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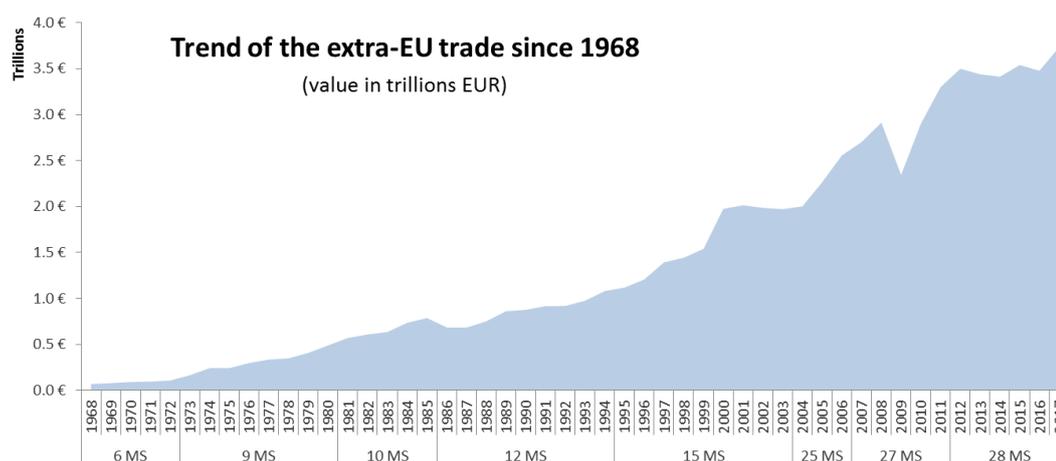
**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

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

1. INTRODUCTION

It is just over a year since the Commission launched a debate¹ with five possible scenarios for how the European Union (EU) could develop over the years to come to embrace the many challenges it faces, that range from globalisation, to the impact of new technologies on society, to security concerns and the rise of populism. The Commission believes that the Customs Union², which celebrates its 50th anniversary this year, plays an important role in dealing with these challenges and therefore that its further development is vital.

The Customs Union is one of the EU's earliest achievements and can be considered one of its main success stories. It has enabled the EU not only to remove internal borders but also to compete with the rest of the world. The EU's single market, which allows any business established in the EU to sell its goods and invest throughout the EU without any internal borders, would be impossible without the tariff-free environment provided by the Customs Union and the role the latter plays in overseeing imports and exports. Internationally, the EU is now the largest trading block in the world, accounting for 15% of world trade³, and thus has a far stronger position in trade negotiations with third countries than would any Member State negotiating alone.



The Customs Union has evolved considerably over the last fifty years and customs authorities now successfully perform a wide variety of tasks at borders. Acting together, Member States' customs authorities work to facilitate trade and reduce red tape, collect revenues for national and EU budgets⁴ and protect the public against terrorist, health, environmental and other threats. Given this broad mandate, customs is now effectively the lead authority for the control of goods at the EU's external borders.

However, there are many challenges ahead. New trends and technologies - digitalisation, connectedness, the internet of things, data analytics, artificial intelligence and blockchain technology – present both opportunities and threats. New business models such as e-commerce and supply chain optimisation are emerging and must be facilitated. At the same

¹ COM(2017) 2025

² The Customs Union consists of the 28 Member States of the European Union, some territories of the United Kingdom which are not part of the European Union and Monaco.

³ The total statistical value of EU-28 trade flow was 3.5 trillion € in 2016 or 9.5 billion € a day (source: Eurostat).

⁴ Customs duties represent a 14% share of the total EU budget – 20 billion EUR in 2016 out of 25 billion EUR of collected duties.

time, public finances are under pressure, the volumes of world trade are increasing⁵, fraud and smuggling are a constant and growing concern⁶⁷ and there are persistent transnational crime and security threats. Strategies adopted in other policy areas impact on and expand customs tasks. Resources and funding are needed, in particular to develop and maintain the electronic systems that are now crucial to the operation of the Customs Union. Meanwhile, work on the many customs-related implications of the withdrawal of the UK from the EU must be prioritised. All of this is putting EU customs authorities under increasing pressure.

In recent years, there have been calls for a more unified approach to the Customs Union and for a more effective and more coherent overall management so as to address these challenges. The European Parliament⁸ has highlighted the risk that different customs electronic systems in Member States can create fragmentation, additional administrative burdens and delays hindering the flow of goods across borders. The European Court of Auditors⁹ has stated that ineffective implementation of import procedures as well as shortcomings in the legal framework are adversely affecting the financial interests of the EU. The European Economic and Social Committee¹⁰ has argued, inter alia, that effective application of customs legislation requires efforts to minimise the possibility of varying interpretations by Member State administrations.

