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'I' ITEM NOTE

From: Presidency
To: Permanent Representatives Committee

No. Cion doc.: COM(2018) 442 final
No. prev. doc.: 9929/18 + ADD1 + ADD2 + ADD3 + COR1

Subject: Proposal for a Regulation of the European Parliament and of the Council
Establishing the 'Customs' Programme for Cooperation in the Field of
Customs
- Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

- On 12 June 2018, the Commission submitted to the Council and the European Parliament a Proposal for a Regulation of the European Parliament and of the Council establishing the 'Customs' Programme for cooperation in the field of customs¹.
- The proposal is part of the sectoral proposals complementing the package of horizontal proposals on the Multiannual Financial Framework (MFF) for the years 2021 to 2027. It aims at allowing an adequate funding for cooperation actions between customs authorities, for electronic systems as well as for the administrative capacity building and complements national initiatives and investments in this area.

¹ Doc. ST 9929/18.

II. WORK IN OTHER INSTITUTIONS

- The European Economic and Social Committee delivered its opinion on 17 October 2018².
- On the side of the European Parliament, the Internal Market and Consumer Protection (IMCO) Committee has the lead responsibility. Ms Maria GRAPINI (S&D, RO) has been appointed the Rapporteur for the proposal. The Plenary voted on the report on 15 January 2019³ and the proposal was referred to the IMCO Committee to start interinstitutional negotiations.
- On 16 April 2019, the European Parliament adopted its legislative resolution on the proposal⁴, thus concluding its first reading.

III. WORK IN THE COUNCIL PREPARATORY BODIES

- The Working Party on Customs Union examined the proposal at various meetings in 2018 and reached a compromise supported by a majority of delegations on 17 December 2018.
- The Permanent Representatives Committee provided the Austrian Presidency with a partial mandate⁵ to enter into informal negotiations with the Parliament with some provisions remaining in brackets due to their link to the overall MFF discussions or their horizontal nature.
- Following negotiations with the European Parliament under the Romanian and the Finnish Presidencies a Progress Report⁶ was prepared in December 2019.

² OJ C 62 of 15.2.2019, p. 45.

³ Doc. ST 5390/19.

⁴ Doc. ST 8055/19.

⁵ Doc. ST 15514/18.

⁶ Doc. ST 15014/19.

- The partial mandate for negotiations was updated to take into account the conclusions of the European Council on the 2021-2027 MFF and the Recovery package adopted on 21 July 2020⁷, resulting in a full mandate for negotiations endorsed by the Permanent Representatives Committee on 4 November 2020⁸.

IV. STATE OF PLAY

- The inter-institutional negotiations with the European Parliament on the file under the German Presidency took place between September and December 2020. At the political trilogue on 15 December, a provisional agreement on the Customs Programme Regulation was reached between the co-legislators.
- The Customs Union Working Party has been duly informed and consulted about the progress and the outcome of the negotiations. The Presidency is of the opinion that a good compromise was found, in line with the mandate granted.

V. CONCLUSION

- With a view to enabling an early second reading agreement between the Council and the European Parliament on this legislative proposal, the Permanent Representatives Committee is invited to confirm the compromise agreement reached on the proposal for a Regulation of the European Parliament and of the Council establishing the 'Customs' Programme for cooperation in the field of customs, as set out in the Annex to this note.

⁷ Doc. ST 10/20.

⁸ Doc. 12344/20.

**Proposal for a Regulation of the European Parliament and of the Council Establishing the
'Customs' Programme for Cooperation in the Field of Customs**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33, 114, and 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Customs 2020 programme set up under Regulation (EU) No 1294/2013¹⁰ and its predecessors have significantly contributed to facilitating and ~~strengthening~~ **enhancing** customs cooperation **as well as to building administrative, human and IT capacity**. Many of the customs activities are of a cross-border nature, **therefore a-involving and affecting all Member States and therefore they cannot be effectively and efficiently delivered by individual Member States**. A customs programme at Union level, implemented by the Commission, offers Member States a ~~Union~~ framework to develop those cooperation activities, ~~which is more cost efficient than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis~~ **in an more effective and cost-efficient manner than if each Member State**. **Moreover, the Customs 2020 programme were to set up individual has proved to be cost-efficient and to bring a real added-value to other customs cooperation frameworks set up on a bilateral or multilateral basis.**

⁹ OJ C [...], [...], p. [...]

