



Brussels, 17.2.2017  
C(2017) 826 final

**COMMISSION IMPLEMENTING DECISION**

**of 17.2.2017**

**concerning the adoption of annual work programmes for 2017 for the Customs 2020 and  
Fiscalis 2020 programmes  
and  
on the financing of the programmes for expenditure to be committed by DG Taxud from  
the 2017 budget lines 140201 and 140301**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 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, and in particular Article 14(1) thereof,

Having regard to Regulation (EU) 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC, and in particular Article 14 thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union<sup>1</sup> and in particular Articles 84(2) and 124(1) thereof,

Whereas:

- (1) In order to ensure the implementation of the Customs 2020 and Fiscalis 2020 programmes it is necessary to adopt a financing decision and the work programmes for 2017. Article 94 of Commission Delegated Regulation (EU) No 1268/2012<sup>2</sup> establishes detailed rules on financing decisions. Delegated Regulation (EU) No 1268/2012 also contains detailed rules regarding lump sums, unit costs and flat-rate financing.
- (2) Under Article 190(1)-(f) of Delegated Regulation (EU) No 1268/2012, grants may be awarded without a call for proposals for actions with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power.

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<sup>1</sup> OJ L 298, 26.10.2012, p. 1.

<sup>2</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p.1).

- (3) This Decision should allow for the payment of interest due for late payment on the basis of Article 92 of Regulation (EU, Euratom) No 966/2012 and Article 111(4) of Delegated Regulation (EU) No 1268/2012.
- (4) For the application of this Decision, it is appropriate to define the term 'substantial change' within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012.
- (5) In accordance with the procedure referred to in Article 16 in the Regulation of the European Parliament and of the Council establishing an action programme for customs in the European Union for the period 2014-2020 (Customs 2020) and repealing Decision No 624/2007/EC, the Customs 2020 Committee was consulted and delivered a favourable opinion on the work programme for 2017.
- (6) In accordance with the procedure referred to in Article 15 of Regulation of the European Parliament and of the Council establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC, the Fiscalis 2020 Committee was consulted and delivered a favourable opinion on the work programme for 2017,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### *The work programmes*

The annual work programmes for the implementation of Customs 2020 and Fiscalis 2020 programmes for 2017, as set out in Annexes I and II, are hereby adopted. They constitute a financing decision within the meaning of Article 84 of Regulation (EU, Euratom) No 966/2012.

#### *Article 2*

##### *Union contribution*

The maximum contribution for the implementation of the Customs 2020 and Fiscalis 2020 programmes for 2017 is set at EUR 113 704 000, and shall be financed from the following lines of the General Budget of the European Union for 2017:

- (a) budget line 14 02 01: EUR 81 895 000,
- (b) budget line 14 03 01: EUR 31 809 000.

The appropriations provided for in the first paragraph may also cover interest due for late payment.

The implementation of this Decision is subject to the availability of the appropriations provided for in the draft budget for 2017 after the adoption of the budget for 2017 by the budgetary authority or provided for in the provisional twelfths.

### *Article 3*

#### *Flexibility clause*

Cumulated changes to the allocations to specific actions not exceeding 20% of the maximum contribution set in Article 2 of this Decision for each of the work programmes shall not be considered to be substantial within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012, where those changes do not significantly affect the nature of the actions and objective of work programme concerned. The increase of the maximum contribution set in Article 2 of this Decision for each of the work programme shall not exceed 20%.

The authorising officer responsible may apply the changes referred to in the first paragraph. Those changes shall be applied in accordance with the principles of sound financial management and of proportionality.

### *Article 4*

#### *Use of unit costs financing*

The use of grants in the form of unit costs financing under the Customs 2020 and Fiscalis 2020 programmes is authorised, for the reasons and under the conditions set out in Annexes I and II.

### *Article 5*

#### *Grants*

Grants may be awarded without a call for proposals to the bodies identified in Annexes I and II in accordance with the conditions specified therein.

Done at Brussels, 17.2.2017

*For the Commission*  
*Pierre MOSCOVICI*  
*Member of the Commission*



Brussels, 17.2.2017  
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ANNEXES 1 to 2

**ANNEXES**

*to the*

**COMMISSION IMPLEMENTING DECISION**

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ANNEX I**BUDGET LINE 140201: Customs 2020 Work Programme for 2017****1. INTRODUCTION****1.1. Strategic Framework**

The Customs 2020 programme provides a Union framework to **support the functioning and modernisation of the customs union in order to strengthen the internal market by means of cooperation between participating countries, their customs authorities and their officials**. The programme, in this sense, is a tool which contributes to the implementation of the broad scale of customs policy issues at the European Union level. To provide a focal point, the Customs 2020 programme identifies and sets out to support the implementation of the following priorities.

The customs union is a foundation of the European Union and an essential element in the functioning of the single market. The single market can only function properly when there is a common application of common rules both at its external borders and in the customs territory. This implies that the 28 Customs administrations of the Union must act as though they were one, achieving the same results throughout the territory of the customs union. The **Union Customs Code (UCC)** is intended as an enabler for harmonised rules in the customs union, without which no level playing field for European trade is possible. As such, the proper implementation of the UCC will be a key challenge of the Union in the coming years. The Customs 2020 programme will significantly support the efforts by devoting a significant part of the programme financing to the development of **an ambitious set of electronic customs systems** - envisaged by the UCC and the plans linked to the establishment of electronic customs by 2020. At the same time, the operation and maintenance of existing IT systems, which already play a key role in the customs union, must continue. In addition, the Customs 2020 programme is mobilised to raise the level of expertise and performance consistently across all European Union customs administrations and with trade by creating a series of comprehensive **eLearning modules on the UCC** and by introducing a **human competency building framework**, a model of competences, skills and behaviours. Furthermore, the use of digital and modern communication tools is encouraged within the customs union.

Customs are facing a twofold challenge: they must ensure the **smooth flow of trade** whilst applying necessary controls to **protect security, health and safety** of the Union's citizens as well as the security and the **financial and economic interest** of the Union. The Customs 2020 programme, as identified by its specific objectives, considers both of these aspects as a priority. To achieve the correct balance in replying to these demands, it will support the implementation of a set of modern customs procedures and control methods established by the Union customs policy and the UCC. To implement the European Union legal customs framework, the day-to-day operations of the customs union will be reinforced by programme activities enabling close co-operation between customs administrations themselves and also with the Commission. The programme also supports the cooperation between customs and tax authorities which is essential in order to fight against tax fraud and ensure the collection of customs duties and related taxes.

The Union's most important source of growth, **legitimate trade** has to be able to **cross borders** as **quickly and efficiently** as possible. The Customs 2020 programme therefore prioritizes activities which increase the effectiveness and efficiency of **customs controls**, including the cooperation with other enforcement agencies and bodies involved in the process. Along this line, the Programme will facilitate the development of a European Union **single window** environment for traders, which is planned in a gradual and pragmatic way to take account of the complexity of the Union structures and of initiatives of Member States. The European Union's compliant trader initiative, the **Authorised Economic Operator (AEO) programme**, which entitles compliant and trustworthy traders to facilitations regarding security and safety and to customs simplifications, will be reinforced by programme activities which contribute to the harmonised implementation of the programme, fortify its benefits and facilitate the joint assessment of compliant trader programmes with third countries.

As gatekeeper of European Union's borders for the flow of goods, customs play a crucial role in protecting the European Union and its residents as well as international supply chains from criminal activities and attacks. The Customs 2020 programme is set out to support customs administrations to reply to the increasing demand in order to ensure that goods harmful for security, health, safety and the environment do not cross the European Union external borders. In the coming period, the programme will focus on strengthening coordination and uniform **implementation** by customs of **non-customs legislation** and supporting interagency cooperation. Furthermore, in line with the European Agenda on Security, this will especially entail activities reinforcing the control of goods which may be linked to terrorism and other serious crime, mainly through the implementation of the **Cash Control Regulation** on cash entering or leaving the European Union, reviewing the existing instruments to filter out **illicit trade in cultural goods** and closely monitoring the implementation of the legislation on trade in **drug precursors**.

Customs are also responsible for tackling, through border enforcement, the increasing volume of trade in goods infringing **Intellectual Property Rights (IPR)** that threatens jobs, growth, innovation and competitiveness. The Customs 2020 programme will contribute to carrying out the activities identified by the European Union Customs Action Plan on Intellectual Property Rights.

Ensuring the implementation of **the European Union Strategy and Action Plan for customs risk management** will also work towards ensuring a more secure and safer European environment, besides supporting the filtering out of offences and irregularities, including financial fraud. The Customs 2020 programme will play an important role in the coordinated implementation of the objectives established by the Strategy Action Plan and in implementing the activities laid down in the related roadmap.

By its very nature, customs has an inborn international dimension. One country's export is another country's import. The Customs 2020 programme will provide support to strengthen **collaboration with third countries and international organisations**. The importance for the Union of sharing experience and information with third countries and international organisations or bodies to facilitate trade and customs processes is becoming more evident with the globalisation of trade. In the coming period the Customs 2020 programme will be called upon to contribute to the work of the Commission regarding implementation and

upgrading of existing bilateral customs agreements (Customs Cooperation and Mutual Administrative Assistance Agreements (CCMAAA)) to strengthen trade facilitation and to improve supply chain security.

The Customs 2020 programme will finance activities to monitor the implementation of the **rules of origin** in the European Union preferential trade arrangements in line with the 2014 Action Plan and as underlined by the European Court of Auditors (ECA) in its Special Report 2/2014. Compliance with rules of origin, including rules on administrative cooperation is essential for **safeguarding the European Union's own resources** and for credibility of the Union in the negotiation of Free Trade Agreements. The Customs 2020 programme will contribute to the correct and uniform implementation of the Common Customs Tariff (CCT) and updating the **Integrated Tariff of the European Union (TARIC)** which is critical for the uniform application of the CCT and tariff measures by Member States, and which provides economic operators with a comprehensive view of all measures applicable when importing or exporting goods into/from the Union and thus protecting the financial interest of the Union.

In light of the complexity of customs policy, the proper functioning of the customs union can only be orchestrated through sound **governance**. Initiatives aiming at the proper functioning of the customs union will be in the focus of the Customs 2020 programme activities together with the **Customs Union Performance (CUP)** activity which provides invaluable information and conclusions which are indispensable for strategic decision making and providing the results of customs work to the main stakeholders.

Coordination with other EU policies and their supporting programmes and funds is ensured.

On the basis of the objectives given in the Regulation 1294/2013 establishing an action programme for customs in the European Union for the period 2014-2020, this work programme contains the actions to be financed and the budget breakdown for year 2017 as follows<sup>1</sup>:

- for grants (implemented under direct management) (1.2): EUR 5 350 000
- for procurement (implemented under direct management) (1.3): EUR 76 375 000
- for other actions (reimbursement of external experts) (1.4): EUR 170 000

## **1.2. Grants**

### *1.2.1. Grant for joint actions*

#### LEGAL BASIS

Article 5(2) and 7(a) (i)-(iv) and (vi) of Regulation (EU) No 1294/2013

**Specific objective:** to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to

<sup>1</sup> The total amount of appropriations may be higher when using foreseen financial contributions from candidate and potential candidate countries participating in Customs 2020 programme. The maximum estimated amount for 2017 is EUR 825 000.

strengthen the competitiveness of European businesses.

## BUDGET LINE

14 02 01

### Priorities of the year, objectives pursued and expected results

The programme is a tool which supports and implements the overall customs policy at the European Union level. The general objective of the Customs 2020 programme is to support the functioning and modernisation of the customs union in order to strengthen the internal market by means of cooperation between participating countries, their customs authorities and their officials.