In its 2016 Communication on developing the EU Customs Union and its Governance (the "Governance Communication")¹¹, the Commission suggested solutions to address these challenges that included a more cohesive and uniform application of the common customs rules under enhanced policy and operational structures based on partnership; better cooperation of customs with other border management and security authorities; and a more comprehensive long-term strategy for the development and maintenance of customs electronic systems. In March 2017, the Council of the European Union welcomed¹² the Governance Communication and invited the Commission to provide an update in a biennial report, in particular in some areas that the Council identified as needing particular attention.

Against this background, the present Communication reviews the operation of the Customs Union to date and identifies priority issues ahead. The Communication should serve to enhance a dialogue with all stakeholders, including citizens, businesses, Member States, the European Parliament and other European Institutions, whose input to the continued success of the Customs Union is vital.

⁵ World trade started to recover strongly and steadily in the second half of 2016, with annual trade growth of 4.5% in 2017, compared to just 1.5% in 2016 – Spring 2018 forecast, note No.1: Position Paper (Directorate-General for Economic and Financial Affairs, European Commission).

⁶ The Council progress report on fight against excise fraud (11760/17 of 8 September 2017) notes that "according to conservative estimates, tobacco product smuggling costs national and European Union budgets more than 10 200 million EUR in lost public revenue annually". At same time the customs border crossing points of the European Union have grave shortages of control equipment and systems.

⁷ Figures from studies produced by Europol and the European Union Intellectual Property Office show that counterfeit and pirated products represent up to 5% of all imports in the European Union, worth up to 85 000 million EUR. Brands that suffer the most from Intellectual Property infringements are primarily registered in the European Union (2017 *Situation Report on Counterfeiting and Piracy in the European Union, Europol and European Union Intellectual Property Office, June 2017*).

⁸ Resolution on tackling the challenges of the EU Customs Code implementation – 2016/3024

⁹ European Court of Auditors Special Report 19/2017

¹⁰ INT/814

¹¹ COM(2016) 813 final

¹² Council Conclusions on Developing the EU Customs Union and its Governance (doc. 7585/1/17 REV 1)

2. BACKGROUND

Role of customs

The world has changed dramatically during the fifty years of existence of the Customs Union and so has the role of Member States' customs authorities. During that time, in addition to continuing to protect the financial interests of the EU and of its Member States, customs authorities have assumed responsibility for the implementation of the border aspects of several other common EU policies, with considerable success. All goods entering or leaving the EU are subject to customs supervision and may be subject to customs controls.

In particular, customs have assumed a front line position in the fight against terrorism and organised crime. In the wake of the 2001 attack on the World Trade Centre in New York, the EU responded by introducing a security amendment to customs legislation¹³. This provided for an EU-wide deployment of common risk criteria in advance cargo risk analysis and a Common Risk Management Framework¹⁴ to help customs to share operational risk information and results, supporting a rapid response to any crisis event in the supply chain. Moreover, customs control movements of large amounts of cash in and out of the EU by individual travellers, as an integral part of the EU's actions to combat money laundering and terrorist financing, and cooperate closely with other border and security authorities to combat these threats.

Customs in figures¹⁵

Revenue collection

- In 2016, national customs authorities detected an amount of 537 million¹⁶ EUR of unpaid duties to be returned to the EU budget.

Fight against terrorism and organised crime

- In 2016, EU customs seized almost 6 300 firearms, more than 1 million pieces of ammunitions and over 1 500 pieces of explosives in the EU.
- In the same year customs seized almost 300 tonnes of drugs (with increased seizures of cocaine and synthetic drugs); the quantity of drugs customs seized in express and postal consignments increased by 23% compared to 2015, totalling 13 tonnes.
- Customs deal, on average, with 100 thousand cash control declarations annually, representing a total amount declared between 60 and 70 billion EUR, while at the same time detecting an amount of undeclared or incorrectly declared cash, on average, of approximately 300 million EUR per year¹⁷.

Protection of intellectual property rights – seizures of counterfeit and cultural goods

- Customs were able to detain more than 41 million of counterfeit goods which

¹³ The Community Customs Code, now superseded by the Union Customs Code. The Union Customs Code allows risk-based controls to be carried out in relation to a range of threats (including risks for safety, security and protection of the environment, health and consumers) and supports the customs contributions to the detection and prevention of serious crimes and terrorism where movement of goods is concerned, regardless of whether there is a "customs" offence.