¹⁰ Regulation (EU) No 1294/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision No 624/2007/EC, OJ L 347, 20.12.2013, p. 209.

In addition to this, the Customs 2020 programme has contributed to safeguarding the financial interests of the Union and of the Member States by supporting effective collection of customs duties. Furthermore, harmonised customs procedures are important to achieve equivalent results in the prevention of fraud and of illegal cross-border flows of goods. It is therefore appropriate, efficient and in the interest to ensure the continuity of the Union to continue Union's financing of activities in the field of customs cooperation by establishing a new programme in the same area, the 'Customs' programme ('the Programme').

- (2) **For 50 years, the customs union has been a cornerstone of the Union, one of the largest trading blocks in the world. The customs union is a significant example of successful Union integration, and is essential for the proper functioning of the single market for the benefit of both businesses and citizens.** The customs union has evolved considerably over **this period**, and customs administrations **are** now successfully **fulfilling** a wide **range of** tasks **at the borders**. **Working** together, they **strive** to facilitate **legitimate and fair** trade and reduce **bureaucracy**, collect **revenue** for national and Union budgets, and **help to** protect the **citizens** against terrorist, health, environmental **and** other threats. In particular, **by introducing a common framework**¹¹ **for** customs **risk management at Union level and by controlling** large amounts of cash **flows** to combat money laundering and terrorist financing, **the** customs **authorities take an important role** in the fight against terrorism, organised crime **and unfair competition**. Given **their extensive** mandate, **the** customs **authorities are effectively the leading authorities** for the control of goods at the Union's external borders. **A stronger and a more ambitious Union can only be achieved if the necessary resources are available.** **In this context**, the Customs programme should not only cover customs cooperation but **also provide** support **for the wider** customs **mission as provided for** in Article 3 of Regulation (EU) No 952/2013, **namely the supervision** of the Union's international trade, the implementation of the external aspects of the internal market, the common **commercial** policy and other **Union** common policies having **a relevance** to trade **and** the security of the supply chain. The legal basis **of this Regulation should** therefore cover customs cooperation (Article 33 TFEU), **the** internal market (Article 114 TFEU) and commercial policy (Article 207 TFEU).

¹¹ https://ec.europa.eu/taxation_customs/general-information-customs/customs-risk-management/measures-customs-risk-management-framework-crmf_en

- (3) *The Programme should assist the Member States and the Commission by providing a framework for actions that **aims** to support the customs union and customs authorities **working together and acting as one**; contribute to protecting the financial and economic interests of the Union and its Member States; **protect** the Union from unfair and **illicit commercial practices**, while **encouraging** legitimate business **activities**, **ensuring** the security and safety of the Union and its residents, **thereby contributing to consumer protection**; and **facilitate** legitimate trade so that businesses and citizens can benefit from the full potential of the internal market and **world** trade.*
- (3 b) *Customs is a dynamic policy area facing new challenges, such as globalisation, new patterns in fraud and smuggling, and digitalisation. These challenges increase the demand for support to customs authorities and call for innovative solutions. They further underline the need to reinforce cooperation between customs authorities.*
- (3 c) *For the sake of cost-effectiveness, the Customs Programme should exploit possible synergies with other Union measures in related fields, such as the Fiscalis Programme, **the instrument for financial support for customs control equipment**, the EU anti-fraud Programme, the instrument for financial support for border management and visas, the Internal Security Fund, the Single Market Programme and the Reform Support Programme.*
- (3 e) *Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement, and the commitment to the United Nations Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of at least 30% of the total amount of Union budget spent on mainstreaming climate objectives and the ambition of 7.5% of the Budget reflecting biodiversity expenditures in 2024 and 10% in 2026 and in 2027, **while considering the existing overlaps between climate and biodiversity goals**.*
- (4) This Regulation lays down a financial envelope for the Programme, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial

management¹², for the European Parliament and the Council during the annual budgetary procedure. *To be considered eligible for funding, any unforeseen expenditure should be directly related to the objectives of this Programme. The financial envelope of the Programme should cover necessary and duly justified expenses for activities for managing the Programme and evaluating its performance, insofar as those activities are related to the general and specific objectives of the Programme.*