The programme, in this sense, is a tool which contributes to the implementation of the broad scale of customs policy issues at the European Union level. To provide a focal point, the Customs 2020 programme identifies and supports the implementation of the following priorities for 2017:

- Implement the Union Customs Code (UCC) and the establish the related electronic customs systems;
- Facilitate legitimate trade and increase the effectiveness and efficiency of customs controls, including the cooperation with other enforcement agencies and bodies involved in the process;
- Reply to the increasing demand for customs to ensure that goods harmful for security, health, safety and the environment do not cross the European Union external borders;
- Implement the European Union Strategy and Action Plan for customs risk management;
- Collaborate with third countries and international organisations;
- Implement the Customs Union Performance (CUP);
- Implement a human competency building framework for customs.

The grant will support the priorities as detailed in part 2 of Annex I of this decision.

Description of the activities to be funded by the grant awarded without a call for proposals on the basis of article 190 (1) (f) of Delegated Regulation (EU) No 1268/2012<sup>23</sup>

#### **This grant will fund activities on:**

- supporting the preparation, coherent application and effective implementation of Union law and policy in the field of customs;
- improving the European Information Systems for customs;

<sup>2</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1) ("RAP")

<sup>3</sup> The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of Customs 2020 Regulation, under a grant agreement with multiple beneficiaries.

- identifying, developing, sharing and applying best working practices and administrative procedures, in particular further to benchmarking activities;
- reinforcing the skills and competences of customs officials;
- improving cooperation between customs authorities and international organisations, third countries, other governmental authorities, including Union and national market surveillance authorities, as well as economic operators and organisations representing economic operators.

These activities will take the form of:

- (i) seminars and workshops;
- (ii) project groups;
- (iii) working visits;
- (iv) monitoring activities;
- (v) customs administration capacity building and supporting actions

Essential eligibility, selection and award criteria

**This grant is awarded on the basis of the following criteria:**

***Eligibility criteria***

The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of the Customs 2020 Regulation under a grant agreement with multiple beneficiaries.

The proposed activities must correspond to the types of eligible actions listed in Article 7 (a)(i)-(iv) and Article 7 (a)(vi) of the Customs 2020 Regulation

***Selection criteria***

In accordance with Article 131(3) of the Financial Regulation<sup>4</sup>, the financial and operational capacities of the beneficiaries will not be verified, since the beneficiaries are public administrations

***Award criteria***

The grant will be awarded based on its relevance and cost-efficiency for achieving the objectives and expected results of the projects listed in the part 2 of the Annex I related to Customs 2020 programme.

Implementation

BY DG TAXUD

Indicative timetable and indicative amount of the grant awarded without a call for proposals

<sup>4</sup> Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1) ("the Financial Regulation")

| Reference               | Date    | Amount        |
|-------------------------|---------|---------------|
| Grant for Joint actions | Q1 2017 | EUR 5 350 000 |

Maximum possible rate of co-financing of the eligible costs

**The grant will take the form of a combination of:**

- Reimbursement of the eligible costs actually incurred by the beneficiaries for the following items:
  - a) travel costs of their delegates up to 100%;
  - b) costs linked to the organization of events in the framework of a given joint action up to 100%
  - c) direct -personnel costs, up to 50%, for officials participating as expert in eligible action under Article 7 (a) (vi) " customs administration capacity building and supporting actions" of the Customs 2020 Regulation.
- Reimbursement on the basis of unit costs for daily allowances and accommodation costs for national delegates.

The amounts to be used for the second indent above are those listed in the Commission Decision for the general implementing provisions adopting the guide to missions for officials and other servants of the European Commission in force at the moment of the signature of the grant agreement. †The list of rates shall be annexed to the grant agreement.

### **1.3. Procurement**

The overall budgetary allocation reserved for procurement contracts in 2017 amounts to EUR 76 375 000. To this end, it is estimated to sign about 50 specific contracts under existing or new multi-annual framework contracts.

#### **1.3.1. Procurement for IT Capacity Building Actions**

Legal basis

Article 5(2) and 7(b) of Regulation (EU) No 1294/2013

**Specific objective:** to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to strengthen the competitiveness of European businesses.

Budget line

14 02 01

Subject matter of the contracts envisaged

In 2017, the Commission intends to undertake IT Capacity building activities through contracts following public procurement. It concerns notably the development, maintenance, operation, and quality control of Union components of the existing and new European Information Systems (EIS) with a view to ensure interconnecting customs authorities.

- The total indicative amount of the procurement is EUR 71 800 000<sup>5</sup> and will be divided as follows:
  - The network (CCN/CSI<sup>6</sup> including CCN2 development and UUM&DS<sup>7</sup> development): EUR 12 150 000;
  - Development of Customs system: EUR 23 450 000;
  - Support for Customs systems: EUR 30 700 000;
  - Quality control for customs systems: EUR 5 500 000.

#### Type of contract and type of procurement

Procurement of services will be undertaken through specific contracts under existing or new framework contracts or administrative arrangement

Following new framework contract procedures for services will be launched in 2017:

- A new tender procedure is expected to be launched for "Provision of Services for Quality Assurance, Quality Control and Project Management of IT Activities managed by the Directorate-General for Taxation and Customs Union" (QA4).

The contract will be shared by Customs 2020 and Fiscalis 2020 with an estimated budget ratio of 65% Customs 2020 and 35% Fiscalis 2020.

The estimated publication date of the procurement procedure: 2nd quarter 2017.

Estimated value of the framework contract: EUR 80 000 000 with a duration of 5 years.

- A new tender procedure is expected to be launched for the "Provision of Services and Infrastructure for Platform Integration and Consolidation of the IT platforms of DG TAXUD".

The contract will be shared by Customs 2020 and Fiscalis 2020 with an estimated budget ratio of 65% Customs 2020 and 35% Fiscalis 2020.

The estimated publication date of the procurement procedure: 3rd quarter 2017.

Estimated value of the framework contract: EUR 55 000 000 with a duration of 5 years.

Indicative number of contracts envisaged: 45

Indicative timeframe for launching the procurement procedure

Q2 2017

Implementation

BY DG TAXUD

<sup>5</sup> This amount integrates the IT frontloading requested for 2017. The specific contracts are usually shared with budget line 14.0301 Fiscalis 2020. Thereby the actual value of the specific contracts will be higher.

<sup>6</sup> Common Communication Network/Common System Interface

<sup>7</sup> Uniform User Management and Digital Signature

### 1.3.2. Procurement for Joint and Competency Building Actions

#### Legal basis

Article 5(2), 7(a)(vii-viii) and 7(c) of Regulation (EU) No 1294/2013

**Specific objective:** to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to strengthen the competitiveness of European businesses.

#### Budget line

14 02 01

#### Subject matter of the contracts envisaged

In 2017, the Commission intends to undertake activities through contracts following public procurement notably:

- Specification, development, maintenance, support and dissemination of common customs training (e-learning, blended learning), online collaboration services and staff performance building services
- Studies, scientific and communication support such as:
  - Studies, typology, data collection and comparative analyses in customs issues
  - Provision of scientific and technical assistance in the field of scientific customs
  - Communication and Information Support, including translations

The total indicative amount of the procurement is EUR 4 575 000<sup>8</sup> and will be divided as follows:

- Common Customs Training: EUR 1 745 000
- Studies, scientific and communication support: EUR 2 830 000

#### Type of contract and type of procurement

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<sup>8</sup> The specific contracts are usually shared with budget line 14.0301 Fiscalis 2020. Thereby the actual value of the specific contracts will be higher

Procurement of services will be undertaken through specific contracts under existing or new framework contracts, administrative arrangement with Joint Research Centre or service level agreement with Directorate General for Translations.

Following new framework contract procedures for services will be launched in 2017:

- A new tender procedure is expected to be launched for the provision of scientific and technical assistance in the field of scientific customs with 2 lots:
  - LOT 1. Revision and translation of chemical names in the European Customs Inventory of Chemical Substances (ECICS) database
  - LOT 2. Improvement of sampling procedures

The contract may be shared by Customs 2020 and by budget line 14.0401 Implementation and development of the Internal Market, which is not part of this financing decision.

The estimated publication of the procurement procedure: 1st quarter of 2017.

The estimated value of the framework contract will be EUR 1 100 000 with a maximum duration of 4 years.

Indicative number of contracts envisaged: 10

Indicative timeframe for launching the procurement procedure

Q1 2017

Implementation

BY DG TAXUD

#### **1.4. Other expenditures**

##### **1.4.1. Reimbursement of external experts participating in Joint Actions**

Legal basis

Article 5(2) and 7(a) (i)-(iv) and (vi) of Regulation (EU) No 1294/2013

**Specific objective:** to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to strengthen the competitiveness of European businesses.

**Article 4** of Regulation (EU) No 1294/2013

External experts may be invited to contribute to selected activities organised under the Programme wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6 of the regulation. The external experts shall be selected by the Commission together with the participating countries, on the basis of their skills, experience and knowledge relevant to the specific activities.

Budget line

14 02 01

Amount

EUR 170 000

Description and objective of the implementing measure

This measure allows to support the participation of external experts to selected activities wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6 of the Regulation.

## 2. Customs 2020 projects pursued for 2017<sup>9</sup>

### 2.1. *To support the functioning and modernisation of the customs union*

The customs union is a cornerstone of the European Union and an essential element in the functioning of the internal market.

This heading of the Annual Work Programme covers the policy projects which aim at tackling the strategic and overarching objectives for the functioning and modernisation of the customs union. As identified by the Commission Communication on the State of the Customs Union<sup>10</sup> (The Communication), the customs union is facing serious challenges in the way that it functions. For that reason the Commission together with the Member States have to address issues influencing the overall effectiveness and efficiency of the customs union. Moreover, the customs union should provide modern solutions and approaches to emerging challenges.

Indeed, the customs union has to be always on guard to keep up with and react to the challenges presented by a constantly changing trade and customs environment, influenced by many external factors. The customs union also has to aim at maintaining an even service level and optimal overall protection of Union borders. The Communication identifies that the modernisation of the customs union needs to continue, that gaps have to be closed and priorities have to be set up. Finally, the Communication emphasises the importance of improving the efficiency and effectiveness through reforming the governance of the customs union. To tackle the challenges faced by the customs union, the Council of the European Union called upon the Commission and the Member States to address them by improving the functioning and modernisation of the customs union<sup>11</sup>. The entry into force of the UCC on 1<sup>st</sup> May 2016 is a major step towards modernisation. The proper and timely implementation of the new rules is one of the key issues for 2017 in customs policy.

#### 2.1.1. *Overall functioning of the customs union*

In line with the Communication and other strategic documents on the customs union and its development, initiatives should be carried out contributing to strengthening the effective and efficient functioning of the customs union.

It is envisaged for 2017 to continue improving the **governance of the customs union**.

To reply to the needs pointed out in main strategic documents on the customs union and its development, a system of performance measurement at the level of the customs union was established in 2014. This **Customs Union Performance (CUP)** system is a mechanism for measuring how customs activities and operations lead/support achieving strategic objectives of the customs union. The CUP is used as a management/steering tool for strategic decision-making (assessing performance, monitoring trends, identifying gaps and areas for improvement). It is also used for raising awareness about the results of customs work to main stakeholders.

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<sup>9</sup> The Customs 2020 programme joint action projects respects the fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.

<sup>10</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE on the State of the Customs Union (Brussels, 21.12.2012 COM(2012) 791 final)

<sup>11</sup> COUNCIL CONCLUSIONS ON THE GOVERNANCE REFORM OF THE EU CUSTOMS UNION (Brussels, 8 May 2014 (OR. en) 9688/14 UD 136 ENFOCUSTOM 63)

Activities and expected results:

- Improve the governance of the customs union:
  - Ensure appropriate follow up to the Communication on the governance reform.
- Maintain and develop further the Customs Union Performance Measurement at strategic and technical level:
  - Reinforce the good quality of the current performance indicators and consider the introduction of new performance indicators based on policy needs and carry out respective exploratory work including monitoring future trends and possible developments.
  - Enhance the CUP methodology, including CUP governance, concept for a follow-up mechanism, strengthening links to relevant projects/groups and reporting mechanism.
  - Prepare summary reports analysing the existing CUP indicators (strategic Annual Reports and technical Analytical Reports) and submit them to the attention of customs policy makers, particularly to the Customs Policy Group.
  - Communicate key figures to external stakeholders (in non-sensitive areas) using appropriate communication tools.
  - Maintain the CUP system with key performance indicators and data collection indicators, including the collection and analysis of data from all necessary sources;
  - Support technical work for the preparation of the CUP Management Information System.
  - Carry out pilot projects in the area of customer satisfaction and reference values.
  - Prepare the CUP Final Report covering 2014-2017 period with recommendations for the next steps.