¹⁴ The Common Risk Management Framework has equipped customs with new common tools, including a Customs Risk Management System, to share operational risk information and results, helping to identify and respond to highly mobile transnational crime and supporting a rapid response to any crisis event in the supply chain. Based on experience with the Customs Risk Management System, key areas for improvement were identified and the European Union Strategy and Action Plan for customs risk management, endorsed by the Council in December 2014, provides a comprehensive agenda for strengthening risk management across seven areas.

¹⁵ https://ec.europa.eu/taxation_customs/sites/taxation/files/facts_figures_en.pdf

¹⁶ Protection of the European Union's financial interests – Fight against fraud Annual Report 2016, SWD(2017)266 final, 21.07.2017

¹⁷ Commission Staff Working Document - Impact Assessment - Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005, SWD(2016)470 final

represented a violation of the intellectual property rights with an estimated value of nearly 672 million EUR in 2016 (mainly cigarettes, toys and foodstuffs).

- In the same year, customs uncovered 96 cases where fraudsters were attempting to smuggle European treasures out of the EU.

Managing trade flows across EU borders

- Across the EU, customs deal with more than 9 customs declarations and over 100,000 EUR of value per second and they collect duties totalling 25 billion EUR per year.
- EU traders today submit 99% of customs declarations electronically and they will be able to use customs electronic systems for other elements of their business operations soon, in line with the ongoing implementation of the Union Customs Code electronic systems.
- The speed of the customs clearance process is now very high: even customs declarations submitted under standard procedure (i.e. where no simplified procedures are availed of) are generally cleared within 1 hour (93% in 2016).

Legal framework

Customs legislation is adopted at EU level although its implementation is the responsibility of the Member States via their national customs administrations. Since 2016 the Union Customs Code provides a refreshed and comprehensive legal framework for customs rules and procedures in the EU customs territory that is adapted to modern trade realities and to global standards so as to facilitate EU businesses in their international activities. Major progress has been achieved in making all customs processes fully electronic as required under this new Code¹⁸. Customs also apply more than 60 pieces of non-customs legislation as part of their role of implementing the border aspects of other common EU policies. Moreover, legislation and non-legislative tools enable EU customs authorities to cooperate with each other to combat security and financial risks and there are international cooperation agreements in place with many third countries.

Electronic Systems

The Commission and Member States have been working together on the development and operation of electronic systems to underpin customs operations since 2008¹⁹. These systems cover the various customs processes including customs declarations, goods movement including transit in and out of the EU and information flows between administrations and with the Commission²⁰. They also include some common databases such as on tariffs. The development of seventeen electronic systems²¹ to manage the processes set out in the Union Customs Code is a major step forward in the e-customs strategy but a vital one if customs administrations are to be able to carry out their tasks while facilitating trade flows.

Trade facilitation

Underlying the customs mission²², there is a simple overarching principle, which is that customs need to balance their customs controls with the facilitation of legitimate trade, so as to enable the EU to prosper and develop competitive businesses. The Union Customs Code

¹⁸ Report on UCC implementation – COM(2018) 39 final

¹⁹ Decision No. 70/2008/EC of the European Parliament and of the Council of 25 January 2008 on a paperless environment for customs and trade (OJ L 23, 26.1.2008, p.21)

²⁰ Including, for example, interface with the Anti-Fraud Information System (AFIS), an umbrella of applications which allow Member States customs authorities to detect and combat customs fraud.

²¹ Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code

²² Article 3, UCC

aims to achieve this balance, simplifying rules and procedures while introducing features such as obligatory guarantees and strengthened safety and security rules.

An important instrument for both customs controls and trade facilitation that was introduced as part of the security amendment was the "Authorised Economic Operator" regime²³. Authorised Economic Operators are granted some benefits (e.g. fewer border controls, easier reporting, reduced risk rating, etc.) in return for cooperating closely with customs authorities to assure supply chain security. Companies wishing to benefit from this regime have to undergo a strict certification process, provided for in EU law, and must be prepared to take additional steps so as to continuously demonstrate to customs authorities that they can fully meet their obligations and actively contribute to the safety and security of international supply chains. The Union Customs Code enhanced the benefits of the regime while also requiring prospective Authorised Economic Operators to comply with additional strict conditions. The number of such operators reached almost 16 000 at the end of 2016 and their involvement in the supply chain reached the level of 77% in the same year.