- (5) In order to support the process of accession and association by third countries, the Programme should be open to the participation of acceding and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled. It may also be open to other third countries, in accordance with the conditions laid down in specific agreements between the Union and those countries covering their participation to any Union programme.
- (6) Regulation (EU, Euratom) **2018/1046** of the European Parliament and of the Council¹³ (*hereinafter referred to as ‘the Financial Regulation’*) applies to this Programme. *The Financial Regulation provides for the-lays down rules for-on the implementation of the Union budget, including the rules on grants, prizes, prizes, procurement, and the reimbursement of external experts.*

¹² OJ C 373, 20.12.2013, p. 1

¹³ *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).*

- (7) The actions which applied under the Customs 2020 programme have proven to be adequate and should therefore be maintained. In order to provide *greater* simplicity and flexibility in the execution of the Programme and thereby better deliver on its objectives, the actions should be defined only in terms of overall categories with a list of illustrative examples of concrete activities. Through cooperation and capacity building, the *Programme* should also promote and support the uptake and leverage of innovation to further improve the capabilities to deliver on the core priorities of customs. *Actions financed by this Programme should be terminated or adjusted in order to make them more effective or relevant if they prove to be inadequate at any point in time.*
- (8) Regulation [2018/XXX] establishes, as part of the Integrated Border Management Fund, a Customs Control Equipment Instrument¹⁴ ('CCE Instrument'). In order to preserve the coherence and horizontal coordination of all cooperation actions relating to customs and customs control equipment, it is appropriate to implement all of them under one single legal act and set of rules *that act and those rules* being this Regulation. Therefore, the CCE Instrument should only support the purchase, maintenance and upgrade of the eligible equipment, while this Programme should support all other related actions, such as cooperation actions for the assessment of equipment needs or, where appropriate, training in relation to the equipment purchased.
- (9) Exchanges of customs and related information are key for a proper functioning of customs and they extend well beyond the exchanges within the customs union. Adaptations or extensions of European electronic systems to third countries not associated to the Programme and international organisations could indeed have an interest for the Union or the Member States. Therefore, when duly justified by such an interest, adaptations of or extensions to European electronic systems for cooperation with third countries and international organisations should be eligible costs under the Programme.

¹⁴ Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment

- (10) Considering the importance of globalisation, the Programme should continue to provide *for* the possibility of involving external experts within the meaning of Article 238 of the Financial Regulation. Those external experts should mainly be representatives of governmental authorities, including from non-associated third countries, as well as *academics and* representatives of international organisations, economic operators or civil society. **The selection of external experts for expert groups should be based on the Commission decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups. External experts participating in their personal capacity in ad hoc events under the Programme, such as one-off meetings and conferences, should be selected by the Commission, including from experts proposed by ~~in close cooperation with~~ the participating countries. It is necessary to ensure that all external experts acting independently and in the public interest are impartial, that there is no possible conflict of interests with their professional responsibilities and that information about the selection of all external experts and their participation is publicly available. The objective of ensuring a balanced representation of stakeholders and the principle of gender equality should be taken into account when selecting external experts.**
- (11) In line with the Commission's commitment to ensure the coherence and simplification of funding programmes, set out in its Communication of 19 October 2010 entitled 'The EU Budget Review'¹⁵, resources should be shared with other Union funding instruments if the envisaged actions under the Programme pursue objectives that are common to various funding instruments, excluding however double financing. Actions under the Programme should ensure coherence in the use of the Union's resources supporting the customs union and customs authorities.

¹⁵ COM (2010)700 final

(12) Information Technology (IT) capacity building actions are expected to attract the greatest part of the budget under the Programme and **top priority should be given to actions related to electronic systems that are necessary for the implementation of the customs union and for the execution of the mission of customs authorities before other IT projects.** Specific provisions should define, respectively, the common and national components of the European electronic systems. **Common and national components can be combined together.** Moreover, the scope of actions and the responsibilities of the Commission and the Member States should be clearly defined.

