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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2024) 144 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION of the EU-China Customs Cooperation 2004-2024, as laid down in the Customs Cooperation and Mutual Administrative Assistance Agreement (CCMAA) and subsequent Strategic Frameworks on Customs Cooperation

Delegations will find attached document SWD(2024) 144 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION

of the

**EU-China Customs Cooperation 2004-2024, as laid down in the Customs Cooperation
and Mutual Administrative Assistance Agreement (CCMAA) and subsequent Strategic
Frameworks on Customs Cooperation**

{SWD(2024) 143 final}

The mission of EU Customs is to protect financial interests of the EU, control unfair and illegal trade, ensure safety and security at the EU's external border while enhancing legitimate trade. To achieve this mission, EU Customs cooperates internationally with external partners.

This evaluation assesses the customs cooperation between the European Union (hereafter 'EU') with the People's Republic of China (hereafter 'China') in the last two decades. The EU-China customs cooperation is established by the EU-China Agreement on 'Customs Cooperation and Mutual Administrative Assistance' (CCMAA), concluded in 2004.

The aim of this evaluation is to support the Commission – at a later stage – in its decision whether to possibly propose to review, improve and/or upgrade the CCMAA, if considered appropriate.

Based on the CCMAA, four subsequent 'Strategic Frameworks' (for the periods 2010-2012, 2014-2017, 2018-2020 and 2021-2024) were agreed with China to operationalise, on a periodic basis, the priorities and concrete actions.

The EU-China customs cooperation, as laid down in the CCMAA and the subsequent Strategic Frameworks encompasses various key building blocks such as establishment and maintenance of official communication channels, cooperation via mutual administrative assistance (MAA), ensuring the security of supply chains through initiatives like the Smart and Secure Trade Lanes (SSTL) and Authorized Economic Operator (AEO) Mutual Recognition (MR), there is also enforcement of intellectual property rights (IPR), as well as fight against fraud (financially and environmentally), and cooperation on trade statistics and cross-border e-commerce.

These different key building blocks encompass the core of this evaluation and were each analysed individually on the basis of the following five criteria following the Commission's Better Regulation Guidelines: their effectiveness, efficiency, coherence, added value and relevance. Methodologically, data was collected from an external study through desk research, stakeholder consultations, and data analysis.

The overall context of the evaluation is the relations with China. Those are among the most important and challenging for the EU with an enormous growth in bilateral trade over the last two decades. This trade is unbalanced as the value of EU imports from China is more than twice that of exports.

Effectiveness: were the objectives met?

The evaluation demonstrated that the objectives of the key areas of customs cooperation with China as identified in the CCMAA and Strategic Framework have been reached to varying degrees:

- On the **overall Customs Cooperation**, the organization of official meetings and exchange visits between the EU and China have been successful in providing a platform for dialogue. Overall cooperation significantly improved after 2010 due to the subsequent Strategic Frameworks which defined specific areas of cooperation and set concrete priorities in those areas.
- On **Mutual Administrative Assistance (MAA)**, response rates from China to EU Member States queries recorded over the years have not been satisfactory and, when the information was provided, it was often not useful. Several obstacles hinder effective MAA

implementation, including the unilateral restrictions imposed by China on the use of information exchanged under MAA and communication difficulties. Cooperation between OLAF and Anti-Smuggling Bureau is however useful. Overall, the MAA pillar is not considered sufficiently effective from an EU perspective.

- **Supply chain security initiatives** have shown mixed results. While there are some positive outcomes, such as perceived reduced clearance lead times and improved cooperation under the Authorized Economic Operators (AEO) Mutual Recognition, there were also clear limitations to the cooperation on notably the Smart and Secure Trade Lanes (SSTL) pilot project due the lack of a fully-fledged IT system and legal basis to allow electronic and automatic data exchanges.
- **IPR enforcement** between the EU and China has led to positive outcomes, such as joint investigations and exchanges of best practices. However, challenges persist, including a high percentage of IPR infringing goods from China and obstacles in information sharing which would requires improvements.
- In the **Fight Against Fraud**: 1) The protection of the EU's financial interests has led to some achievements, including some successful joint customs operations with China targeting fraudsters and reduced tax revenue losses. However, challenges related to MAA hinder full effectiveness. 2) The protection of the environment through the combat of illegal trade in waste has, on the other hand, been effective.
- **Statistical cooperation** between Eurostat and China's customs has been successful in the past, as evidenced by a decreasing asymmetry in EU-China trade at some point. However, cooperation has halted in recent years.

