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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	ST 13835/2/18 REV 2
No. Cion doc.:	ST 10897/18
Subject:	Conclusions on the First Biennial Report on Progress in Developing the EU Customs Union and its Governance - Adoption

1. The European Commission published on 5 July 2018 its Communication to the Council and the European Parliament - First Biennial Report on Progress in Developing the EU Customs Union and its governance in which it reviews the operation of the Customs Union to date and identifies priority issues ahead.
2. The Participants in the High-Level Seminar for the Heads of Customs Administrations from the EU Member States, Participating Candidate Countries, and the European Commission prepared the “Vienna Declaration” on Customs Union Performance on 19 October 2018 which is annexed to the Conclusions.

3. The Presidency prepared draft Council Conclusions to provide guidance in developing the EU Customs Union and its governance. The draft Conclusions have been examined by the Working Party on Customs Union, and a broad consensus on the text has been reached at the Working Party meeting on 17 December 2018.

4. Against this background, the Permanent Representatives Committee could:
 - confirm the agreement reached within the Working Party; and

 - invite the Council to adopt the Council Conclusions, as set out below in Annex to this document, as an item without discussion at one of its forthcoming meetings.

Council Conclusions on the First Biennial Report on Progress in Developing the EU Customs Union and its Governance

The Council of the European Union

RECALLING the Council Conclusions on Developing the EU Customs Union and its governance and in particular its invitation on the Commission and the Member States:

- to implement the Union Customs Code (UCC) as a top priority;
- to develop a mid and long term strategy for customs IT systems;
- to continue to develop Customs Union Performance (CUP) as a management tool to guide policy decisions and provide a framework for evaluation and develop further the set of Key Performance Indicators based on policy needs;
- to develop the governance of the Customs Union;
- to improve the coordination and the cooperation of customs with other law enforcement authorities and other agencies;
- to continue with their efforts to develop a workable solution for the creation of the EU Customs Single Window environment;
- to support the improvement of customs and tax co-operation;
- to continue the involvement of trade in the process of preparing and implementing the EU customs legislation;

and on the Commission to report on the developments in the above areas.

HAVING REGARD TO

- the Commission White Paper on the future of Europe ¹, the questions it raised on security and border management, and the subsequent challenges for Customs;
- the “Vienna Declaration” on Customs Union Performance of 19 October 2018 of the participants of the High-Level Seminar for the Heads of Customs Administrations from the EU Member States, Candidate Countries, and the European Commission, as annexed;

NOTING

- the substantial role played by the Customs Union with regard to trade policy, and by Customs with regard to trade facilitation, enabling the EU to become the largest trading block in the world;
- the positive impact of the implementation of the Common Risk management Framework on security;
- the challenges Customs is facing with new technologies developed and new business models implemented;

WELCOMES the Communication from the Commission to the Council and the European Parliament - First Biennial Report on Progress in Developing the EU Customs Union and its governance².

¹ ST 6952/17
² ST 10897/18

TAKES NOTE OF

- the work being carried out in view of developing the Customs Union Performance tool and Key Performance Indicators, and possible synergies in view of avoiding duplication of data;
- the implementation of the phased approach as regards Single Window;
- the changes being made to arrangements with the Trade Contact Group in view of improving the involvement of trade in preparing customs legislation.

UNDERLINES THAT

- as regards the UCC, it is important for both Member States and the Commission to work aligned and to respect the agreed deadlines in order to put in place the IT systems required for the implementation of the UCC as early as possible;
- beyond these challenges, it is essential to address the issues related to the customs electronic systems as a whole in the framework of the current discussions concerning the strategy for customs IT;
- the end of the VAT exemption regime for low-value consignments post 2021 represents a challenge for customs, in light of the increasing number of such consignments being imported into the EU;
- the governance of the Customs Union is a complex issue that involves a number of stakeholders;

- the priorities issues ahead, in particular with regard to the strengthening of controls, the monitoring of EU customs law, the efficiency of customs administrations, trade facilitation, innovation, electronic systems, e-commerce, security and international relations, should provide opportunities to further develop and improve governance and governance structures.

INVITES THE COMMISSION AND THE MEMBER STATES TO

- develop further on the customs union performance measurement and its use as laid out in the “Vienna Declaration” of 19 October 2018, as annexed;
- integrate CUP in the Customs Union strategic management policy formulation and strategic decision making and use CUP for further raising the awareness of the Customs Union, its performance and its added value as well as to show the extent and results of Customs operations in the EU;
- streamline the ways of electronically submitted data on low value consignments and explore possible synergies in linking electronically available data of low value consignments after 2021 to jointly tackle customs and tax risks of low value consignments by applying the most efficient controls in the light of increasing numbers of these consignments and decreasing control resources;
- continue to explore the issues set out in the Commission Report³ and the Council Conclusions on an IT Strategy for Customs⁴, and keep pace with innovation and the evolving technologies and practices such as data analytics and blockchain;

³ ST 7935/18

⁴ ST 13543/17

- explore the possible synergies between the High Level Working Party of Directors General for customs and the Customs Policy Group, now converted to a formal expert group bearing in mind their respective objectives and competences;
- further elaborate on the ways of improving efficiency of the customs union and the customs administrations via, e.g., new data analytics techniques and testing collaborative working methods.
- explore new and different ways of controlling goods while also increasing reliance on trusted traders and their data.

INVITES THE COMMISSION TO report in the next biennial report on the developments of the Customs Union and its governance in all priority areas identified by the Commission in its Communication, including the new priorities areas, taking into account, as appropriate, the objectives, actions and achievements of the Customs Cooperation Working Party.