*2.1.2. Development, implementation and enforcement of customs union legislation*

The customs union is an exclusive European Union competence, while the responsibility for implementing customs legislation is primarily that of the Member States.

The **Union Customs Code (UCC)**<sup>12</sup>, including its implementing and delegated acts<sup>13</sup>, constitutes the new comprehensive customs legal framework for the Union as from May 2016. The UCC is part of the modernisation of customs and serves as the new framework Regulation on the rules and procedures for customs throughout the European Union. The UCC and the related delegated and implementing acts:

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<sup>12</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>13</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1)

Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343 29.12.2015, p. 558)

- streamline customs legislation and procedures;
- offer greater legal certainty and uniformity to businesses;
- increase clarity for customs officials throughout the Union;
- simplify customs rules and procedures and facilitate more efficient customs transactions in line with modern-day needs;
- complete the shift by customs to a paperless and fully electronic environment;
- reinforce swifter customs procedures for compliant and trustworthy economic operators (Authorised Economic Operators).

In this respect the UCC is an important milestone in the history of the ongoing development of the customs union since 1968 as it reflects a major overhaul of existing Union customs legislation in order to achieve clearer customs procedures, better safety and security of Union citizens, and trade facilitation. Its application implies involving Member States and informing trade experts through specific or joint actions other than the formal ones needed to secure the proper and uniform implementation of the Commission related acts. Programme activities can facilitate the implementation processes.

At the same time, **various other Union legislations** stipulate competencies or tasks which are to be performed by customs authorities.

Obtaining the uniform application of European Union customs law is needed and is to be supported by a management framework for **monitoring** specific areas.

Legal acts as such cannot cover all the detailed aspects of customs interaction between various stakeholders. Therefore, **guidance documents** are being developed to ensure uniform implementation rules. Guidance documents have been and are being developed for various customs procedures and systems that govern them, including import and export in order to increase and facilitate awareness about the introduction and implementation of the Union Customs Code.

**Preparing** these pieces of **guidance documents** requires thorough **analytical work** and coordination. The implementation of the various policy initiatives and the Union Customs Code also has to be well prepared and coordinated with all stakeholders.

Activities and expected results:

- Update of legislation:
  - Facilitate the adoption procedure for the UCC implementing acts defining additional technical arrangements for the IT systems.
  - Contribute to and inform various target audiences about the developments linked to customs union legislation.
  - Revisit the possibilities of further facilitation under the UCC framework during the transitional period.
- Implementation, monitoring and enforcement of legislation:
  - Lay down the milestones for monitoring the implementation of the UCC and follow-up the implementation.
  - Identify and tackle gaps in the uniform interpretation and common understanding of the Union customs law provisions. Make efforts to harmonise customs practices in the implementation of Union law.

- Prepare guidance for various aspects of the UCC to facilitate its uniform implementation and share best practices in particular as regards the implementation of the UCC related changes.
- Facilitate the understanding and implementation of the UCC: implement identified communication and training needs linked to the Union Customs Code; disseminate the UCC eLearning module.
- Implement the management framework for the monitoring strategy on an annual basis, supported by updated monitoring guidelines. Revise the monitoring guidelines.
- Support and coordinate the implementation of monitoring in the agreed areas.

### 2.1.3. *Implementing a modern customs environment*

The UCC provides the legal framework for several **new and modern concepts** creating benefits for customs authorities as well as for trade. With the UCC, a harmonised application, consultation and decision-taking process is established enabling the previously national decisions to obtain Union wide validity. Equally, the UCC provides a legal ground for new simplifications such as import and export simplifications (centralised clearance, entry into the records, self-assessment, etc.) and transit simplifications (using a transport document).

The **UCC Work Programme** (UCC WP) entails the overview of the UCC projects and related IT systems to be developed and deployed. As being closely linked to the Transitional Delegated Act<sup>14</sup> (TDA) it contains also the deadlines for the application of the transitional rules, being the operational dates of the new or upgraded systems. The implementation of the UCC Work Programme and the assessment of progress are to be done in close cooperation with Member States (and traders). In particular, the legal obligation to publish planning information on the national implementation requires efforts in the year 2017 when the first systems start to become operational. The list of projects and their planning will be subject to an important reassessment exercise in 2017 in order to come forward with an updated planning which reflects the actual progress and is driven towards feasibility.

The **Multi-Annual Strategic Plan (MASP)** is a management and planning tool, drawn up and regularly reviewed by the Commission in partnership with Member States for the implementation of the electronic customs agenda in accordance with Article 8(2) of the eCustoms decision<sup>15</sup>. The MASP ensures effective and coherent management of IT projects by providing a strategic framework and the milestones to implement all electronic customs requirements as defined in European Union legislation and international agreements, including a complete overview and planning of all future customs projects with envisaged Information Technology (IT) requirements. It completes the UCC WP relating to the development and deployment of the customs electronic systems necessary for the application of the UCC.

Analytical, re-engineering and planning instruments such as business case documents and business process modelling (BPM), project planning and work programmes are

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<sup>14</sup> Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.03.2016, p. 1)

<sup>15</sup> Decision No 70/2008 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)

essential to complete the tasks linked to the MASP. The preparatory work requires defining business scenarios and cases, elaborating business models from a legal point of view into a detailed system functional point of view BPM's and establishing methodology, guidance and support. The information which needs to be exchanged, processed and stored is subject to the establishment of an Union Customs Data Model (EU CDM) which ensures the smooth functioning of the customs union throughout the Union, including system specifications and other documentation on the electronic customs systems.

Numerous projects are being initiated and elaborated in order to develop and deploy the required IT systems, on both Union and national level. Detailed specifications to support the development of the IT systems will be established where relevant.

Activities and expected results:

- Maintain guidance documentation on import and export and on the related systems and keep functional specifications aligned to latest and predicted developments.
- Provide support for a uniform interpretation and application of the UCC and its delegated and implementing acts by making optimum use of the designed BPM, and the prepared business scenarios.
- Facilitate the acceptance of the level 4 BPM/Functional Specifications package for the Automated Export System (AES) and the New Computerised Transit System (NCTS).
- Fine-tune the migration strategy on switching from Export Control System 2 (ECS2) to AES and from NCTS to upgraded UCC NCTS.
- Analyse, prepare and discuss with Member States and traders the process implementation for Centralised Clearance by means of the process modelling and business case activities.
- Define functional requirements and specifications for the Centralised Clearance system at import in close cooperation with MS and traders.
- Continue business process and specification activities on the different UCC projects (e.g. UCC project on rendering the INFORMATION forms (INF) digital, UCC Project on the creation of an Union-wide Guarantee Management System (GUM).
- Promote the use of BPM and maintain the Union Customs BPM policy and methodology material.
- Collect and publish Member States' national planning details on UCC projects.
- Keep the overview of the ongoing developments and support the creation and coordination of the requirement instruments.
- Monitor the implementation of the UCC Work Programme and adjust the implementation strategy and the migration strategy where needed.
- Examine and reassess the feasibility of the timelines and scope of the projects outlined in the UCC Work Programme and prepare for the necessary measures for adjustments.
- Study the opportunity to revise the eCustoms decision to support the Union Customs Single Window initiative.

- Coordinate the regular yearly revision of the MASP. The revision focuses on the assessment of the overall feasibility to deliver the envisaged projects within the planned timeframes, as well as on the projects prioritisation.
- Prepare the annual eCustoms progress report.
- Facilitate the service oriented approach in the design of the new IT systems for customs that result in flexible and modular applications and it adapted more easily to the changes and benefit from the reuse of existing functionality.
- Support the implementation of collaboration among Member States related to national core systems, with the aim to share efforts related to the implementation of IT systems.

#### 2.1.4. *Customs risk management and supply chain security*

Effective management of risks in the international supply chain is crucial to ensuring security and safety of Union residents, protection of the financial and economic interests of the Union, while at the same time facilitating and accelerating legitimate trade and promoting Union competitiveness. If customs fails to tackle risks consistently the customs union and the Union's single market would become unsustainable. In order to strengthen the integrity of international supply chains, risk management by Union customs must be improved. In reply to the invitation of the Council to set up 'a coherent strategy on risk management and supply chain security based on a step-by-step action plan and thorough cost benefit analyses, covering inter alia legal, procedural and IT aspects'<sup>16</sup>, the Commission prepared **the Union Strategy and Action Plan for customs risk management**<sup>17</sup> (the Strategy; the Action Plan).

The Strategy sets out a number of key objectives, underpinned by the overall aim of reaching a high quality, multi-layered approach to risk management which is effective and efficient. It outlines appropriate risk mitigation and control measures which are to be employed at the most opportune time and place in the supply chain. The Action Plan details a series of measures for each objective.

The actions are aimed at closing the identified gaps to progressively achieve strengthened capacities for Union customs authorities and more systematic cooperation with other agencies, economic operators and international trading partners. In order to ensure the coordinated and structured implementation of the actions, the Commission established a realistic and detailed roadmap.

#### Activities and expected results:

- Risk management strategy:
  - Ensure coherency, strategy planning, coordination and communication of all projects/actors of the strategy, the action plan and the roadmap.
  - Agreement and implementation of IT aspects:
    - Implement the IT projects linked to the strategy.

<sup>16</sup> Council Conclusions 8761/3/12, 18.6.2013

<sup>17</sup> Brussels, 21.8.2014 COM(2014) 527 final COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE on the EU Strategy and Action Plan for customs risk management: Tackling risks, strengthening supply chain security and facilitating trade (Brussels, 21.8.2014 COM(2014) 527 final)

- Make available efficient and effective technologies and methods for the collection, integration and management of data serving the basis of risk management, as well as for sharing risk information (including the Union Customs Risk Management System - CRMS).
  - Follow up the inception phase of the new Import Control System (ICS2.0) project linked to objectives 1 and 2 of the EU customs risk management strategy<sup>18</sup> and to the finalised business case and vision document on the ICS2.0 by working on the first stage ICS2.0 development (i.e. Block 1 - common repository and harmonised trader interface).
  - Implement the new ICS2.0 in line with the agreed project strategy and time-plan.
  - Continue to work on the ICS2.0 building blocks and consider potential quick wins as a pre-phase of the complete ICS2.0.
- Common Risk Management Framework (general) (CRMF)
    - Ensure coherency and proper functioning of the elements of the CRMF (common risk criteria, priority control areas and exchange of risk and control information).
    - Make available efficient and effective technologies and methods for the collection, integration and management of data serving the basis of risk management, as well as for sharing risk information and develop new joint tools to enhance risk management capacity (data mining, joint threat assessments, trends analysis etc.).
    - Report and evaluate the implementation of CRMF in the Member States;, where appropriate, integrated in the CUP.
  - Common Risk Management Framework (specific)
    - *Common Risk Criteria (CRC) (non-specific to financial interest or security and safety)*
      - Improve the implementation of and update existing risk criteria.
      - Identify best practices in the implementation of the CRC and conduct post seizures analysis to determine the effectiveness of the CRC scheme.
    - *Priority Control Area Actions:*
      - Support the effective and coherent implementation of Common Priority Control Actions by developing the risk criteria to be applied for the specific Priority Control Area Actions, by briefing the Member States on the action to be applied, by identifying and analysing problems encountered during the implementation and by proposing solutions to them, by communicating the results of the risk based controls and by putting forward recommendations based on the findings.