In sum, while some areas of cooperation have shown positive outcomes and concrete results, serious challenges remain in achieving full effectiveness, particularly in addressing usefulness of responses under MAA and combating financial fraud comprehensively.

Efficiency: How was the cost-benefit analysis?

The available evidence on the costs of the intervention was extremely limited and, at most, provided an indication. As practically no quantitative data was available, a qualitative assessment of the costs prevailed while both administrative and regulatory costs were evaluated. Most respondents were not aware about the costs of a specific measure. It was assumed that if costs would have gone out of the ordinary and been exceptionally high, it would have been noticed by respondents.

On the benefits, more data was available than on costs, albeit primarily also in qualitative terms. On the **benefits** per key area of customs cooperation:

- On **Customs Cooperation**, all stakeholders in all the different areas of the cooperation, mentioned the facilitation of successful platforms for dialogues, the enhanced exchanges and resulting cooperation with China as a key benefit.
- On **Mutual Administrative Assistance** (MAA) the potential benefits of MAA mechanism were curtailed by its sub-optimal functioning (overall poor quality of Chinese responses to request from information by Member States).
- **Authorized Economic Operators** (AEO) Mutual Recognition has been widely described as beneficial by the business community and customs due to faster customs clearance and decreased intervention rates.

- The highest benefit in **Smart and Secure Trade Lanes** (SSTL) was generated through direct contact points in ports and improved communication channels.
- The benefits in terms of reducing the number of seizures on **IPR** infringing goods from China were limited (as over the last decade the large majority of seized goods remained originating in China). However, up to 78% of respondents indicated many direct benefits, like exchanges of knowledge and best practices, the target on high-risk consignments, as well as societal benefits in curtailing trade in IPR-infringing goods;
- **Fight against fraud** cooperation has provided two main benefits: more products seized in breach of customs policies as well as a decrease in tax revenue loss under fraud, as data shows that the VAT gap in the EU has decreased. The cooperation was also beneficial for reducing trade in illegal waste and narrowing the gap in **statistics**.

The Cost-Benefit analysis showed that costs remained overall relatively stable across all key areas, while direct and societal benefits increased significantly (except for MAA). The customs cooperation with China is therefore considered proportionate in terms of cost-benefit analysis and therefore efficient.

Coherence: is the cooperation consistent with other measures?

The CCMAA is considered internally coherent. No inconsistencies were found between the CCMAA and the Strategic Framework. The objectives of the CCMAA and Strategic Frameworks are also aligned with other EU policies, notably the current Union Customs Code (Regulation 952/2013), the WTO Customs and Trade Facilitation Agreement, the Directive on the exemption from value added tax on the final importation of certain goods (Directive 2017/2455) and the Waste Shipment Regulation (Regulation 1013/2006). The CCMAA and the Basel Convention were also considered complementary. On the external side, the CCMAA and Strategic Frameworks demonstrated coherence with various EU and international policies as it aligns with several objectives such as trade facilitation, environmental protection, and safety and security measures. If the CCMAA will be renewed, it will have to be updated in the field of data protection, in accordance with GDPR.

Added value: Did the cooperation at EU level make a difference?

Customs is one of the policy fields where the EU has an exclusive competence. Nevertheless, the evaluation looked at whether equal or better results could have been accomplished at national level. This analysis revealed the most positive results of this whole evaluation: all stakeholders, across the board, expressed unconditionally that interventions on customs at EU level with China have an important added value above national level.

Stakeholders underlined that it allows the EU ‘to speak with one voice’, ‘to take action in a coordinated manner’ and with an ‘overall sense of unity’ while having ‘more weight in the interactions with China’ and this all shows ‘the importance to deal with China at EU level’. Individual EU Member States cannot interact with China in the same way as the EU does; sheer size matters when dealing with China. Member States emphasized that the possibility to deal with China in a uniform way justifies the intervention at the EU level.

Relevance: Is the cooperation still relevant and adaptable to the latest developments?

Back in 2004, when the CCMAA was agreed, the primary needs of customs authorities were the fight against fraud and activities in breach of customs legislation, along with IPR enforcement and collaborative administrative assistance. The original objectives and priority areas identified in the CCMAA and latest Strategic Frameworks are still key and very relevant for customs today.