~~(13) Decision No 70/2008/EC of the European Parliament and of the Council¹⁶ requests the Commission to draw up a Multi-Annual Strategic Plan for Customs for creating a coherent and interoperable electronic customs environment for the Union. The development and operation of the electronic systems included in the Multi-Annual Strategic Plan are mainly funded by the Programme. In order to ensure coherence and coordination between the Programme and the Multi-Annual Strategic Plan, the relevant provisions of the Decision should be included in this Regulation. As all relevant provisions of Decision No 70/2008/EC are now taken over either by Regulation (EU) No 952/2013 or by this Regulation, Decision No 70/2008/EC should be repealed.~~

(14) This Regulation should be implemented by means of work programmes. In view of the mid- to long-term nature of the objectives pursued and building on experience gained over time, work programmes should be able to cover several years. The shift from annual to multiannual work programmes, **each covering no more than 3 years** will reduce the administrative burden for both the Commission and Member States.

¹⁶ ~~Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade (OJ L 23, 26.1.2008, p. 21).~~

(14a) The actions implemented under this Programme should take into account the findings and recommendations of the European Court of Auditors in the field of customs, in particular the special report No 19/2017 of 5 December 2017 entitled ‘Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU’, and the special report No 26/2018 of 10 October 2018 entitled ‘A series of delays in Customs IT systems: what went wrong?’

(15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁷.

¹⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

(16) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016¹⁸, ~~there is a need to evaluate this p~~**Programme *should be evaluated*** on the basis of information collected ~~through~~***in accordance with*** specific monitoring requirements, while avoiding ~~overregulation and~~***an*** administrative burdens, in particular on Member States, ***and overregulation***. These requirements, where appropriate, ~~can~~***should*** include measurable indicators, as a basis for evaluating the effects of the ~~Instrument~~ ***Programme*** on the ground ***in a comparable and complete manner***. **The interim and final evaluations, which should be performed no later than four years after the start of the implementation or completion of the Programme respectively, should contribute to the efficient decision-making process concerning the cooperation in the field of customs under the next Multiannual Financial Frameworks. *It is therefore of the utmost importance for the interim and final evaluations to provide satisfactory and sufficient information and for them to be delivered in due time.* In addition to the interim and final evaluations of the programme, as part of the performance reporting system, annual *progress reports* should be issued as well to monitor on the programme implementation and should be communicated to the European Parliament and the Council. Those reports should include a summary of the lessons learned and, where appropriate, of the obstacles and shortfalls encountered in the context of the activities of the programme that have taken place in the year in question.**

¹⁸ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

(17) In order to respond appropriately to changes in policy priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of indicators to measure the achievement of the specific objectives of the Programme. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(18) In accordance with ~~Regulation Regulations~~ (EU, Euratom) 2018/104614a (~~the "Financial Regulation"~~), ~~and Regulation~~ (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁹ ~~and~~ Council ~~Regulation Regulations~~ (EC, Euratom, EC) No 2988/95²⁰, (Euratom, EC) No 2185/96²¹ and (EU) 2017/1939²², the financial interests of the Union are to be protected ~~through~~ *by means of* proportionate measures, including *measures relating to* the prevention, detection, correction and investigation of irregularities, including fraud, *to* the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, *to* the imposition of administrative penalties. In particular, in accordance with ~~Regulation Regulations~~ (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) ~~may~~ *has the power to* carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. *The European Public Prosecutor's Office (EPPO) is empowered,* ~~in~~ accordance with Regulation (EU) 2017/1939, ~~the European Public Prosecutor's Office (the "EPPO") may~~ *to* investigate and prosecute criminal offences against affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council²³¹⁸.

¹⁹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L248, 18.9.2013, p. 1).

²⁰ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

²¹ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292, 15.11.96, p.2).

²² Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).

²³ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests **of the Union**, grant the necessary rights and access to the Commission, OLAF, *the Court of Auditors*, and, ~~the EPPO~~ **in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO**, and ~~the European Court of Auditors (ECA)~~, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(18a) Third countries may also participate in the Programme on the basis of a decision adopted pursuant to an international agreement or on the basis of any other legal instruments. A specific provision should be introduced in this Regulation requiring third countries to grant the necessary rights and access required for the authorizing officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences.

(19) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. **Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.**

(19 a) The eligible costs will be determined in function of the nature of the eligible actions. This entails, amongst others, travel and subsistence costs for participants to meeting-type activities or costs linked to the organisation of events. Funding under this Programme should be subject to the principles referred to in the Financial Regulation, such as equal treatment, proportionality, transparency and should ensure the optimal use of its financial resources in achieving its objectives.

