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To:	Delegations
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Subject:	Council conclusions on the European Court of Auditors' Special Report No 4/2021 "Customs controls: insufficient harmonisation hampers EU financial interests"

Following the approval by the Council (AGRIFISH) at its meeting on 28 June 2021, Delegations will find in the Annex the Council conclusions on the European Court of Auditors' Special Report No 4/2021 "Customs controls: insufficient harmonisation hampers EU financial interests".

**Council conclusions on the European Court of Auditors' Special Report No 4/2021
"Customs controls: insufficient harmonisation hampers EU financial interests"**

THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES the Special Report No 4/2021 by the European Court of Auditors (hereafter referred to as "the Court") entitled "Customs controls: insufficient harmonisation hampers EU financial interests"; and TAKES NOTE of the findings set out therein;
- (2) UNDERLINES that the EU's imports and exports combined in 2019 represented about 25% of the EU's GDP, which illustrates the impact of international trade on the EU's economy and the importance of the Customs Union; and STRESSES that customs duties represent a significant part of the EU budget¹ and that correct and effective collection of customs duties is a fundamental responsibility of Member States' customs authorities;
- (3) POINTS OUT that Member States' customs authorities' mission is the supervision of the Union's international trade and therefore they are responsible for the protection of the financial and economic interests of the Union and its Member States, as well as ensuring the security and safety of the Union, protecting the Union from unfair and illegal trade while facilitating legitimate business activity and maintaining a proper balance between customs controls and the facilitation of legitimate trade;
- (4) RECALLS that, pursuant to EU legislation, customs authorities may carry out any customs controls they deem necessary according to their own assessment and decision and NOTES that Member States' customs authorities perform their comprehensive and multifold responsibilities in very different circumstances, despite having limited resources;

¹ 13% of the total EU budget in 2019, according to Eurostat data.

- (5) NOTES the audit scope and approach applied by the Court, which examined the new regulatory framework and the steps leading to the selection of import declarations to control and the follow-up of those controls, visiting 5 Member States, while it did not include the quality of the customs controls or their results. Non-fiscal controls were also not examined.
- (6) HIGHLIGHTS that the audit visits took place between October 2019 and January 2020 which corresponds to the beginning of the application of the Financial Risks Criteria and Standards Implementing Decision (the FRC decision), whereas subsequently the Commission together with the Member States developed the Guidance document to complement the FRC decision and those two documents together form the framework to establish the common financial risk criteria and standards in order to enable Member States to address financial risks in an equivalent manner at the external borders;
- (7) RECOGNISES the opportunity to assess the possible expansion and strengthening of the FRC Decision taking into account the full range of instruments available for customs supervision and the different types of borders, business models and trade flows;
- (8) RECALLS the Council Conclusions of 18 December 2020 regarding Taking the Customs Union to the Next Level: a Plan for Action², in which, inter alia, INVITED the Commission to elaborate on a detailed description of the tasks, the role, the business model and positioning of the EU Joint Analytics Capabilities in order to further strengthen the efficiency and create an added value to the risk management strategy; and providing a legal and financial assessment including issues of data protection and data security, BEARING IN MIND the respective competencies and resources of the Member States and the Commission in the area of risk management and controls;
- (9) REITERATES the importance of close cooperation with Member States when developing the EU Joint Analytics Capabilities;

² ST. 14292/20.

- (10) RECOGNISES the need for an analysis of risks from an EU perspective including an analysis of trade flows and credibility checks;
- (11) In the context of the future New Risk Management Strategy, STRESSES the overall importance of strengthening cooperation and information sharing between the Member States and with the Commission, while preserving flexibility due to differences such as geographical location, types of borders and trade flows and taking into account the likelihood and the potential impact of the risk;
- (12) INVITES the Commission to take into account the expertise and tools developed by Member States, including, as appropriate, within joint projects, such as CELBET, in respect of both the joint analytical capacities and the new risk management strategy;
- (13) RECOGNISES the need to continue developing risk management IT tools and in this context RECALLS Council Conclusions on the Second Progress Report on the Implementation of the EU Strategy and Action Plan for Customs Risk Management³ stressing the need to deliver the electronic systems as foreseen by the UCC in a timely manner in order to allow customs administrations to manage financial and security risks while facilitating trade;
- (14) RECOGNISES the fact that the Commission has accepted and is committed to implementing both recommendations by the Court and URGES the Commission to closely cooperate with the Member States in this respect;
- (15) INVITES the Commission and the Member States to continue to address the challenges for the effective protection of the EU financial interests, as well as non-fiscal risks, while maintaining a proper balance between efficient and effective controls and trade facilitation.

³ ST 15497/18.