However, the trade and the customs context have dramatically changed over the last two decades and, on top of the initial key areas, new challenges have emerged. Establishing cooperation in e-commerce was not a priority in 2004, but it is today. The business community used to be keen on fostering trade between the EU and China; now we are in an era of de-risking. Safety and (economic) security have gained traction over time, including by dealing with product safety and drug precursors. The digital transformation and developments in data protection requires to have a strong legal basis for possible future automated and/or systematic electronic exchanges of information, and to make all the future information exchanges GDPR compliant. This information exchange would also allow greater focus on control through better and targeted risk management.

Gaps analysis: Is there room for improvement?

Increasing the effort to ensure proper implementation of the Mutual Administrative Assistance (MAA) should be a priority. Moreover, the SSTL pilot project has reached its limits and would notably need a proper legal basis if it were to be continued. In addition, an up-to-date risk assessment management should be included. Enforceability of commitments should have a central role. IPR cooperation should become even more focused on high-risk consignments. The scope of the CCMAA should also be enlarged to reflect new developments in the customs environment, notably on e-commerce, product safety and drug precursors, as these topics are currently only taken up in the non-binding Strategic Framework. There is thus room for improvement and the CCMAA would likely benefit from a review process whereby it takes into account the latest developments, trends and dynamics in terms of responsibilities and priorities for customs.

Conclusion

The European Union's intervention in customs cooperation with China has made a difference. The establishment of the legal settings like the Agreement on 'Customs Cooperation and Mutual Administrative Assistance' (CCMAA) and the subsequent Strategic Frameworks created a foundation for meaningful cooperation. The depth and breadth of customs cooperation with China has been extensive. The degree of implementation in the different areas however varies, resulting in disparate levels of effectiveness. While costs remained stable, the evaluation revealed benefits in all areas of customs cooperation. The customs cooperation with China is therefore considered proportionate in terms of cost-benefit and efficient. The CCMAA is both internally and externally coherent. The evaluation revealed also a clear positive impact and added value of the cooperation at EU level as it allows the EU 'to speak with one voice' and 'to take action in a coordinated manner' towards China. The CCMAA and its Strategic Framework are still relevant as they tackle issues like breaches of customs legislation and fraud which are still key for customs. On top of the initial key areas, new challenges have however emerged in the last two decades. Issues such as e-commerce, drug precursors, product safety and (economic) security, the digital transformation and developments in data protection have all gained traction over time.

When it comes to potential improvements and lessons learned, the evaluation has brought to light several points that are worth considering. First, the role of customs has evolved over the last 20 years: from a traditional role of collecting duties and taxes to serve a wider set of objectives, such as the protection of safety, security, and the environment. This would probably justify, already on its own, a modernization of the CCMAA. Secondly, the overall context of EU-China customs cooperation was radically different: while in 2004 there was barely any trade between the EU and China, in 2024 the EU gets by far the largest share of its imports from China (around 20% in value in recent years). The imports are by value, volume, and number of consignments are also the most relevant for the EU's risk management. Thirdly, one of the main components of the EU-China customs cooperation is the Mutual Administrative Assistance (MAA) which is functioning in a sub-optimal manner. Fourthly, important developments are ongoing in the EU with a Commission proposal for a Customs Union Reform. To stay coherent with and relevant for the projected EU future customs policy, the customs cooperation should be adaptable to these evolutions. Fifthly, the evaluation established that the Smart and Secure Trade Lanes (SSTL) Pilot project has reached its limits. Finally, to ensure that the customs cooperation remains effective, there is potential room for more accountability and enforceability in the commitments.

In conclusion, it would seem ill-advised not to cooperate with China on customs, even if there are many challenges and some serious shortcomings. Given the scale of the EU-China trade relationship and the issues that arise from it, a broad, relevant, effective and enforceable customs cooperation is a priority to protect the EU interests. Co-operation in general does not remove the need for the EU to improve its own capacities to systematically identify and respond to harmful, non-compliant supply chains, but it can make an important contribution to outcomes. Continuing and deepening this cooperation is aligned with the wider, multi-faceted EU policy on China, which is considered as a strategic rival, an economic competitor, but also a partner for pragmatic engagement on issues of common interest.