooperation between Customs and FIUs. For instance, the new legislation on cash controls already goes in that line as it requires that the risk assessments produced by FIUs on anti-money laundering and terrorist financing should be shared with Customs authorities.*

**2. Panel discussion on Customs efforts to counter the global threat of Bulk Cash Smuggling**

- a) General introduction
- b) Members case studies

*There is no working document available.*

**Common position.**

*The new legislation on cash controls extends its scope by including liquid commodities. For the time being only gold is included with coins with a gold content of at least 90 %; and bullion such as bars, nuggets or clumps with a gold content of at least 99,5 %.*

**3. Customs, Police and FIUs' efforts in combatting money laundering and terrorist financing**

- a) General introduction
- b) Illicit financial flows linked to Chinese textile importations – Presentation by Italian Customs
- c) International initiatives to combat money laundering and terrorism financing

*There is no working document available.*

**Common Position**

*The EU and its Members States take note of the WCO initiatives to support the fight against money laundering and terrorism financing.*

**4. Panel discussion on money laundering linked to the illicit trade in diamonds, gold and other precious metals**

- a) General introduction
- b) Members case studies
- c) International initiatives to combat money laundering and terrorism financing through trade in diamonds, gold and other precious metals



*There is no working document available.*

### **Common Position**

*The EU and its Member States take note of the WCO initiatives to support the fight against money laundering and terrorism financing.*

*The new legislation on cash controls extended its scope by including liquid commodities. For the time being only gold is included. Diamonds were not included for several reasons such as:*

- *because of the difficulty in exchanging diamonds for cash,*
- *finding the expertise for the evaluation of diamonds,*
- *high cost of the expertise in diamonds.*

*Those obstacles make it difficult to transfer value across the EU borders using Diamonds. However if there are sufficient evidence that criminals are using diamonds to circumvent the EU legislation, the Commission would immediately propose an amendment to EU legislation in order to include Diamonds within its scope.*

## **IX. Illicit trade in excisable products (Doc.:CR0050E)**

While Customs authorities continue to tackle the threat of illicit excise goods and have some success in so doing, the threat remains prevalent and is becoming more complex. Members are requested to consider the three exercises presented in the document, which could be undertaken in early 2019.

The Working Group is invited to:

-consider, and if appropriate, support the proposed activities of collecting and disseminating of legal gateways for the exchange of information to combat smuggling and the implementation of a SPOC Network.

-Provide guidance and feedback on any other elements/activities which could be considered to counter illicit trade in excise goods more effectively.

### **Common Position**

*The EU and its Member States would like to thank the WCO for highlighting this particularly important issue and for putting forward potential exercises to tackle it.*

*Better responsiveness of Customs to real-time sharing of information to counter illicit trade in excise goods, particularly illicit tobacco, is to be complemented. It is evident that even though Customs succeed in curbing phenomena of illicit excisable trade, crime groups immediately communicate this throughout their channels.*

*In this framework, we believe that the proposed exercises could improve Customs knowledge of crime group techniques and try to respond effectively to this challenge.*

a) The WHO Protocol to Eliminate Illicit Trade in Tobacco Products

- Brief history of FCTC Protocol, entry into force and future requirements.

Member presentation

b) Tobacco Expert Group and future operational activities

- Operational and Intelligence Coordination. Member presentation.
- Review of 2018 successful cases discuss future operational activity. WCO Secretariat.
- The European Multidisciplinary Platform against Criminal Threats (EMPACT) and 2019 Operational Plan (Tobacco-related activities).
- Concept for the establishment of a Global Tobacco Expert Network. WCO Secretariat.

c) Illicit trade in alcohol products

- Operational and Intelligence Coordination. Member or RILO presentation.
- Review of 2018 successful cases discuss future operational activity. WCO Secretariat.
- The European Multidisciplinary Platform against Criminal Threats (EMPACT) and 2019 Operational Plan (Alcohol-related activities).

**Common Position (a,b,c)**

*There are no working documents available. The EU and its Member States will take note of the presentations.*

*(As regards Illicit Trade in Tobacco Products)*

*We welcome WCO attention to the illicit trade of tobacco products which is a major concern to the EU.*

*Five years ago, the EU adopted a comprehensive strategy document and the Commission was able to report on progress made last year. With the introduction of a European track and trace system and the ratification of the FCTC Protocol, important progress was made. We are currently reflecting on next steps.*

*EU Member States and OLAF, as a European investigative authority, also cooperate closely on enforcement: over the past years, the volume of seized cigarettes has been in the range of 3-4 billion sticks annually.*

*We consider the entry into force of the FCTC Protocol, as a new multilateral anti-smuggling treaty, as a milestone in fighting revenue fraud. We welcome WCO interest in these important developments and encourage active contribution to this process.*

*The EU uses a number of instruments to exchange information when fighting revenue fraud. Now also the FCTC Protocol foresees a legal basis for the sharing of information between Parties. Parties to the Protocol decided last month to create two new working groups. One of them will precisely discuss how customs authorities can put into practice these new legal tools for international cooperation. In this sense, we see the Protocol becoming an important forum to share good practices and experiences in that regard.*

*(As regards Illicit Trade in Alcohol Products)*

*In the EU, a number of working groups have been discussing the common problems that excise officials face daily. A guide on how to tackle excise fraud in the field of alcohol and a list of recommendations were drafted following those discussion.*

**X. Other Business**

*No position is necessary*

**XI. Closing**

*No position is necessary*