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<sup>18</sup> The EU Strategy and the Action Plan - Objective 1: Improve data quality and filing arrangements for effective risk management; Objective 2: Ensure availability of supply chain data, sharing of risk relevant information and control results among customs authorities to analyse and mitigate risks and ensure equivalent treatment of economic operators

- *Exchange of risk information:*
  - Reinforce cooperation and exchange of risk information among customs authorities, between customs and other governmental bodies and between customs and economic operators for risk management purposes.
  - Develop CRMS2 IT application to replace the current CRMS by an improved system which is adapted to the new identified needs and can be scalable and better interact with other relevant information systems/ data repositories.

#### 2.1.5. *Cooperation with third countries and international organisations*

By its very nature of an activity at the Union's external borders, customs has an inborn international dimension. One country's export is another country's import. The collaboration with third countries and international organisations in the area of customs is taking a new perspective. The importance for the Union of sharing experience and information with third countries and international organisations or bodies to facilitate trade and customs processes is becoming more evident with the globalisation of trade.

In that sense, deeper cooperation with the **Enlargement Countries** and the Union's **Eastern and Mediterranean neighbouring countries** needs to be pursued in order to facilitate trade while ensuring safety and security, fighting fraud and helping to modernise the customs administrations in these countries.

The **Asia-Europe Meeting (ASEM)** is the main cooperation tool between the European Union and Asia. It addresses political, economic and cultural issues with the objective of strengthening the relationship between the two regions. In the area of customs it allows to advance the cooperation between Europe and Asia.

The **World Customs Organisation (WCO)** is the primary multilateral cooperation tool between customs administrations worldwide. European Union is a very important contributor to the activities of the WCO. This presents an opportunity to share expertise, and also to further promote Union policies and priorities and increases awareness of the European Union's role in international customs cooperation.

The **World Trade Organisation (WTO) Agreement on Trade Facilitation** has been concluded in December 2013 and is to enter into force once two-third of WTO members have ratified it. It implies for each WTO member (amongst them the European Union and its Member States) to verify and confirm the fulfilment of the international obligations resulting from the agreement and take, where necessary, actions to comply.

The Customs 2020 programme can contribute to the international activities by providing support to the Commission and Member States to prepare their common position to be represented in the international fora and represent "one voice" on behalf of the customs union. At the same time, the programme through its activities can allow for supporting the work carried out by the Commission in the international domain with operational expertise provided by the Member States.

#### *Activities and expected results:*

- Support the implementation of existing agreements or joint statements on customs cooperation and exchange of information, with a particular focus on the United States of America, Japan, Norway, Switzerland, China and Hong Kong; pursue the

- extension of the network of Customs Cooperation & Mutual Administrative Assistance agreements.
- Support the preparation for Free Trade Agreement negotiations with main trading partners, with a particular focus on the United States and Japan.
  - Contribute to the implementation of WTO Trade Facilitation Agreement.
  - Provide guidance to the Enlargement Countries in the area of IT management and development.
  - Pursue deeper cooperation with the Union's eastern neighbours by establishing and implementing the Strategic Frameworks for customs cooperation and with the Mediterranean neighbours (including the negotiation of the Deep and Comprehensive Free Trade Agreement with Morocco, Tunisia and Jordan) and Enlargement Countries in order to facilitate trade while ensuring safety and security, fighting fraud and helping to modernise the customs administration in these countries.
  - Support the implementation of customs related provisions in the respective Deep and Comprehensive Free Trade Agreements (DCFTA) with particular focus on Georgia, the Republic of Moldova, and Ukraine; and Partnership and Cooperation Agreements (PCA) with Armenia, Azerbaijan, Kazakhstan and Russia; developing a tailor-made approach to customs relations with Belarus.
  - Follow-up of the harmonisation process as regard implementation of customs related provisions in the Stabilisation and Association Agreements (SAA) with the Western Balkan countries.
  - Support the overall implementation of the Strategic Framework for the European Union-China cooperation.
  - Reinforce and further develop the cooperation between ASEM members in the customs area on the basis of the ASEM Customs Action Plan.
  - Continue and reinforce the contribution of the European Union to the priority activities of the WCO.
  - Establish Union contribution to the definition of the WCO Globally Networked Customs standards and their utility blocks.
  - Coordinate and establish Union contribution to the study on WCO's global trader identifier.
  - Implement, maintain and adapt the Single Portal for Entry and Exit Data (SPEED2).

## 2.2. *To protect the financial and economic interests of the Union and of the Member States*

Customs has a role in the global market's conditions in ensuring the European Union's and its Member States' economic development.

This heading of the Annual Work Programme gathers projects aimed at ensuring the collection of customs duties and related taxes, and at pursuing goals to protect the financial interests of the European Union and its Member States, including the filtering out of fraudulent activities and consignments.

### 2.2.1. *Determination and collection of customs duties and related taxes*

The traditional role of customs in the European Union is to collect customs duties and indirect taxes at import, such as excise duties or value added tax (VAT). Despite the increasing number of free trade agreements and the consequently reducing revenue collected on imports, still billions of euros are raised every year. Member States retain 25 % of the collected revenue (customs duties) to cover costs of collection and 75% becomes part of the European Union revenue<sup>19</sup>.

Therefore it is essential that customs authorities **levy duties and collect the revenue** in an efficient and effective manner, in line with the various linked legislation and in the interest of the European Union and the Member States.

In order to ensure proper protection of financial interests, an efficient mechanism has to be in place for managing and monitoring the guarantees provided for customs purposes. The UCC imposes **new guarantee possibilities** such as guarantees valid throughout the customs union and new guarantee requirements such as related to temporary storage and special procedures. Member States have to ensure that the data of guarantees used for import and export that affects more than one Member State is electronically accessible to Member States where the customs declarations are lodged and accepted. As from 1 May 2016 transitional measures are used to apply this UCC requirement till the new UCC guarantee management system is in place.

Meanwhile, process and functional analysis are to be launched to prepare for the new system ensuring harmonisation and proper monitoring of the **guarantees with Union wide validity**. The new system is to allow for the registration, release, verification of existence and validity of individual and comprehensive guarantees, which are valid throughout the Union. The system will also allow monitoring of the reference amount of the guarantees with Union-wide validity for the existing customs debts in respect of goods placed under release for free circulation.

There is a need to prepare comprehensive **guidance** for customs debt and guarantees to ensure proper implementation of the new guarantee requirements and for customs debt, including identification of practical aspects and presentation of possible scenarios. This will contribute to the correct and uniform application of the modernised customs rules throughout the European Union.

In the area of the **non-recovery procedure, the repayments and remission procedure (REM/REC)**, the existing guidance needs to be reviewed and updated to reflect new

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<sup>19</sup> A new own resources rules will enter into force which will allow Member States to retain 20% (instead of 25%) of the traditional own resources to cover their collection costs. The legislation will come into force when the own resources decision has been approved by the Member States in accordance with their respective constitutional requirements. It will apply retroactively as of 1 January 2014.

developments inter alia in case law and to cover the matters of incurrence and extinguishment of the customs debt.

Tax and customs administrations share similar challenges. The **cooperation between customs and tax authorities** (VAT and excise) in specific areas of mutual concern should be enhanced in order to fight against tax fraud and ensure the collection of customs duties and related taxes. The action plan on VAT towards a single European Union VAT area<sup>20</sup> proposes actions to support a deeper cooperation between different authorities, including cooperation between customs and tax authorities.

The European Court of Auditors also issued observations and recommendations on the necessity to improve cooperation and avoid the overlapping of competences of administrative, judicial and law enforcement authorities to fight against VAT fraud<sup>21</sup> and misuse of the customs procedure 4200<sup>22</sup>.

**Financial risk analysis** and related customs controls or other measures on all goods entering to or leaving from the Union for all modes of transport have to be implemented uniformly by all Member States on the basis of common risk criteria and standards. Risk criteria and standards have been developed in the past for security and safety concerns. The Union strategy on risk management and security of the supply chain indicates the need to develop further risk criteria for financial and commercial risks (valuation, origin, misclassification, procedure 4200, antidumping etc.). This includes the question of where and when, and based on which data it is the best to carry out the risk assessment and the control. The objective is a common approach to tackle financial risks in the European Union and address financial fraud and irregularities in a convergent way.

There is a long-term strategy within the Union to support the economic growth and to reduce administrative obstacles for the business sector. This strategy contributed to ensuring that physical controls are only carried out when appropriate during customs proceedings and that the resources are focused on controls where the risks can be addressed in the most efficient way. As such, the minimum standards for **post clearance audits and control** have been reinforced. To ensure common approach and equal treatment during the post clearance audits and controls for economic operators it is necessary to ensure the same methodologies within all Member States. For this purpose the new Customs Audit Guide has been endorsed by the Member States.

Activities and expected results:

- Share good practices on internal audit tools of Member States' customs administrations and inspection methods to control the reliability of the A&B Accounts.

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<sup>20</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide. COM (2016) 148 final, 7.4.2016.

<sup>21</sup> 2015 Special Report Tackling intra-Community VAT fraud: More action needed

<sup>22</sup> Customs procedure 4200 is a mechanism an EU importer uses in order to obtain a VAT exemption. It is applied when goods imported from outside the EU into a Member State will be transported to another. In such cases, the VAT is due in the latter - the Member State of destination. There is a risk that imports may remain in the Member State of importation without payment of VAT. Imports may be also consumed in the Member State of destination without VAT being collected there.

- Establish working documents to support the transitional measures to monitor the reference amount of the guarantees with Union wide validity.
- Continue the preparation for the implementation of the Union-wide guarantees for the new UCC Guarantee Management System.
- Prepare comprehensive guidance for customs debt and guarantees and update the existing REM/REC guidance documents..
- Provide business process models to describe the processes contained in legislation, to clarify and explain the legal base for excise and customs procedures: specification work on modelling of interface between Excise Movement Control System (EMCS) and UCC version of Automated Export System (AES) and national import systems.
- Develop coordinated recommendations concerning the application of Union law on excise goods and update the European Information Systems responsible for the movements of excise goods to coincide with the UCC import specification and the AES;
- Identify fields where cooperation between customs and tax authorities is particularly important for the proper implementation of legislation having common impact on customs, and related taxation, and reinforce the cooperation between customs and tax administrations in matters of common interest..
- Explore efficient and effective technologies and methods for the collection of data and exchange of information between customs and tax authorities.
- Facilitate the coordination of control actions between customs and tax authorities.
- Support cooperation between Members States' customs and tax authorities to implement effective import/export controls of excisable goods, including customs procedure 4200.
- Identify best practices related to methods and tools used by Member States to analyse risk related to VAT/excise having an impact on customs regarding new trends of fraud in the field of VAT/Excise directly impacting customs as it potentially has a negative effect on the collection of customs duties and related taxes. Develop guidance concerning the application of Union law to excise goods in both areas is developed.
- Complete the European Union Customs Competency Framework with VAT, excise and direct tax related competency requirements which are relevant for customs procedures and for customs controls.
- Identify financial risk criteria and establish uniform standards for their application.
- Test the identified criteria in national system and adapt the rules based on the experience.
- Establish guidance on the appropriate place and time for the control on the basis of the level of the risk and the supply chain constraints, including effects of dynamic growth of eCommerce.
- Support the implementation of a set of common procedure and criteria for the post clearance audits and controls based on the new Customs Audit Guide and on-going discussions on simplified procedures.

- Increase the efficiency of collecting duties within the post clearance audits and controls.
- Improve the availability and exchange of import, export and transit data as well as data on the movements of containers to facilitate the appropriate collection of duties and determination of customs debt.
- Examine and identify potential improvements regarding the customs treatment of small (postal and courier) consignments with view to the determination and collection of customs duties and related taxes.

### 2.2.2. *Customs tariff and classification*

The amount of duty that has to be paid is determined by the customs value, the origin and the customs tariff. For that reason, all goods imported into or exported from the Union must be classified for customs purposes. Each separate product can be linked up with a specific classification code. As this code represents the basis for determining the duty together with a complex set of measures, (including Trade Defence measures) possibly also restrictions or prohibitions linked to the origin and the customs value, it is essential that the correct code is identified.