- (20) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver *the intended* results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (21) Since the objective of this Regulation cannot be sufficiently achieved by the individual Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (22) This Regulation replaces Regulation (EU) No 1294/2013 of the European Parliament and of the Council, which should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I
GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the 'Customs' programme for cooperation in the field of customs ('Programme') **for the period from 1 January 2021 to 31 December 2027**. *The duration of the programme is aligned to the duration of the MFF.*
2. It lays down the objectives of the Programme, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'customs authorities' means the authorities defined in point (1) of Article 5 of Regulation (EU) No 952/2013;
 - (2) 'European electronic systems' means electronic systems necessary for the customs union and for the execution of the mission of customs authorities, **in particular the electronic systems referred to in Articles 16(1), 278 and 280 of Regulation (EU) No 952/2013, Article 8 of Regulation (EU) 2019/880, and in other provisions of Union law governing electronic systems for customs purposes, including international agreements, such as the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention).**
- (2a) 'common component' means a component of the European electronic systems developed at Union level, which is available for all Member States or identified as common by the Commission for reasons of efficiency, security and rationalisation;*

- (2b) *'national component' means a component of the European electronic systems developed at national level, which is available in the Member State that created such component or contributed to its joint creation;*
- (3) 'third country' means a country that is not member of the Union.

Article 3

Programme objectives

1. The Programme has the general objective to support the customs union and customs authorities ***working together and acting as one*** to protect the financial and economic interests of the Union and its Member States, to ensure security and safety within the Union and to protect the Union from unfair and illegal trade, while facilitating legitimate business activity.
2. The Programme has the specific objective to support: ~~the~~
(1) the preparation and uniform implementation of customs legislation and policy; ~~as well as~~
(2) customs cooperation; ~~and~~
(3) administrative *and IT* capacity building, including human competency **and training, as well as** ~~and~~ the development and operation of European electronic systems;
(4) innovation in the area of customs policy.

Article 4

Budget

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR 950 000 000 in current prices.

2. The amount referred to in paragraph 1 may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities for managing the Programme and evaluating the achievement of its objectives. It may moreover cover expenses relating to studies, meetings of experts, information and communication actions, in so far as they are related to the objectives of the Programme, as well as expenses linked to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.

Article 5

Third countries associated to the Programme

The Programme shall be open to the *participation of the* following third countries:

- (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in programmes established in the respective framework agreements and Association Council decisions, or *in* similar agreements; and in accordance with the specific conditions laid down in agreements between the Union and those countries;
- (b) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and ~~Association~~ association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries, ~~provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union;~~
- (c) other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement:
- ~~(i)~~ ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

- (ii)** lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article 21(5) of ~~Regulation 2018/1046~~ **the Financial Regulation**;
- (iii)** does not confer to the third country a decisional power ~~on~~ **in respect of** the Programme;
- (iv)** guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

Article 6

Implementation and forms of EU funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes, procurement and reimbursement of travel and subsistence expenses incurred by external experts.

CHAPTER II

ELIGIBILITY

Article 7

Eligible actions

1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.
2. Actions complementing or supporting the actions implementing the objectives referred to in Article 3 of Regulation (EU) [2018/XXX] [CCE instrument] shall also be eligible for funding under this Programme.

3. Actions referred to in paragraphs 1 and 2 shall include the following:
- (a) meetings and similar ad-hoc events;
 - (b) project-based structured collaboration, *such as collaborative IT development by a group of Member States*;
 - (c) IT capacity building actions, in particular the development and operation of European electronic systems;
 - (d) human competency and capacity building actions, *including training and exchange of best practices*;
 - (e) support and other actions, including:
 - (1) studies;
 - (2) innovation activities, in particular proof-of-concepts, pilots, prototyping initiatives, **smart data mining and collaboration among systems**;
 - (3) jointly developed communication actions;
 - (4) any other action provided for in the work programmes referred to in Article 13, which is necessary for attaining or in support of the objectives set out in Article 3.

Possible forms of actions referred to in points (a), (b) and (d) are presented in a non-exhaustive list in Annex 1.