Measures are constantly undertaken to further step up the overall management of the regime and to ensure a uniform approach within the Customs Union. However, this regime can only be credible and effective if Member States act to ensure its sound control, in particular by taking prompt action where difficulties or non-compliance are detected. In this context Member States exchange information continuously on specific risks related to all stages in the Authorised Economic Operators process.

3. REVIEW OF THE OPERATIONS OF THE CUSTOMS UNION IN PRIORITY AREAS

Despite the many achievements over the last fifty years, the Commission agrees with the European Parliament, the Court of Auditors and the Council that more needs to be done to ensure that the Customs Union can continue to face the challenges ahead. This chapter reports on developments in the last years in improving the operation of the Customs Union, as suggested by the Commission in its Governance Communication, and as endorsed by the Council in its conclusions of March 2017. The chapter focuses on the priority areas which have been identified by the Council in those conclusions. It also refers to ongoing work to make further progress in each of the specific areas which are examined.

i. Implementation of the Union Customs Code

The full implementation of a modern and effective legal framework is crucial if the Customs Union is to operate successfully. The Commission has recently reported²⁴ on the state of play of implementation of the Union Customs Code that is applied as from 1 May 2016. The legislative provisions are operating smoothly, with discussions taking place regularly with trade and Member States to resolve any problems of interpretation or application. In addition, the Commission deployed fifteen eLearning modules on the Code in 2016 to support the introduction and uniform implementation of this legislation. Guidance documents explaining

²³ Introduced through the World Customs Organisation (WCO) SAFE Framework of Standards (FoS) in 2005 and internationally recognised as an effective supply chain security instrument that still aims to facilitate international trade, the Authorised Economic Operator (AEO) concept is increasingly used as a benchmark for establishing trusted trader programmes in other areas, in particular Civil aviation security, Maritime security, export controls of dual use goods, and taxation.

²⁴ Report from the Commission to the European Parliament and the Council on the implementation of the Union Customs Code and on the exercise of the power to adopt delegated acts pursuant to Article 284 thereunder - COM(2018) 39 final

practical aspects of the application of the rules also play an important role in the correct implementation of the Code. Member States and trade representatives have collaborated with the Commission to complete all such necessary guidelines and they continue to collaborate on updates to these documents as the need arises.

Most of the work on upgrading or creating electronic systems (seventeen in total) envisaged by the Union Customs Code will be completed by 2020. However, some systems will be deployed more gradually up to 2025²⁵ and depend on financing under the next generation of EU customs funding programmes. Delivering all the electronic systems is vital in order to allow customs administrations to manage financial and security risks while facilitating trade.

A significant task ahead for Member States' customs administrations is the reassessment of many of the authorisations granted under the previous customs legal framework, the Community Customs Code, which must be completed by May 2019. Authorisations are granted to economic operators for different purposes, mostly to allow them to apply some simplified or less cumbersome customs procedures. A good example is the authorisation granting Authorised Economic Operator status. As the conditions for granting the authorisations may have changed under the Union Customs Code, and have become more stringent and more uniform in some cases, existing authorisations need to be re-assessed to ensure strict application of the new rules.

The Commission is assisting Member States and trade representatives by providing fora for discussion of issues arising in this process of reassessment of authorisations in the period up to May 2019. The process of implementing the Union Customs Code and of the bedding-in of the new provisions and new IT systems must remain a priority for the next years.

ii. Developing a comprehensive mid and long-term strategy for customs IT systems

As the Commission noted in its Governance Communication, the cost of maintaining the increasingly sophisticated EU-wide customs electronic systems over the years to come will be significant and solutions are needed on how to manage this. In addition there are longer term issues of how to avoid duplication of effort and resources in the updating of old electronic systems in each of the Member States. At the same time electronic systems are indispensable for the efficient and modernised operation of the customs union.

Since then, Member States and the Commission have engaged in wide ranging discussions to try to arrive at a more efficient, cost-effective and streamlined approach to the management of the electronic systems. Some progress has been made in identifying potential solutions, having regard to the Digital Agenda, the potential for cross-sector interoperable approaches, and the implications of technological innovations over the coming years.