The **Harmonized System** nomenclature of the World Customs Organization (WCO) is the basis of the **Combined Nomenclature** (CN). Both are the basis of all customs classifications which are used in customs clearance, customs control and statistics, and also included in many Union regulations as well as in the international agreements. Nevertheless, customs classification remains difficult because the nomenclatures with their respective explanatory notes are voluminous and complex. Moreover, the current nomenclatures are not always representative of the trade reality: old domains are disappearing, new domains are emerging, some important classes of products are not efficiently distinguished, used norms and descriptions become obsolete.

The European Commission has established the **Binding Tariff Information (BTI)** system as a tool to assist economic operators to obtain the correct tariff classification for goods they intend to import or export. The BTIs are issued by the individual Member States with validity in all Member States. For that reason measures are to be put in place to prevent incorrect classification leading to the divergent tariff classification and BTIs for the same product.

Customs is supported by an **electronic tariff system (TARIC)** in their clearance function. TARIC integrates all measures relating to European Union customs tariff, commercial and agricultural legislation. Tariff measures specifically relate to "Third country duty", customs duty applicable to all imports originating in a non-Union country, as defined in the Combined Nomenclature, tariff preferences, autonomous suspensions of duties, tariff quotas and customs unions.

However, the degree of application of credibility checks (aiming at ensuring that the correct data declared in the customs declaration) integrated in TARIC varies in Member States. This has a negative impact on the accuracy of the declaration risking the loss of revenues.

TARIC together with the QUOTA system ensures allocation of tariff quotas in a uniform manner throughout the EU. It is crucial that they are connected and updated regularly.

Surveillance contains relevant information concerning trade flows and correctness of the measures applied, and thus ensures a valuable feedback to customs and trade on possible risks.

Activities and expected results:

- Update, simplify and modernise Harmonised System/Combined Nomenclature (HS/CN) nomenclatures (with focus on food/chemicals/mechanical/ miscellaneous chapters) and their related explanatory notes, by elaborating proposals for amendments to simplify the classification of goods or clarifying the use of nomenclatures.
- Pool classification expertise to resolve complex classification issues concerning specific products or of a more general nature or cases of divergent tariff classification and enhance uniform tariff classification via an expert team.
- Elaborate proposals concerning the classification of products, thus supporting the drafting of amendments to the text of the additional notes and explanatory notes of the Combined Nomenclatures or classification Regulations in order to facilitate classification.
- Monitor and analyse new products.
- Facilitate the classifications of autonomous tariff measures.
- Develop Classification Information System (CLASS) to provide a single platform for all classification information.
- Support the effective, efficient and timely issuing of Binding Tariff Information and contribute to the issuing of less divergent BTIs.
- Reinforce the uniformly correct application of TARIC.
- Identify goods categories where the integration of credibility checks in TARIC is required.
- Reinforce the implementation of the credibility checks measures in Member State' clearance systems.
- Reduce the share of wrong customs declarations for the Combined Nomenclature codes where credibility checks are integrated.
- Monitor the number of the suspicious customs declaration through the Surveillance database.
- Guide the Member States' customs administrations through the implementation of the TARIC measures.

2.2.3. *Rules of origin*

Based on their origin, a wide range of goods can benefit from preferential duties at importation into the European Union. Based on their preferential origin, a wide range of goods can benefit from preferential duties at importation into the European Union. In addition, the application of non-preferential trade policy measures is based on the non-preferential origin of goods.. To ensure fair trade and a proper functioning of preferential arrangements, it has to be monitored whether the underlying rules and principles are applied in a correct way. In addition, to have an approximation in the working methods in Member States and other parties affected by the rules of origin

efforts have to be made to streamline the interpretation of legislation and provide guidance to good practices.

Exporters both in **Generalised System of Preferences (GSP)** beneficiary countries (BCs) and in the Union should be registered with the competent authorities. This is in order to enable them to certify the origin of goods by themselves within the framework of the European Union GSP rules of origin. The realisation of this project requires for 2017 the finalisation of the technical specifications, the initiation of the development, the adoption of legal measures, close collaboration with Norway and Switzerland to progress in the negotiations of an update of the Exchange of Letters and of a Memorandum of Understanding (MoU), a preliminary communication to the Beneficiary Countries and keeping Member States informed of the project's progress.

Activities and expected results:

- Identify divergences and problem areas in the application of the rules of origin and plan key actions for further harmonisation.
- Familiarise origin experts with the concepts of origin (non-alteration rule, accounting segregation, etc.).
- Support to the revision of rules of origin and provide explanatory notes as needed.
- Provide guidance for the use of customs authorities on certain working methods and concepts with respect to rules of origin.
- Implement the Action Plan<sup>23</sup> for monitoring the functioning of preferential trade arrangements.
- Support the implementation of rules of origin in new Free Trade Agreements.
- Promote the eLearning module for the area of “General System of Preferences - Origin” and establish specific sub-modules as required.
- Analyse adaptive and relevant strategies and methods in view of implementing practices of recent and upcoming partners.
- Examine the relevance, cost-benefit and potential of creating a Union electronic platform for centralised information and follow-up subsequent verifications on proofs of preferential origin.
- Communicate about the developments in the area of rules of origin and their practical implications on customs.
- Continue the development and prepare the use of the Registered Exporter System (REX).
- Contribute to the negotiations for the revision of the rules of origin in the Pan-Euro-Mediterranean (PEM) Convention.

#### 2.2.4. *Customs valuation*

Most customs duties and VAT are expressed as a percentage of the **value of goods** being declared for importation. It is important that the value of goods is accurately measured, for the purposes of:

- proper collection of import duties and taxes,

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<sup>23</sup> COMMUNICATION FROM THE COMMISSION TO THE COUNCIL - Action plan for monitoring the functioning of preferential trade arrangements COM(2014) 105 final of 26 February 2014

- economic and commercial policy analysis,
- application of commercial policy measures, and
- import and export statistics.

Due to the complexity of the legislation in force stipulating the rules determining the customs value, there is a risk of incorrect application, with effects on own resources and the application of the common commercial policy. The correct application of customs valuation law must provide equal treatment of economic operators and citizens and ensure a common approach to controls related to customs value. To achieve this, the problems need to be identified, recommendations for improvements have to be implemented and working methods are to be adapted.

Activities and expected results:

- Identify variations in the administration and application of the relevant provisions on customs value and make recommendations for improvements to the relevant bodies.
- Establish guidance on customs valuation in the context of the implementation of UCC.
- Evaluate the need and relevance of introducing binding valuation information in Union customs legislation.
- Contribute to the debate regarding transfer pricing arrangements from the viewpoint of customs and considering the impacts on customs practices.

#### 2.2.5. *Customs procedures*

The execution of the various aspects of customs procedures present themselves in the daily business of customs authorities. The procedures entail three main domains: release for free circulation, special and exit procedures.

Customs **special procedures** enable economic operators to implement specialised customs provisions leading to a more streamlined and lean way of doing international business. They include a number of practices subject to authorisations which enables them to do business more easily and less costly. With the UCC the special procedures are rendered fully electronic and easier to use throughout the European Union.

**Transit** procedure allows goods - without payment of duties - to move under customs supervision within the European Union or between the European Union and third countries in the context of international agreements. The Union transit is stipulated by the UCC, and Union transit related provisions are mirrored in an international Convention, namely the Common Transit Convention (CTC). The European Union also applies other transit procedures: TIR Carnet (TIR Convention 1975), ATA Carnet used as transit document (ATA & Istanbul Conventions), Rhine Manifest (revised Mannheim Convention for the navigation on the Rhine 1868), NATO Form 302 (NATO Convention 1951) and transit by post (UPU).

The entering into application of the Union Customs Code on 1 May 2016 requires further steps in implementing transit in light of the new rules. The UCC provides for the possibility of using electronic transport documents for transit purposes. A harmonised customs goods manifest is currently being developed in the context of the UCC. Its aim is to address trade requests to use the manifest for proving the customs status of the goods and cover further simplifications in the future. In addition, the rules on customs

seals and seals used by authorised consignors change and introduce the use of the ISO standard 17712.

The proper and uniform implementation of transit in the daily business of customs authorities implies creating the best conditions for sharing information, expertise and best practices. Cooperation between the authorities on an international level is essential.

Further to transit, the **other special procedures** require attention and cooperation of Member States to ensure the correct and efficient implementation. The procedures cover: customs warehousing and free zones; temporary admission and end-use; inward and outward processing.

Activities and expected results:

- Identify Union practices where the rules are not applied in a harmonised manner and put forward recommendations for more efficient and effective implementation of all procedures.
- Facilitate the use of authorisations which are valid throughout the European Union.
- Analyse the methods of sealing used in transit and compile criteria for the selection and approval of appropriate seals.
- Support administrations in the harmonised application of the modified rules on customs seals and seals used by authorised consignors.
- Amend and align the transit manual with the provisions of the UCC and the delegated and implementing acts, taking into account the needs of administrations and economic operators.
- Include transit-related data in the customs goods manifest in light of the UCC.
- Consider and describe the use of the customs goods manifest for transit and proof of Union customs status as necessary in the light of the application of the UCC.
- Develop the UCC Proof of Union Status system and find answers to procedural and functional questions in connection to customs status and Proof of Union Status. Support the implementation of the procedures stipulated by the UCC Delegated and Implementing Acts related to transit simplifications.
- Investigate the development of further simplifications and simplified procedures concerning all customs procedures.
- Support the Member States implementing solutions for customs, based on the manifest for authorised issuers as proof of customs status.
- Contribute to and monitor/follow-up national efforts of countries aiming to join the Common Transit Convention (CTC) to align national legislation, procedures and other frameworks (structural, technical, etc.) to comply with the CTC and Single Administrative Document (SAD) conventions.

**2.3. *To protect citizens and the environment, to increase safety and security, and to strengthen the competitiveness of Union businesses***

Customs is responsible for implementing a wide range of European Union and national policies besides revenue collection.

The role of customs is, in some instances, to prevent certain goods from entering into or exiting from the customs union territory. To this end this heading contemplates the projects which aim at protecting not only the citizens and the environment but also the

interests of European businesses by means of measures facilitating trade and ensuring the security of the supply chain. The projects under this chapter relate either to the objective to protect citizens and the environment, to increase safety and security, or to the objective of strengthening the competitiveness of Union businesses. By their nature, some of the projects may serve both objectives, as it can be the case especially for Intellectual Property Rights.

### *2.3.1. Customs authorities protecting health, the environment, cultural heritage and ensuring safety and security*

Consumers, civil society and national authorities are demanding stricter customs controls of non-fiscal aspects. It is crucial to ensure the proper enforcement by customs of these non-fiscal legislation. Several tools are used to address implementation issues related to non-fiscal legislation: gathering experts from all Member States, exchange of best practices, establishing guidelines on customs controls, creating a so-called "toolbox" support to the participation of national customs experts to discussions on non-fiscal legislation with a role for customs, informing the business community and the wider public, ensure the completeness and consistent application of TARIC in non-fiscal areas; monitor, via the Surveillance database, cases of violation of non-fiscal legislation.

The overarching objective of this project is to increase the safety and security and to protect the citizens, the environment and cultural heritage by implementing Union policy and legislation in the following areas:

- Human health and food safety;
- Animal health;
- Plant health;
- Protection of the environment and climate;
- Product safety and compliance;
- Cultural heritage;
- Restricted and prohibited goods, controlled substances, etc. (including drug precursors, cash, dual use goods, firearms, etc.);
- Safety and security of consignments (e.g. air cargo).

The rapid increase in the number of small, low value consignments resulting from an expanding eCommerce activity presents an elevated pressure on customs administrations to apply appropriate risk and customs control methods to identify prohibited or restricted goods to mitigate related risks.