4. Actions consisting in the development, *deployment, maintenance* and operation of adaptations or extensions to the common components of the European electronic systems for cooperation with third countries not associated to the Programme or international organisations shall be eligible for funding when they are of interest to the Union. The Commission shall put in place the necessary administrative arrangements, which may provide for a financial contribution from the third parties concerned to these actions.
5. Where an IT capacity building action referred to in point (c) of paragraph 3 concerns the development and operation of a European electronic system, only the costs related to the responsibilities entrusted to the Commission pursuant to Article 11(2) shall be eligible for funding under the Programme. Member States shall bear the costs related to the responsibilities entrusted to them pursuant to Article 11(3).

Article 8

External experts

1. Wherever beneficial for the achievement of the actions implementing the objectives referred to in Article 3, representatives of governmental authorities, including those from third countries not associated to the *Programme* pursuant to Article 5, *academics and* representatives of international and other relevant organisations, of economic operators and organisations representing economic operators and of civil society may take part as external experts to actions organised under the Programme.
2. Costs incurred by the external experts referred to in paragraph 1 shall be eligible for reimbursement under the Programme in accordance with the provisions of Article 238 of the Financial Regulation.
3. The external experts **for expert groups** shall be selected by the Commission, **including from experts proposed by the Member States**.
External experts participating in their personal capacity in ad hoc events, such as one-off meetings and conferences, shall be selected by the Commission, including from experts proposed by the participating countries.
*External experts shall be selected based on their skills, experience and knowledge relevant to the specific action on an ad hoc basis, based **and according to** needs. The Commission shall assess, inter alia and where appropriate, the impartiality of those external experts ***acting independently and in the public interest***, and the absence of conflicts of interests with their professional responsibilities.*

CHAPTER III

GRANTS

Article 9

Award, complementarity and combined funding

1. Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
2. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the contribution do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
3. In accordance with Article ~~195~~¹⁹⁸(f) of the Financial Regulation, the grants shall be awarded without a call for proposals where the eligible entities are customs authorities of the Member States and of the third countries associated to the Programme as referred to in Article 5 of this Regulation, provided that the conditions set out in that Article are met.
 - 3a. *(new) The work of the evaluation committee(s) shall be based on the general principles applicable to grants laid down in Article 188 of the Financial Regulation and in particular, on the principles of equal treatment and transparency, as well as on the principle of non-discrimination.*
 - 3b. *(new) The evaluation committee(s) shall evaluate proposals on the basis of award criteria, such as, where appropriate, relevance of the proposed actions in view of the objectives pursued, quality of the proposed actions, impact, including economic, social and environmental impact, budget and cost-effectiveness.*

Article 10

Co-financing rate

1. By derogation to Article 190 of the Financial Regulation, the Programme may finance up to 100 % of eligible costs of an action.
2. The applicable co-financing rate where actions require the awarding of grants shall be set out in the multiannual work programmes referred to in Article 13.

CHAPTER IV

SPECIFIC PROVISIONS FOR IT CAPACITY BUILDING ACTIONS

Article 11

Responsibilities

1. The Commission and the Member States shall jointly, **and in accordance with the relevant provisions of Union law referred to in Article 2(2), ensure** the development and operation of **the European electronic systems listed in the Multi-Annual Strategic Plan for Customs referred to in Article 12**, including **their** design, specification, conformance testing, deployment, maintenance, evolution, **modernisation**, security, quality assurance and quality control.
2. The Commission shall, in particular, ensure the following:
 - (a) the development and operation of common components ~~as established under the Multi-Annual Strategic Plan for Customs provided for in Article 12;~~
 - (b) the overall coordination of the development and operation of European electronic systems with a view to ~~their~~ **achieving their** operability, **cyber-resilience**, interconnectivity, ~~and~~ continuous improvement and ~~their~~ synchronised implementation, **and, as part of that coordination, facilitate an efficient and swift communication with and between Member States on matters related to those systems;**
 - (c) the coordination at Union level of European electronic systems with a view to their promotion and implementation at national level;
 - (d) the coordination of the development and operation of European electronic systems as regards their interactions with third parties, excluding actions designed to meet national requirements;