The Commission has recently adopted a progress report²⁶ on an IT strategy for customs to help focus the debate needed over the coming years. The priority is the creation of a “catalyst group” of interested Member States and the Commission to explore the specific issues set out in the progress report. The objective, as indicated in the progress report, should be to establish a feasible scenario for the longer term and a path to get there, including via further “pilot projects” and due diligence work on synergies with other actors, as well as via

²⁵ COM (2018) 85 final, 2 March 2018

²⁶ COM(2018) 178 final

appropriate legal analyses and cost/benefit exercises. The Commission is ready to participate actively in this work.

iii. Developing the governance of the Customs Union

The Council and the Commission agree on the need for a long-term overarching policy and shared operational management vision for the Customs Union. This will allow necessary decisions to be taken in an inclusive and partnership manner across the different policies with the different stakeholders, taking everybody's needs into account.

One of the groups to be used for the purpose of this shared management of the Customs Union is the Commission's advisory group of customs Directors-General (the Customs Policy Group). The involvement of the Customs Policy Group in the review of the implementation dates for the electronic systems provided for in the Union Customs Code is a recent example of how a reinforced partnership between Commission and Member States can help in the effective management of customs priorities. The Commission proposes to give this group a clearer and more specific role in relation to work on the Customs Union.

The Commission has launched the process to convert the Customs Policy Group to a formal expert group, with clear tasks and rules of procedure.²⁷

iv. Continuing to develop the Customs Union Performance

Continuous policy monitoring, analysis and assessment of possible impacts are essential parts of governance of the Customs Union. To this end, the Commission has been working on developing the Customs Union Performance tool to help steer policy formulation and strategic decision making. This tool should allow the systematic assessment of the Customs Union's performance against its strategic objectives in terms of efficiency, effectiveness and uniformity by analysing key trends and thus identifying areas for improvement. It is an indispensable tool for raising awareness of the Customs Union's achievements and added value among its main stakeholders and the broader public.

The Customs Union Performance tool operates by assessing the functioning of the Customs Union, on the basis of Key Performance Indicators in a range of areas such as protection of financial interests, ensuring the safety and security of EU citizens and assessing the importance of customs in contributing to the growth and competitiveness of the EU. While the Customs Union Performance has already proved its worth, it needs to be further developed so as to strengthen data-driven policy making, including by developing the Key Performance Indicators and enhancing the use of the system of reference values as well as of modern analytical methods and tools. In this work it is essential to build on synergies between customs authorities, the Commission, other authorities with border management responsibilities and international organisations, so as to enable re-use of data sources and avoid possible duplication.

The upcoming Austrian Presidency has undertaken to support this work and strengthen the strategic dimension of the Customs Union Performance by organising a high-level seminar on the subject in autumn 2018. The Commission is continuing to consult stakeholders and

²⁷ Reference if this is completed before the adoption of the report.

examining the need for and feasibility of a legal basis to support the Customs Union Performance project, as already indicated in the Governance Communication.

v. Single Window

The Commission is developing work on an EU Customs Single Window environment that would permit an economic operator to submit data required for a wide range of regulatory purposes (e.g. veterinary, sanitary, environmental, etc.) in a standardised format to multiple recipients and via harmonised access points. An EU Customs Single Window could bring about multiple gains, benefitting both the trade community and regulatory authorities. This is a complex area where care is needed to avoid duplications and unnecessary cost. In the light of this, the Commission and the Member States have agreed to implement the Customs Single Window environment through a phased approach. The first phase consists in the provision of tools to connect EU certificate systems with national systems so as to enable the automated acceptance by Member States' customs authorities of electronic certificates issued by other authorities for which a database is set up at EU level. A possible next phase could aim to provide a framework to support the establishment of an integrated and coherent environment for customs Single Window services in the EU.

The Commission is continuing to work towards an EU Single Window environment for customs and, on this basis, will consider possible further steps.

vi. Improvements in customs and tax cooperation

The need for improvements in cooperation between customs and tax authorities is crucial, in particular given that customs ensure the correct application of VAT and excise duties on imports of goods. The merits of cooperation, stressed on many occasions by the Council, the European Parliament, the European Court of Auditors and the Commission, include achieving a better balance between controls and trade facilitation, eliminating mismatches between rules, helping to combat fraud and more streamlined administrations. In the last year there were important developments in this regard.

Member States agreed in December 2017²⁸ to provide simpler and more efficient VAT rules for businesses that sell goods online to consumers, as well as to remove the current exemption from VAT for imports of small consignments from outside the EU which leads to unfair competition and distortion to the detriment of EU companies. Discussions are ongoing with customs and tax authorities as customs will have significant responsibilities in managing the application of VAT to imports in accordance with the new rules.