#### Activities and expected results:

- Health and safety, the environment and cultural heritage:
  - o Establish a coordinated approach on border controls related to measures related to
    - Sanitary and phytosanitary issues,
    - Environmental issues (waste, wildlife trafficking, trade in timber, ozone depleting substances, etc.),
    - Product safety,
    - Cooperation between authorities.

- Draft new checklists for product safety controls by customs.
- Implement the “Guidelines on product safety and compliance”.
- Implement the toolbox on standard procedures.
- Ensure that customs interests and procedures are well explained and defended during discussions on non-fiscal legislation with a role for customs.
- Reinforce a common risk management approach to product safety and compliance controls on imported goods.
- Collect European Union-wide control data for product safety.
- Contribute to the other (non-customs) policy developments from the customs perspective.
- Enhance cooperation between customs and market surveillance and other competent authorities.
- Support the role of customs in controlling cultural goods in import and export.
- Implement the recommendations on the European Union - China cooperation in the field of waste trafficking.
- Develop and implement support activities to customs in controlling cultural goods.
- Reinforce the uniform and correct application of the TARIC and the Surveillance databases in non-fiscal areas.
- Identify new psychoactive substances.
- Drug precursors:
  - Enhance the uniform understanding and interpretation of Regulation (EC) No 111/2005<sup>24</sup> by Member States applying the legislation.
  - Exchange best practices on specific aspects of drug precursors controls.
  - Develop common approaches on customs controls, including risk analysis, for officers in ports, airports and land borders related to drug precursors.
  - Update e-learning tools for Competent Authorities and Industry.
- Cash controls:
  - Lay down common approaches on the interpretation and implementation of the Cash Control Regulation<sup>25</sup>.
  - Update the handbook of guidelines on cash controls.
  - Share statistics on cash control results.
  - Carry out communication and awareness-raising activities addressing the wider public.
  - Support the establishment of common positions at the Financial Action Task Force (FATF) and other international fora.
  - Raise awareness about the amendment of the Cash Control Regulation and exchange information on policy alternatives to be considered.
- Strategic and dual use goods:

<sup>24</sup> Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ L 22, 26.1.2005, p. 1), amended by the Regulation EU n° 1259/2013 of the European Parliament and of the Council of 20 November 2013.

<sup>25</sup> Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, p. 9)

- Follow-up the outcomes of the PCA Firearms with a view to address potential weaknesses and gaps in control regime and to develop good working practices.
- Continue on developing common control approach in the area of dual-use goods, by taking into account the outcomes of the SIMEX exercise from year 2015, and ongoing review of the legislation governing the control of exports of dual-use goods (Council Regulation 428/2009)
- Risk management:
  - Evaluate and renew safety and security specific Common Risk Criteria and identify new criteria where appropriate.
  - Develop common risk indicators for pre-loading air cargo security between customs, aviation security and home affairs.
- Small consignments
  - Address the customs control and risk management issues related to postal and express consignments (small packages) in light of non-fiscal control functions.
- New security threats:
  - Analyse and define the role/contribution of customs to identify products and activities by means of risk analysis and customs control in order to support the fight against terrorism and other serious crime.

### 2.3.2. *Competitiveness and trade facilitation*

The European Union has to be a strong economic and trade partner in the world economy. Customs have an important role to play to ensure the competitiveness of the European trade environment by minimising the burden placed on trade in relation to customs legislation and procedures. Initiatives supporting competitiveness of European companies and facilitating legitimate trade should therefore be developed to contribute to the proper functioning and the further development of the customs union.

The status of **authorised economic operator (AEO)** granted by one Member State is recognised by the other Member States and under Mutual Recognition Agreements (MRA), by third countries. Regular monitoring to maintain the correct implementation and functioning of the Union AEO programme is needed, together with the sharing of best practices and guidance to maintain uniform implementation of the programme by the Member States.

It is also necessary to identify and exploit potential synergies with other governmental bodies. Other policies wishing to segment clients and recognise their compliant stakeholders might wish to benefit from the experiences gained with the AEO programme. In close cooperation with the Member States, the Commission services should ensure that whenever similar requirements appear, efforts are made to support collaboration and recognition of the synergies in the AEO programmes. In addition, the assessment of the compatibility of European and third party/country compliant programmes needs to be supported in view of the preparation for concluding new **Mutual Recognition Agreements**.

The scope of the **simplified declaration** has not been changed significantly under the UCC. However, changes in the concepts have occurred during the preparation of the Delegated and Implementing Acts for entry in the declarant's records (EDR),

centralised clearance (CC) and self-assessment (SA). Therefore, further discussions are needed with Member States' customs administrations and trade representatives on specific issues related to the implementation of those three simplifications.

The **Systems Based Approach (SBA)** project should continue to promote and reinforce the established SBA network of Member State experts with the objective to support information exchange, technical audit discussions on SBA, consistency and harmonization across Member States, exchange of practical and training solutions and support less experienced Member States.

**Centralised clearance** allows economic operators to centralise and integrate accounting, logistics and distribution functions with consequent savings in administrative and transaction costs, thus providing a genuine simplification. Moreover, until the deployment of the appropriate electronic systems for centralised clearance (2019-2020), the current Single Authorisations for Simplified Procedures – SASP), issued before the 1 May 2016, remain unchanged and continues to be a major instrument of trade facilitation that deserves common understanding and uniform application.

According to the definition promoted by the United Nations Economic Commission for Europe (UNECE), the **Single Window concept (SW)** refers to a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once. In practice, the Single Windows implemented around the world have not strictly followed this definition and have instead been conceived as large interagency collaborative system[s] that facilitate and automate business processes and data exchange for international trade. The **Union's Single Window** is a project requiring gradual and pragmatic development. Its success rests on the building of trust between the services involved as well as a shared vision of the costs and benefits. It also depends on the pooling of resources and knowledge available in the Commission and in the Member States. Within the Commission, it is important that the specific roles and tasks of the services involved are clearly defined. The Union's Customs Single Window currently covers automatic verification of three veterinary certificates (CVED-A, CVED-P and CED) by national customs administrations. The scope of the certificates is planned to be expanded with several other certificates.

Further efforts are needed to simplify reporting formalities in maritime sector, thus facilitating trade and reducing the administrative burden.

The improvement of economic operators' **compliance** is a common objective of the customs union, which should be achieved in the most efficient and effective way for both customs and trade.

Compliance is understood as the extent to which persons (companies and individuals) meet their obligations as applied and enforced by customs administrations. Modern methods, based on behavioural motives and reasons for complying, are at least as important as more traditional methods. Influencing the willingness and ability to comply in addition to controls and penalties, is beneficial as it is less disruptive and resource intensive for both customs and legitimate trade. The knowledge on compliance management should be improved and information and experience should be shared among Member States.

The **Union Customs Data Model (EUCDM)** integrates all data requirements provided by economic operators to Member States customs administrations and ensures that Union requirements are fully compliant with international standards such as the World Customs Organisation data model.

This provides Member States and the Union economic operators with the best solution to re-use information already available in the commercial and transport supply chain and allows for its further customization at national level where areas of national competence are concerned, whilst providing the means to ensure that Union requirements are implemented identically in all Member States.

Activities and expected results:

- Authorised Economic Operators:
  - Share experience between Member States on practical solutions related to the implementation of the Authorised Economic Operator concept, and establish the AEO-related practical implementation know-how.
  - Reinforce the implementation of existing mutual recognition of Authorised Economic Operator (AEO) programmes and extend such mutual recognition to Canada, Singapore and Hong-Kong, Morocco and, where appropriate, support the extension to other countries.
  - Support the Mutual Recognition Agreement (MRA) negotiation from a technical point of view (e.g. comparison of legislation, joint validation of implementation of the legislation of the MRA partners) and implementation processes (e.g. data protection, automated data exchange).
  - Analyse the implementation of MRAs and communicate on the results to the relevant parties
  - Revisit and where needed, update the authorisation monitoring process in the Member States in order to ensure correct implementation.
  - Provide guidance to Member States in the context of Mutual Recognition Agreements and review the AEO guidelines, if necessary, following the implementation of the legislative changes and their effects on the AEO criteria.
  - Exchange best practices on AEO programmes to explore enhanced cooperation and facilitation for operators.
- SBA:
  - Share in Member States the summary report with information on the use of SBA.
  - Share practical knowledge and experience on SBA within the European Union.
  - Support the increased use and harmonised application of SBA.
- Single Window:
  - 
  - Enhance use of the Union SW for certificates: extend the exchange to further certificates.
  - Ensure coordinated customs union position at the Digital Transport and Logistics Forum.

- Use the European Union Customs Data Model (EU CDM) methodology to map and harmonize certificate data. This will enable to link electronically the declaration data with the certificate data. Compliance:
  - Follow up the results of previous work in the area of compliance management, including the implementation of the recommendations of the respective summary reports;
  - Deepen knowledge on compliance management;
  - Encourage the broader use of compliance concept, including use of best practices (compliance strategy, client segmentation models, marketing/communication models);
  - Develop the compliance framework based on policy needs.
- Simplifications laid down in Title V of the UCC (simplified declaration, entry in the declarant's records, centralised clearance and self-assessment):
  - Reinforce the common understanding and a uniform application by Member States of these measures.
  - Share experience and best practices regarding the application and enforcement of simplifications laid down in Title V of the UCC.
  - Prepare and support the transition from the current SASP and to the centralised clearance.

### 2.3.3. *Supply chain in the global context*

The objective to strengthen end-to-end supply chain security based on multi-layered risk management originates from the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade. Controls performed at export are based on joint risk assessment rules, allowing customs to better target dangerous traffic at the beginning of the supply chain. Thus safe consignments can be identified and trade facilitation benefits can be provided to legitimate trade. The **Smart and Secure Trade Lanes (SSTL)** concept is also highly valuable for the future development of **Globally Networked Customs (GNC)** by establishing global standards for customs information exchange. Currently the Smart and Secure Trade Lanes Pilot Project with China and Hong Kong paves the way for future extended use.

Adjusting to the rapid evolution of the supply chain resulting from the impacts and effects of an expanding e-commerce activity also poses a challenge in the customs union.

#### Activities and expected results

- Initiate the implementation of SSTL Phase 3, by enlarging volumes, number of lanes, number of traders, extending geographical scope, establishing authorised supply chains.
- Address implementation and thematic issues, in particular risk management, rail, air.
- Identify and exploit potential synergies with other governmental authorities to reduce customs clearance lead time for SSTL consignments.
- Finalise the implementation of automated data exchange for transactions in line with GNC methodology.
- Explore the possibilities to realise the SSTL concept with others countries.

- Explore new challenges posed to Customs by expanding eCommerce phenomenon in the supply chain
- Elaborate an EU action plan for customs to effectively address development of eCommerce

#### 2.3.4. *The European Union Customs Action Plan on Intellectual Property Rights (IPR)*

The Council Resolution of 10 December 2012<sup>26</sup> established a **European Union Action Plan** aimed at coordinating the actions of Member States' customs in fighting IPR infringements at the external borders. The implementation of the Action Plan is scheduled for the period of 2013-2017. The Commission is working together with the Member States in programme activities to implement actions identified in the action plan, such as establishing a manual for right-holders, developing common approaches, mapping the needs of third and neighbouring countries, reinforcing cooperation with China and Hong Kong.

##### Activities and expected results:

- Support Member States applying Regulation No 608/2013 concerning customs enforcement of intellectual property rights<sup>27</sup> in understanding the legislation and in interpreting it in a uniform manner.
- Implement the European Union-China Action Plan on customs enforcement of IPR in all key actions.
- Implement the Action Plan on cooperation in customs enforcement of IPR between the European Union and Hong Kong in all embedded actions.
- Carry out survey/mapping exercise on possible needs of technical assistance for capacity building to candidate and neighbouring countries.