- (e) the coordination of European electronic systems with other relevant actions relating to e-Government at Union level;
- (e a) *the timely and transparent communication with the stakeholders concerned with the implementation of European electronic systems at Union and Member States level, in particular about delays in the implementation of Union and national components.*

3. The Member States shall, in particular, ensure the following:

- (a) the development and operation of national components ~~as established under the Multi-annual Strategic Plan for Customs provided for in Article 12;~~
- (b) the coordination of the development and operation of the national components of European electronic systems at national level;
- (c) the coordination of European electronic systems with other relevant actions relating to e-Government at national level;
- (d) the regular provision to the Commission of information *on* the measures taken to enable *the* authorities or economic operators *concerned* to make full *and effective* use of *the* European electronic systems;
- (e) the implementation at national level of European electronic systems.

3a. The Commission shall publish and regularly update, for information purposes, an indicative list of the European electronic systems financed under the Programme.

Article 12

Multi-Annual Strategic Plan for Customs (MASP-C)

- ~~1. The Commission, together with the Member States, shall draw up and keep updated a Multi-Annual Strategic Plan for Customs listing all tasks relevant for the development and operation of European electronic systems and classifying each system, or part thereof, as:~~
 - (b) ~~a common component: a component of the European electronic systems developed at Union level, which is available for all Member States or identified as common by the Commission for reasons of efficiency, security and rationalisation;~~
 - (c) ~~a national component: a component of the European electronic systems developed at national level, which is available in the Member State that created such a component or contributed to its joint creation;~~

~~(d) or a combination of both.~~

- ~~2. The Multi-Annual Strategic Plan for Customs shall also include innovation and pilot actions as well as the supporting methodologies and tools related to the European electronic systems.~~
- ~~3. Member States shall notify the Commission of the completion of each task allocated to them under the Multi-Annual Strategic Plan for Customs referred to in paragraph 1. They shall also regularly report to the Commission on progress with their tasks.~~
- ~~4. No later than 31 March of each year, the Member States shall submit to the Commission annual progress reports on the implementation of the Multi-Annual Strategic Plan for Customs referred to in paragraph 1 covering the period 1 January to 31 December of the preceding year. Those annual reports shall be based on a format established by the Commission together with the Member States.~~
- ~~5. No later than 31 October of each year, the Commission shall, on the basis of the annual reports referred to in paragraph 4, establish a consolidated report assessing the progress made by Member States and the Commission in the implementation of the plan referred to in paragraph 1 and make that report public.~~

CHAPTER V
PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 13
Work programme

1. The Programme shall be implemented by multiannual work programmes referred to in Article 110 of the Financial Regulation.

In order to ensure the implementation of the Programme, and without prejudice to the Financial Regulation, the Commission shall adopt implementing acts establishing multiannual work programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).

The multiannual work programmes shall aim at achieving the objectives set out in Article 3 through the actions in accordance with Article 7 and shall set out, where appropriate, the total amount of the financing plan for all actions, and shall set out:

- (a) for each action:
 - (i) the objectives pursued for and the expected results, in accordance with the general and specific objectives referred to in Article 3;*
 - (ii) a description of the actions to be financed;*
 - (iii) where appropriate, an indication of the amount allocated to each action; and*
 - (iv) the method of implementation and an indicative implementation timetable;**
- (b) for grants, the maximum rate of co-financing referred to in Article 10(2), and where appropriate, the essential award criteria to be applied.*

- ~~2. The multiannual work programmes shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 18(2).~~

Article 14

Monitoring and reporting

1. Indicators to report on progress of the Programme towards the achievement of the **general and** specific objectives set out in Article 3 are set in Annex 2.
2. To ensure effective assessment of ~~progress of the Programme's~~ **progress** towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 17, to amend Annex 2 to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. The performance reporting system shall ensure that data for monitoring **the implementation and the results of the** programme ~~implementation and results~~ are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

Article 15

Evaluation

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Programme shall be performed once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation. **The interim evaluation shall assess the performance of the Programme, including aspects such as effectiveness, efficiency, coherence, relevance, synergies within the Programme and EU added value.**
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission.
4. The Commission shall communicate the conclusions of the evaluations, accompanied by its observations **and lessons learned**, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Article 16