In November 2017, the Commission adopted a proposal²⁹ to make the VAT system more fraud-proof and counter large-scale VAT fraud. The proposal aims at improving the cooperation between customs and tax authorities regarding the collection of VAT upon imports from outside the EU so as to prevent abuse of a trade facilitation measure known as Procedure 42. This proposal addresses the weaknesses revealed by the European Court of Auditors and by investigations carried out by the European Anti-Fraud Office regarding the implementation of this customs procedure.

²⁸ <http://www.consilium.europa.eu/en/press/press-releases/2017/12/05/vat-on-electronic-commerce-new-rules-adopted/>

²⁹ COM(2017) 706 final

Negotiations in the Council are ongoing and an agreement on this initiative is an important part of the customs agenda for the coming years. The legislative measures should be accompanied by a concrete engagement by Member State tax and customs authorities to put in place the necessary channels of cooperation.

Moreover, the future European Public Prosecutor Office (EPPO)³⁰ will be empowered to investigate and prosecute EU-fraud and other crimes affecting the Union's financial interests, including customs fraud and serious VAT fraud. The PIF directive³¹ adopted on 5 July 2017 harmonises the definitions, sanctions and limitation periods for the same crimes.

The Commission and the Member States' customs authorities must continue to work intensively to prepare for 2021 when the current VAT exemption³² for goods valued below 22 EUR coming from outside the EU will end and as a result customs may have to collect VAT on a higher number of imported goods.

vii. Continuing the involvement of trade in EU customs legislation

Trade continues to play a crucial role in helping to ensure that customs procedures and rules are workable and appropriately balance the requirements of legitimate traders with effective controls. The Commission has been developing further the mechanism to strengthen trade input at different stages in the procedures by reviewing the terms of reference of the main consultation body – the Trade Contact Group. Besides the main platform, the Commission also promotes joint customs-trade discussions at the various stages of development and implementation of legislation.

Revised Terms of Reference of the Trade Contact Group were agreed and published in 2017³³. A proactive approach from trade will be necessary to ensure that the most value can be achieved from these closer worker arrangements. The Commission for its part will continue to organise regular consultations with trade representatives using these new arrangements.

viii. Increased integration of operations and management between customs authorities

The Commission believes that deeper operational cooperation between national customs authorities is crucial. In particular, from the perspective of the EU Common Risk Management Framework for customs controls, special attention must be given to organisational capacities for collaboration, so as to achieve the best possible return on investments in new data, systems and rules.

While the implementation of customs legislation is the responsibility of individual Member States, uniform implementation is a task and concern of the Customs Union as a whole. The Customs 2020 programme provides the organisational, methodological and budgetary framework for cooperation between national customs authorities in order to enable a deeper integration at operational level. The added value is most present in the area of electronic

³⁰ Council Regulation 2017/1939, OJ L 283, 31.10.2017, p. 1.

³¹ 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)

³² Directive (EU) 2017/2455 of 5 December 2017.

³³ https://ec.europa.eu/taxation_customs/general-information-customs/customs-trade-consultations_en

systems where the programme allows the development and running of the trans-European systems. But the programme also has a significant added value in terms of cooperation activities such as project groups, many of which have delivered valuable outcome for the Customs Union³⁴.

A novelty under the Customs 2020 programme is expert teams which are designed to achieve results via more intensive collaboration among a limited number of countries on a particular issue. Several expert teams set up in 2016 provided promising results in 2017 such as national customs laboratories pooling expertise and equipment for analysing samples and sharing results and CELBET – see the table below. Despite these promising results, some of the expert teams have not been used to their full potential. A survey carried out in summer 2017 suggested that the reasons may include the heavy administrative burden of setting up and running and expert teams.

CELBET (Customs Eastern Land Border Expert Team³⁵)

This expert group brings together 11 Eastern and South-Eastern land border Member States³⁶ for 18 months at a cost of 927.000 EUR EU co-financing. Promising results include:

- Risk management: joint creation of risk profiles and their assessment after use
- Operational controls: mapping of non-commercial border crossing points; carrying out Joint Intensified Actions at selected land border posts
- Equipment and procurement: inventory made of all control and detection equipment available at the border posts, typology and gap analysis established
- Training: training gap analysis carried out and training material for Border guards and Customs being prepared.
- Evaluation/performance measurement: work on Key Performance Indicators for border crossing points,
- Co-operation with border guards and neighbouring countries: recommendations on improving exchange of information when working at land border crossing points.