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<sup>26</sup> Resolution on the European Union Customs Action Plan to combat intellectual property rights infringements (2013 to 2017)

<sup>27</sup> Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p.15)

## 2.4. *To improve the administrative capacity of the customs authorities*

The quality of public administration is an important driver of Europe's competitiveness. Modern, innovative and efficient public administrations are key in sustaining the recovery process and in unlocking Europe's growth potential.

This heading of the Annual Work Programme covers the policy projects of the customs union which aim at ensuring that the European customs administrations can function and perform on a high efficiency and effectiveness level supported by proper administrative structures, procedures, skilled staff and modern technologies and concepts.

### 2.4.1. *Effective and efficient customs administrations*

The single market can only function properly when there is a common application of common rules. This implies that the 28 customs administrations of the European Union must act as though they were one. In view of the budgetary and financial crisis in the European Union, the current economic climate has forced government services to become more efficient and effective. This calls upon actions to study current and possible future solutions to improve the structures in which customs business is performed and to **improve the performance** of the customs administration in its different roles in the supply chain of goods. Customs administrations' structural and procedural functioning must also be reinforced, and national customs administrations must aim at building their administrative capacities in order to fulfil their complex tasks.

#### Activities and expected results:

- Exchange good practices between participating countries to improve the administrative capacity of their customs administrations in relation to administrative structures and functions.
- Identify gaps and needs in terms of administrative and operational structures in which customs business is performed.
- Formulate recommendations and guidance to increase the performance, effectiveness and efficiency of the customs administrations.
- Raise awareness in Member States administrations and trade for the necessity to harmonize and elevate performance of customs staff.
- Identify and share good practices regarding the use of communication tools and methods (including social media) within the administrations, towards partner authorities, the public and economic operators regarding customs issues, key aspects of the functioning of the customs union, new customs projects, tasks and competencies of the European customs administrations.
- Provide technical assistance to customs authorities on the basis of needs analysis.
- Reinforce the use of Customs Blueprints and the related evaluation catalogue.
- Further to the crisis management network and response protocols established as part of the CRMF, reinforce the administrative capacities of administrations to react to crisis scenarios in an effective and efficient manner individually as an administration and collaboratively as a coordinated EU effort.
- Test crisis scenarios and events periodically with the MSs.

#### 2.4.2. *Training and human competency building*

Seen from a European viewpoint, training and development for professionals in customs is still highly fragmented across the European Union and could profit from the availability of more **common training programmes** to align levels of knowledge of customs professionals in the European Union.

This project aims to provide continuous support to the participating countries in their efforts to strengthen professional skills and knowledge relating to customs through the development of a multi-faceted, commonly agreed training support programme for the Union.

In practise, the common customs training programme works along two main activity strands: **eLearning course development** (and maintenance) including localisation and European Union customs performance development through **training and staff development**, including the European Union competence framework (EU CFW).

In support of more uniformity and increased efficiency of customs operations throughout the European Union, a common **competency framework for customs**, was established in 2013-2014, setting out a consensus view of knowledge, skills and behaviours required by customs professionals in the European Union. A widespread, structured national implementation initiative in public administrations as well as the private sector is ongoing since mid-2015 but further joint efforts are required to bring the expected benefits.

Priority training support in 2017 is given to customs subject areas, which are flagged (under the various subject matter projects) throughout this document, and which require further consistency in customs staff performance, implementation support for new or amended Union legislation or enhanced need for Union-wide sharing of national best practise and tools.

##### Activities and expected results:

- Coordinate the establishment and implementation of the training work plan and establish roadmaps (including eLearning developments, in line with policy needs flagged throughout this document)
- Support the implementation of European Union competence framework (EU CFW) for customs, including the customs/tax cross-sector usability; maintain its scope and quality as a Union performance standard and ensure that it is updated accordingly.
- Update the Union's eLearning portfolio for customs with maximal possible number of localised versions.

#### 2.4.3. *Operational procedures and working methods*

Common understanding of legal requirements and harmonised application of **working methods in operational procedures and customs control** functions require intensive and systematic cooperation, exchange of information and sharing of good practices among the operational customs officials. This includes all operational functions of customs authorities, including controlling goods at external borders (sea/waterways, land and air) and inland.

**Modern technologies and concepts** can facilitate customs in performing everyday tasks and the use of detection technologies plays an important role for the Union customs to meet their strategic challenges of effectively managing associated risks with

available resources, and maintaining a proper balance between customs controls and facilitation of legitimate trade.

In addition co-operation with officials of other governmental bodies particularly those with whom customs co-operates at the external border, should be strengthened.

Activities and expected results:

- Reinforce operational procedures mainly by the sharing of information, knowledge and skills, operational practices and know-how, technical detection solutions.
- Enhance equivalent level of controls and protection of external Eastern and South-eastern Union land border with the support of an expert team.
- Elaborate and update common customs control standards in various areas of customs control.
- Provide updated operational guidance on customs controls and audit to Member State customs officials.
- Finalise the revision of the Guidelines for the co-operation between Customs Administrations and Border Guards.
- Clarify existing concepts of coordinated and integrated border management, including those in Regulation (EU) 2016/1624<sup>28</sup> or set out by the World Customs Organisation (WCO), and explore the EU customs approach and role within these concepts, including the cooperation with other agencies operating at the external borders.
- Monitor new technologies that support and facilitate customs work, especially controls, and identify appropriate border detection equipment.
- Explore possibilities for standardisation of equipment, including perspectives for joint procurement.
- Improve image interpretation for X-RAY operators and explore the possibilities for creating an European Union scanning image library.
- Increase cooperation between customs laboratories and customs operational officers and exchange information on the use of mobile equipment for the identification of substances by the customs laboratories.
- Enhance cooperation between customs and detection technology industry, to define customs required standards, to provide guidance to research and industry for a coherent development of detection and laboratory equipment and tools, and for customs to contribute to supporting research actions as end-users.
- Identify and support the fulfilment of the common Union-level training needs of operational officers.

#### 2.4.4. *European Customs Laboratories*

European customs laboratories are an important tool for customs and tax authorities. Their work is crucial in traditional areas of customs, excise and agriculture policy, such as analyses to determine tariff classification, level of duties and other taxes. However,

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<sup>28</sup> Regulation (EU, EURATOM) No 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1)

their role has also evolved over time with changes in the trade environment. Consequently, customs laboratories now play an important role in other activities, such as antifraud operations, determining the authenticity and origin of products, detecting illegal imports like narcotics, drug precursors and unknown psychotropic substances, protecting consumers against dangerous goods or contaminated food, safeguarding the environment and endangered species.

European customs laboratories work together to coordinate their activities, pool resources and share their knowledge and expertise. This requires networking (European Union and worldwide), benchmarking, updating of databases, cooperation with other stakeholders and information initiatives. The Customs Laboratories European Network (CLEN) provides the structure for the coordination of the Member States' customs laboratories. The CLEN plays a key role in delivering results and keeping expertise in pace with the policy developments. This close collaboration brings the advantages of a share of the burden, a more rapid and comprehensive response to fraud, the maintenance of equipment and expertise even for rare and unusual analysis, the wide and correct implementation of Union policies and the support to the development of new Union policies, while at the same time, permitting economies of scale.

Activities and expected results:

- Maintain the Customs Laboratories European Network (CLEN).
- Exchange practises and methods used by the laboratories, including those of third countries, to reach harmonisation, identify and share good working practices.
- Maintain collaboration between customs laboratories and customs administrations, other related bodies and the industry.
- Update and enrich the Inter-Laboratory Inventory of Analytical Determination (ILIADe), the Sampling Manual for Customs and Tax Authorities (SAMANCTA) and the European Customs Inventory of Chemical Substances (ECICS) databases.
- Provide information on the activities of the customs laboratories and of the Customs Laboratories European Network (CLEN) for the wider public.
- Reinforce the efficiency and effectiveness related to the functioning and capacities of Customs laboratories of the Customs 2020 programme's participating countries possibly via pooling resources in an expert team.
- Facilitate the cooperation of customs laboratories in a global context.
- Increase cooperation between customs laboratories and customs operational officers.
- Support the operational analytical work related to challenging/problematic goods, substances and materials requiring special analytical techniques, equipment or expertise, such as new psychoactive substances, drug precursors, etc.
- Facilitate the drafting of specifications and testing equipment for customs laboratories.
- Facilitate the adaptation to new analytical technologies and methodologies.

#### 2.4.5. *IT capacity building*

To implement the European Union customs policy and the electronic customs environment, the **development, operation and maintenance of existing and new European Information Systems (EIS)** should be carried-out. The continuity, integrity

and availability of the IT systems and their corrective maintenance and evolution should be ensured in line with business expectations. In that sense, continuous operational support is needed to the functioning of the Trans-European Customs Information Systems to ensure that customs procedures are performed in the least time possible, enabling better customs clearance times at the European Union borders.

It is necessary to ensure that an overall quality of EIS is achieved through maturity improvement, efficient management of projects, timely deliverables and within the given budget. Services need to be delivered according to expectations, within the framework of the TEMPO methodology and to fulfil security requirements. The use of standards and best practices, including for the security aspects of the development, deployment and operations of the EIS, needs to be further supported and enhanced.

The IT Strategy proposed by the Commission goes into a new direction that can help addressing certain issues. Innovative approaches to collaboration among Member States and between Member States and the Commission is one of the key principles of this strategy.

Activities and expected results:

- Improve, support and monitor the continuity, integrity, availability and security of the existing Customs IT systems in order to respond to business needs, which are subject to constant evolutions and progress.
- Carry out the corrective maintenance and the evolution of the existing customs IT systems.
- Ensure that the IT systems are technically up-to-date.
- Meet the up-coming challenges of the Union Customs Code in terms of required technology.
- Complete the operational environment with high availability, disaster recovery and active back-up facilities.
- Implement coherent processes supported by automated workflows to support day-to-day customs operations.
- Develop, implement, maintain and adapt to future needs related to e.g. CCN2 (Common Communication Network), Uniform User Management, Digital Signature and SPEED2.
- Re-engineer management of data in the customs EIS to make them more efficient and reliable.
- Map collaborative approaches to the development of new IT systems for possible common implementation by national administrations and recommend best collaboration practices.
- Create and maintain the list of Union components resulting from collaboration.
- Review Union Customs Code- and e-Customs-related IT systems with a view to make them more compatible with the European Union Customs Data Model.

- Provide national customs administrations and the trading community with the necessary set of technical information requirements common throughout the Union.
- Deliver new IT systems and solutions within the planned budget, on time and in operation according to agreed level of service and security.
- Identify re-usable services/modules.
- Define common architectural and security frameworks.
- Promote IT collaboration between Member States and between them and the European Commission.
- For defining the flow IT activities, promote the use of structural representation (Business Process Model) that will increase clarity in terms of Business Processes and among Member States.
- Promote better Service Level Agreements and Terms of Collaboration that will increase efficiency of IT systems.

## ANNEX II

### **BUDGET LINE 140301: Fiscalis 2020 Work Programme for 2017**

#### **1. Introduction**

##### ***1.1. Strategic framework***

The Fiscalis 2020 programme<sup>29</sup> offers the EU framework to improve the proper functioning of the taxation systems in the internal market by enhancing cooperation between participating countries, their tax authorities and their officials. This overall programme's objective and the EU's policy initiatives are targeting the achievement of the same tax political objectives as set in higher level documents. Indeed, the programme is a tool which supports and implements the overall tax policy at the European Union level. The activities of the programme will focus on the following priority policy objectives over the coming years.

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<sup>29</sup> Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC, OJ L 347/25, 20.12.2013

In times of fiscal consolidation, when many Member States need to cut expenditure and increase revenues, one of the priorities set for the Union for the next five years is to guarantee fairness and a level playing field between taxpayers so that all contribute their fair share and efficient taxation is ensured. This will be achieved by combatting tax fraud and tax evasion, by ensuring tax transparency to fight tax evasion and avoidance, a fair and efficient corporate tax system, tax compliance and modern tax administrations in the EU. For all these aspects, setting up a coordinated approach at EU level to establish administrative cooperation with third countries will remain high on the Union's agenda in the coming years.