VIENNA DECLARATION ON CUSTOMS UNION PERFORMANCE

"Moving Towards the Future"

18 - 19 October 2018, Vienna

The Participants in the High-Level Seminar for the Heads of Customs Administrations from the EU Member States, Participating Candidate Countries, and the European Commission,

Noting that Customs Union Performance (CUP) is a mechanism for the **systematic assessment of the Customs Union's performance** in the context of its strategic objectives in terms of effectiveness, efficiency, and uniformity, based on an analysis of key performance indicators (KPI);

Acknowledging that CUP is an essential element of the **Customs Union's governance**;⁵

Recognising that CUP should continue to be developed as a **management/steering tool** for evidence based policy formulation, and for strategic and operational priority development;

Emphasizing that CUP does not aim to rank national customs authorities but to support them in optimising performance and synergy within the Customs Union;

Acknowledging that more attention is needed to ensuring that CUP indicators can contribute consistently in common and national strategic processes;

⁵ ST 15818/16 and ST 7585/1/17 REV 1

- Recalling** that CUP is the shared tool for helping to optimise performance across the Customs Union; Customs Programme support should be guaranteed;
- Considering** that, building on experience gained and results achieved, CUP has reached a high level of **maturity and stability** in terms of governance, content and methodology, relying on close co-operation between the customs authorities and the Commission, and national operational data;
- Emphasising** that CUP should be used further to **raise awareness of the Customs Union**, its performance and its added value as well as to show the extent and results of Customs operations in the EU;
- Convinced** that the shared ambition for further development of CUP should be assessed in light of its potential to support evidence-based policy making and the development of strategic and operational priorities.

Agreed as follows:

- the development and use of CUP should be strengthened, building on the common platform already achieved;
- CUP should be **integrated with Customs Union strategic management**, policy formulation and operational decision-making, which requires:
 - improving CUP integration in the EU policy cycle by strengthening its links to common objectives and actions (notably the Biennial Report);⁶

⁶ Also relevant are the Customs Union Strategy, the EU Strategy and Action Plan for Customs Risk Management, and the reports of the European Court of Auditors.

- contribution of **indicators or evidence** on status, successes, needs or information gaps for specific policy themes;
- identification of cross-cutting strategic challenges;
- balancing a systematic view based on outcome-driven KPI with tailored evidence for agreed short and medium term priorities;
- reviewing the KPI portfolio on an ongoing basis, to ensure that only those with a clear common or national value are retained;
- building diagnostic evidence on selected outcomes, and contributing to an understanding of those outcomes and the need if any for further action to contribute to optimal performance leading as relevant to recommendations to inform customs policy and resourcing, planning, and decisions;
- using CUP to put forward systematic follow up mechanisms where needed, including reliable, comparable benchmarks and reference values for selected indicators, subject to regular review;
- deepening the engagement of the CPG with CUP, regarding the selection of areas for development of policy evidence, recognising that data development needs management support.

- CUP should be used to support **communication** on the *added value* of Customs, and its *strategic needs*, for internal and external stakeholders, by:
 - contributing to creating and promoting core messages about Customs functions, activities, outcome and impacts at the EU and national level under a "Customs Union" label, supporting in this way the Customs Union's visibility and strengthening its corporate identity;
 - developing short content suitable for use by the competent national and Union specialist services in communications, for policy, trade and public audiences; this may include summary Customs Union dashboards (quarterly/annual), infographics, case studies and examples from customs on collaborative successes, and promotion of major initiatives; messages should be tailor-made to audiences.

- CUP content should address **common customs priorities** which continue to reflect common challenges, new and old (outlined in the first Biennial Report) and legislative developments; an indicative list of *short and medium* term priority areas which may be considered by the CPG for development of deeper CUP information might include:
 - common financial risk management;
 - safety & security: protection, ICS reform, interagency co-operation;
 - "e-commerce" now and in the future;
 - implementation of the UCC (EU authorisations, Customs Decisions System, simplifications, centralised clearance, AEO);

- innovation – take-up of new technologies and approaches;
 - a forward-looking perspective should be included in CUP work;
 - complementarity between CUP and foresight work should be explored.
- The **sustainability of CUP** must be ensured for the future; mindful that CUP is now operating at full capacity, the Commission and the Member States should:
 - identify the actions to be taken to ensure high quality, reliable and timely **data** is provided securely for CUP processes;
 - give fullest attention to the **data protection** aspects;
 - seek to ensure that CUP policy requirements are integrated in design and development of new customs **IT** applications (ICS, Centralised Clearance, NCTS);
 - seek to **accelerate** the development and deployment of **CUP MIS**; consider interoperability of CUP MIS with national IT systems in the future;
 - seek the assistance of specialist services (including DG DIGIT) in work on **new CUP data analytics methods**, to offer a modern data/big-data-driven policy approach in the Customs Union, while strengthening the data security and data protection; moving beyond descriptive statistics;
 - review and enhance the **working methods**, to strengthen where needed the interaction between the CUP teams and priority policy domains;

- co-operate in particular with Expert Teams (including the C2020 CELBET), risk management and AEO groups which give valuable evidence;
 - combine basic indicators to develop composite indicators;
 - take account of the need to ensure that adequate human resources (numbers, skills and expertise) are available for efficient and effective delivery of CUP (EU and national level);
 - use CUP to support the long term developments of the Customs Union, as a basis for strategic forecasts and scenarios;
 - support **data quality** through a reinforced quality assurance initiative; having the same interpretation of the data for an indicator is a prerequisite for its reliable use;
 - consider different kinds of analysis (qualitative, quantitative, surveys, project monitoring, etc.) according to the issue examined;
 - taking the above elements together, prepare an action plan for ensuring **continuity, sustainability and governance of CUP in the long term**, beyond 2020, addressing where appropriate an adjustment in the organisation of the work, and further exploration of whether the establishment of a **legal framework** could support the stability and sustainability of the CUP.
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