Protection of the financial interests of the Union

Where a third country participates in the programme by **means of** a decision ~~under~~ **adopted pursuant to** an international agreement or by virtue ~~of~~ **on the basis** of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, ~~the European Anti-Fraud Office (OLAF),~~ **and** the European Court of Auditors to comprehensively ~~exercise~~ **exercise** their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, **as** provided for in Regulation (EU, Euratom) No 883/2013 ~~of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).~~

CHAPTER VI

EXERCISE OF THE DELEGATION AND COMMITTEE PROCEDURE

Article 17

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14(2), shall be conferred on the Commission ~~until 31 December 2028~~ ***until 31 December 2027. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 7-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
3. The delegation of power referred to in Article 14(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal* of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 14(2) shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 18

Committee procedure

1. The Commission shall be assisted by a committee referred to as the "Customs Programme Committee". That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VII
TRANSITIONAL AND FINAL PROVISIONS

Article 19

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin *of those funds* and ensure the visibility of the Union funding, ~~(in particular when promoting the actions and their results,)~~ by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, ~~and its~~ actions *taken pursuant to the Programme* and *to the* results *obtained*.
3. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, ~~as insofar as they~~ *those priorities* are related to the objectives referred to in Article 3.

Article 20

Repeal

1. Regulation (EU) No 1294/2013 is repealed with effect from 1 January 2021.
- ~~2. Decision No 70/2008/EC is repealed with effect from 1 January 2021.~~

Article 21

Transitional provisions

1. This Regulation shall not affect the continuation *of* or modification of ~~the~~ actions *initiated pursuant to* ~~concerned, until their closure, under~~ Regulation (EU) No 1294/2013, which shall continue to apply to ~~those~~ actions concerned until their closure.
2. The financial envelope for the Programme may also cover *the* technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted ~~under its predecessor, the~~ *pursuant to* Regulation (EU) No 1294/2013.

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 22

Entry into force

This Regulation shall enter into force on the ~~twentieth~~ day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX 1

Non-exhaustive list of possible forms of actions referred to in points (a), (b) and (d) of the first sub-paragraph of Article 7(3)

Actions referred to in points (a), (b) and (d) of the first sub-paragraph of Article 7(3) may take the forms, among others, of:

- (a) As regards meetings and similar ad-hoc events:
 - Seminar and workshop, generally attended by all countries and at which presentations are made and participants engage in intensive discussion and activity on a particular subject;
 - Working visit, organised to enable officials to acquire or increase their expertise or knowledge in customs matters;
- (b) As regards project-based structured collaboration:
 - Project group, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely defined outcome, including coordination or benchmarking;
 - Task force, namely structured forms of cooperation, with a non-permanent or permanent character, pooling expertise to perform tasks in specific domains or carry out operational activities, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
 - Monitoring activity, carried out by joint teams made up of Commission officials and officials of the eligible authorities to analyse customs practices, identify any difficulties in implementing rules and, where appropriate, make suggestions for the adaptation of Union rules and working methods;
- (d) As regards human competency and capacity building actions:
 - Common training or development of eLearning to support the build-up of the necessary professional skills and knowledge relating to customs;
 - Technical support, aimed at improving administrative procedures, enhancing administrative capacity and improving customs authorities' functioning and operations by initiating and sharing good practices.

ANNEX 2

Indicators

Specific objective: Support the preparation and uniform implementation of customs legislation and policy as well as customs cooperation and administrative capacity building, including human competency and the development and operation of the European electronic systems for customs.

1. Capacity Building (administrative, human and IT capacity):

1. Union Law and Policy Application and Implementation Index (Number of actions under the Programme organised in this area and recommendations issued following those actions)
2. Learning Index (Learning modules used; number of officials trained; quality score by participants)
3. Availability of European electronic systems (in time percentage terms)
4. Availability of the Common Communication Network (in time percentage terms)
5. Use of key European electronic systems aimed at increasing interconnectivity and moving to a paper-free Customs Union (number of messages exchanged and consultations carried out)
6. UCC completion rate (percentage of milestones reached for implementing UCC systems)

2. Knowledge sharing and networking:

Collaboration Robustness Index (degree of networking generated, number of face-to-face meetings, number of on-line collaboration groups)

7. Best Practices and Guideline Index (number of actions under the Programme organised in this area; percentage of participants that made use of a working practice/guideline developed with the support of the Programme)