The functioning of the Customs Union and the further integration of the national customs authorities that run it remain entirely dependent on the Customs programme. In view of the challenges facing the world, the European Union and the Customs Union, it is crucial that this programme continues after 2020.

The Commission has recently presented proposals establishing i) a new Customs programme that is aimed at providing a solid basis for taking up the challenges facing the Customs Union, in particular by deepening current cooperation mechanisms and capacity building

³⁴ - analyses of traffic, threats and resources across external land borders;
- creation of networks of experts, e.g. for air, maritime and land transport, who share good practices and review operational/technology issues underpinning risk analysis;
- a prototype shared service supporting targeting by customs of maritime containers;
- the Import Control System reform programme which provides a new platform for co-operation between customs and other law enforcement functions in advance cargo risk analysis, aiming to improve the quality of data declared and to enable real-time sharing of declared data and risk-relevant information (including control results).

³⁵ In the CELBET project report 26.09.2017 on Work Package 3.1 “Making an inventory of currently deployed control and detection equipment”, results of the Subtask 3.2.1, Gap analysis for each Border Crossing Point (BCP) were reported. The conclusion was (p.15 of the report): “The main finding of the inventory [of 174 land border crossing points of the EU external border] is that the situation with equipment and infrastructure is not ideal. The most worrying aspect of the analysis is that 53 % of the BCPs lack of automated number plate/container number recognition systems (ANPRS) that would be a solid basis of and an effective tool for risk management. Furthermore 46 % of BCPs lack scanners for cargo and vehicle inspection of trucks and wagons and even personal hand control tools are not available in 51 % of Border Crossing Points.”

³⁶ Estonia (coordinator), Finland, Latvia, Lithuania, Poland, Slovakia, Hungary, Romania, Bulgaria, Greece & Croatia

features and ii) a Customs Control Equipment fund, aimed at supporting equivalent customs controls.

4. PRIORITY ISSUES AHEAD

The Customs Union cannot be static. Markets, trade and technologies are dynamic and the Customs Union must support these developments. In order to do this, Member States' customs administrations must not just advance in the areas outlined in the previous chapter but also consider strategies for future development, new approaches and different ways of working, given also the pressures of tighter resources and the possibility of greater responsibilities in the future. In that spirit, the Commission puts forward the following list of priority issues for consideration in customs policy fora in the near future:

a) Managing Brexit. The withdrawal of the UK from the Union and its Customs Union and the consequent change of becoming a third country will have a substantial impact on all customs processes. Ensuring an orderly withdrawal and the implementation of changes such as modifications to customs processes will impact on the Commission's and Member States' resources in particular due to the considerable uncertainties linked to the withdrawal itself. The Commission is in close cooperation with Member States screening customs processes and procedures to identify legal, IT and any other aspects which have to be addressed in the light of the withdrawal. It is clear that those measures will require adjustments to the customs IT systems, which may lead to additional costs and to an increased demand for resources and cooperation between Member States and the Commission as well as between the Member States themselves. Equally, adjustments are needed on the side of economic operators. As a first step to inform stakeholders, a notice on the consequences of the UK's withdrawal in the area of customs and relevant aspects of indirect taxation (VAT and excise duties) has been published.

b) Strengthening controls and tackling fraud. Since the evasion of customs duties and VAT must be compensated by higher contributions from Member States into the EU budget and thus is ultimately borne by EU taxpayers, it is vital for Member States to see how to improve efficiency of controls. In order to ensure a common approach to customs financial risk management across the EU, the Commission has recently adopted a Decision on common financial risk criteria and standards³⁷. Given the volume of cross-border activity, successful tackling of fraud may need to encompass new and different ways of controlling goods, for example by optimising the use of IT systems to better target risky transactions for controls and by greater reliance on trusted traders and their data, without neglecting tried and trusted control methods in situations where they are appropriate.

c) Greater use of monitoring of EU customs law. Uniform implementation of customs legislation by Member States is crucial as fraudsters can exploit weaknesses at one external border to create problems for the whole of the Customs Union. The Commission is expected to monitor Member States' implementation of common customs rules and take action, if necessary, to ensure their compliance. Although infringement procedures are an important

³⁷ Reference if this is completed before the adoption of the report.

tool to this end, they have to be seen as a last resort. This is why the Commission also undertakes cooperation and capacity building activities among Member States, including peer monitoring, aimed at promoting best practices and raising overall awareness of customs rules. The current Commission policy of Customs Union monitoring is under review, aiming at better understanding of the process on the part of all parties and better use of resources.

d) Improving efficiency of customs administrations. More cooperation between operational services on the ground, including between tax and customs administrations, could enable scarce resources to be used more efficiently. The lessons learnt from current projects under Customs 2020 indicates that cooperation between Member States and the Commission in this area brings a high added value and should therefore be pursued, e.g. with a view to exploring new data analytics techniques, testing collaborative working methods, and identifying possible capacity needs to support the Member States in their targeting of transnational risks in their clearance and post release control work.

e) Harnessing innovation. The new digital reality with its new business models, ways of working, automation, fragmentation and changes in the value chain is influencing the EU's competitiveness, the fairness it strives to achieve and its safety and security. It is crucial to keep pace with and harness evolving technologies, including in particular data analytics and the upcoming blockchain approach as already discussed with the Member States on several occasions. Cross-sector cooperation and inter-operability are key requirements underpinning all technological developments. New European and international standards may also be necessary.

f) Optimising customs electronic systems and their use. Increased cooperation between the Member States in the area of electronic systems is vital so as to reduce overall costs and eliminate duplication of costs in the development, maintenance and operation of the systems. There is already a strong demand from Member States for looking into more centralisation of systems as well as collaboration solutions, as described in the Commission report on the IT strategy for customs.³⁸ Based on the report, the Commission will in the short term actively engage in the analysis of different alternatives in this area.

g) Dealing with e-commerce. The challenges of e-commerce for customs are by now well known. Customs nowadays have to deal with a phenomenal increase in the volume of goods being bought online outside the EU in terms of controls and collection of the applicable duties. In particular the volume of low value goods imported into the EU is growing each year by 10-15%. While applying effective controls to tackle fraud as a priority and collecting applicable duties to these goods on import, Customs must at the same time support and facilitate the development of this form of trade which brings great benefits to businesses and citizens. The Commission has been actively supporting traders to prepare for the electronic provision of pre-arrival information for security and safety purposes by 2020 as provided for under the Union Customs Code.

³⁸ Report from the Commission to the European Parliament and the Council on the IT strategy for customs - COM(2018) 178 final

h) Capitalising on the Customs Union to improve EU security. Action to improve the EU's security implies considering how common policies in the police, border management and customs areas can be made to work better together to support the fight against serious and organised crime and terrorism and to improve protection at the EU's external borders in particular. Areas for practical cooperation at an operational level with border guards and European Border and Coast Guard Agency should also be further explored. As the lead authority for the supervision of the movement of goods across the external borders, with a special responsibility for advance cargo risk analysis, customs is a key partner for security and law enforcement authorities in combating transnational threats.

i) Continuing to work on international relations. In 2017, imports from third countries into the EU reached 1879 billion EUR and exports from the EU to third countries reached 1859 billion EUR³⁹. The volume of that external trade is continuously growing. This requires continuing and increasing cooperation between the EU and third countries both to improve compliance with customs regulations and, at the same time, to facilitate EU trade with the outside world. This must be accompanied by work on more robust supply chains at international level, within the forum of the World Customs Organization, through further strengthening the Authorised Economic Operator status. The further development of mutual recognition of Authorised Economic Operator programmes with partner countries, as already in place with the United States, China, Japan, Switzerland and Norway, is also crucial so as to encourage wider take-up of Authorised Economic Operator status.

5. CONCLUSION

The Customs Union is at a crossroads. We have a new legal framework, new methods of working and new IT tools. These must now come together in the next few years in a coherent implementation that encourages compliance and targets risk areas, while reaching out to other policy areas, notably security, to strengthen EU common policies.

The development of the Customs Union is a dynamic process and in the last years we have made progress in many areas linked to a better management of the Customs Union. Work in these areas must continue. At the same time, however, the Commission believes that EU customs must look at new priority issues in order to deal with the challenges ahead. These are as follows:

- Managing Brexit
- Strengthening controls and tackling fraud
- Greater use of monitoring of EU customs law
- Improving efficiency of customs administrations
- Harnessing innovation
- Optimising customs electronic systems and their use
- Dealing with the challenges of e-commerce
- Capitalising on the Customs Union to improve EU security
- Continuing to work on international relations

The Commission invites the European Parliament and the Council to endorse this report and looks forward to engaging actively with those institutions on follow-up.

³⁹ Customs Union Performance – 2016 Annual report