To achieve the objectives above, it is crucial to make sure that national tax authorities coordinate and exchange information with each other. Single and uncoordinated unilateral actions would not be effective. The programme will therefore continue to contribute to the objectives of tax transparency, administrative cooperation and tax coordination by supporting the cooperation among Member States and the general implementation of the activities foreseen by the Action Plan to strengthen the fight against tax fraud and tax evasion<sup>30</sup> and the Action Plan for fair and efficient corporate taxation<sup>31</sup>. In particular, the programme will enhance the implementation of administrative cooperation tools, such as automatic exchange of information under the Directive on administrative cooperation for all items, financial and non-financial, including for cross-border tax rulings and its further developments<sup>32 33 34 35</sup>.

Furthermore, the Commission adopted a chapeau communication<sup>36</sup> to launch an anti-tax avoidance package for fairer, simpler and more effective corporate taxation. This package aims at preventing aggressive tax planning, boost tax transparency and create a level playing field for all businesses in order to ensure that companies pay tax in the country where profits are generated. The measures proposed go beyond the OECD's Base Erosion Profit Shifting (BEPS) measures to ensure that the Member States develop a common standard for effective taxation and transparency. Activities will be organised under the programme to follow up these tax transparency and anti-tax avoidance package's measures and facilitate their implementation, in particular as regards automatic exchange for country-by-country reporting and measures to better identify how much taxes a company pays and on what profits.

As tax fraud, tax evasion and aggressive tax planning become more sophisticated and capital finds new ways by involving third countries, activities will be pursued or initiated under the programme to tackle the international dimension of fraud and allow for better collaboration with

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<sup>30</sup> COM(2012) 0722 final, Communication from the Commission to the European Parliament and the Council An Action Plan to strengthen the fight against tax fraud and tax evasion, 6.12.2012

<sup>31</sup> COM(2015) 302 final, Communication from the Commission to the European Parliament and the Council A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action, 17.6.2015

<sup>32</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64/1, 11.3.2011)

<sup>33</sup> Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359/1, 16.12.2014)

<sup>34</sup> Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, 18.12.2015, OJ L 332/1

<sup>35</sup> Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards the mandatory automatic exchange of information in the field of taxation, 25.05.2016, OJ L146/8

<sup>36</sup> COM(2016) 23 final, Communication from the Commission to the European Parliament and the Council Anti-Tax avoidance Package: Next Steps towards delivering effective taxation and greater transparency in the EU, 28.1.2016

third countries. It is important to support under the programme the implementation of measures initiated by the Commission to encourage third countries to apply minimum standards of good governance in tax matters.

An overall reform of the VAT system is envisaged and the legislation on administrative cooperation for VAT is subject to innovations and amendments to provide the Member States with additional means to combat tax fraud and evasion, such as electronic formats for exchange of information and secure channels of communication. New initiatives emerge related to VAT collection and control procedures and administrative cooperation. A VAT Action Plan – Towards a single EU VAT area – Time to decide has been adopted by the Commission<sup>37</sup>. The VAT action plan takes stock of progress since the 2011 Communication on the future of VAT and proposes areas of work in particular to implement the destination principle, removal of VAT obstacles for digital supplies and SMEs' development in the internal market, VAT rates policy and measures to fight fraud and improve voluntary compliance. Furthermore, in the digital economy era, the control of e-commerce represents a priority and the action plan's initiative on VAT for e-commerce will contribute to achieve the Digital Single Market. The implementation of the measures included in this action plan will be supported by the programme activities.

To improve the internal market for excise goods and to reduce compliance burden, activities under the programme will be organised to improve the existing excise related procedures and systems. Programme activities will also be undertaken to implement the changes to procedures and IT related systems to better detect and prevent excise fraud.

In order to fight against tax fraud, tax evasion and aggressive tax planning in all its dimensions and to facilitate legitimate trade it is important to further enhance the cooperation between customs and tax authorities and with law enforcement bodies.

An effective strategy to fight against fraud and tax evasion cannot ignore risk management evolutions and sharing best practices to ensure smooth exchanges of information. This together with enforcing compliance by taxpayers remains a priority policy objective for the Fiscalis 2020 programme.

Tax systems should be made more growth-friendly to promote job creation. Investment activities will be organised in order to ensure that taxation plays its role in the broader EU-wide economic governance process i.e. the European Semester and following-up the Annual Growth Surveys' objectives. In order to help ensuring that the EU tax framework is fit for purpose, growth-friendly and as simple as possible, the programme's initiatives will support the modernisation of tax systems and administrations while bringing them on the same level playing field. The Commission will set up programme activities for administrative capacity building for tax administrations both in terms of structural capacity and human resources competency building, with a view to making them more efficient and effective.

The design and rollout of a competency framework for tax administrations will help developing skills of tax officials and economic operators and support the modernisation of tax

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<sup>37</sup> COM(2016) 148 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT Towards a single EU VAT area - Time to decide, 7.4.2016

administrations. Activities under the programme will also be organised to tackle with priority the tax gap, national tax collection and recovery and mutual recovery assistance.

It is important to remove tax disincentives to the exercise by EU citizens of their right to free movement within the internal market. Therefore, programme activities will be organised for making the current mechanisms of resolution of double taxation disputes in the EU simpler, faster to deal with and more coordinated across the EU. Strengthening the dialogue with trade representatives and the cooperation with international organisations (OECD, IOTA and CIAT) will contribute to this policy objective. In addition, programme activities will focus on dealing with cross-border tax obstacles and double taxation problems, including removal of obstacles for the Digital Single Market or informing national tax administrations and judiciaries on the implementation of EU law.

With a view to support the reform and implementation of EU law, activities under the programme will be organised to enhance the understanding of tax law, in all taxation areas and, in particular, with regard to VAT, energy taxation, tobacco, alcohol and alcoholic beverages.

Development and maintenance of European Information Systems (EIS) related to exchange of taxation information among Member States is essential for national administrations, citizens and businesses across the entire EU. Disruptions of the EIS would severely hamper the functioning of the internal market. New forms of IT collaboration will be put in place – amongst others through expert teams – which enables operational enhanced cooperation.

Coordination with other EU policies and their supporting programmes and funds is ensured.

On the basis of the objectives provided for in Regulation (EU) No 1286/2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020, this work programme contains the actions to be financed and the budget breakdown for year 2017 as follows<sup>38</sup>:

- for grants (implemented under direct management) (1.2): EUR 4 850 000
- for procurement (implemented under direct management) (1.3): EUR 26 889 000
- for other actions (reimbursement of external experts) (1.4): EUR 70 000

## **1.2. Grants**

### **1.2.1. Grant for joint actions**

#### **LEGAL BASIS**

Article 5(2) and 7(a) (i)-(iv) and (vi) of Regulation (EU) No 1286/2013

**Specific objective:** To support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.

<sup>38</sup> The total amount of appropriations may be higher when using foreseen financial contributions from candidate and potential candidate countries participating in Fiscalis 2020 programme. The maximum estimated amount for 2017 is EUR 340 000.

## BUDGET LINE

14 03 01

### Priorities of the year, objectives pursued and expected results

The programme is a tool which supports and implements the overall tax policy at the European Union level. The overall objective of the Fiscalis 2020 programme is to improve the proper functioning of the taxation systems in the internal market by enhancing cooperation between participating countries, their tax authorities and their officials. The programme aims to successfully contribute to the Europe 2020 Strategy for smart, sustainable and inclusive growth by strengthening the functioning of the internal market.

The programme focuses on actions strengthening the framework for tax administrations to efficiently combat fraud and tax evasion and avoidance, reducing administrative costs and tackling tax obstacles in the internal market, in particular by implementing activities in the following areas:

- tax transparency to fight tax evasion and avoidance and a fair and efficient corporate tax system in the EU;
- implementation of administrative cooperation tools, such as automatic exchange of information;
- the international dimension of fraud and allowing for better collaboration with third countries;
- overall reform of the VAT system;
- e-commerce;
- excise related procedures and systems;
- cooperation between customs and tax authorities and with law enforcement bodies;
- risk management and compliance;
- growth-friendly tax systems and administrative capacity building for tax administrations;
- tax disincentives to the exercise by EU citizens of their right to free movement within the internal market and solving cross-border tax obstacles and double taxation or non-taxation issues;
- supporting the reform and implementation of EU law;
- supporting the development and maintenance of European Information Systems (EIS)

The grant will support the priorities as detailed in part 2 of Annex II of this decision.

Description of the activities to be funded by the grant awarded without a call for proposals on the basis of Article 190 (1) (f) of Delegated Regulation (EU) No 1268/2012<sup>3940</sup>

#### **This grant will fund activities on:**

- improving the European Information Systems for taxation;

<sup>39</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1) ("RAP")

<sup>40</sup> The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of Fiscalis 2020 Regulation, under a grant agreement with multiple beneficiaries.

- supporting administrative cooperation activities;
- reinforcing the skills and competence of tax officials;
- enhancing the understanding and implementation of Union law in the field of taxation;
- supporting the improvement of administrative procedures and the sharing of good administrative practices.

These activities will take the form of:

- (i) seminars and workshops;
- (ii) project groups;
- (iii) bilateral or multilateral controls and other activities provided for in Union law on administrative cooperation;
- (iv) working visits;
- (vi) public administration capacity-building and supporting actions.

Essential eligibility, selection and award criteria

**This grant is awarded on the basis of the following criteria:**

***Eligibility criteria***

The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of the Fiscalis 2020 Regulation, under a grant agreement with multiple beneficiaries.

- The proposed activities must correspond to the types of eligible actions listed in Article 7 (1)(a)(i-iv) and Article 7 (1)(a)(vi) of the Fiscalis 2020 Regulation

***Selection criteria***

In accordance with Article 131(3) of the Financial Regulation<sup>41</sup>, the financial and operational capacities of the beneficiaries will not be verified, since the beneficiaries are public administrations.

***Award criteria***

The grant will be awarded based on its relevance and cost-efficiency for achieving the objectives and expected results of the projects listed in the part 2 of the Annex II related to the Fiscalis 2020 programme.

Implementation

BY DG TAXUD

<sup>41</sup> Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1) ("the Financial Regulation")

Indicative timetable and indicative amount of the grant awarded without a call for proposals

| Reference               | Date    | Amount        |
|-------------------------|---------|---------------|
| Grant for Joint actions | Q1 2017 | EUR 4 200 000 |

Maximum possible rate of co-financing of the eligible costs

|   |
|---|
| <p><b>The grant will take the form of a combination of:</b></p> <ul style="list-style-type: none"><li>- Reimbursement of the eligible costs actually incurred by the beneficiaries for the following items:<ul style="list-style-type: none"><li>a) travel costs of their delegates up to 100%;</li><li>b) costs linked to the organisation of events in the framework of a given joint action up to 100%</li><li>c) direct staff costs, up to 50%, for officials participating as expert in eligible action under Article 7(a) vi), "public administration capacity-building and supporting actions", of the Fiscalis 2020 Regulation.</li></ul></li><li>- Reimbursement on the basis of unit costs for daily allowances and accommodation costs for national delegates.</li></ul> <p>The amounts to be used for the second indent above are those listed in the Commission Decision for the general implementing provisions adopting the guide to missions for officials and other servants of the European Commission in force at the moment of the signature of the grant agreement. The list of rates shall be annexed to the grant agreement.</p> |
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### 1.2.2. Grant for expert team for managed IT collaboration in taxation

#### LEGAL BASIS

Article 5(2) and 7 (1)(a) (v) of Regulation (EU) No 1286/2013

**Specific objective:** To support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.

#### BUDGET LINE

14 03 01

Priorities of the year, objectives pursued and expected results

In the face of new challenges and on-going changes in the field of taxation (i.e. VAT, direct taxation, excise, fight against fraud), substantial enhancements and new developments in the area of Information Technology (IT) are unavoidable, driven or not by the international environment. Stakeholders particularly agree that the traditional way of implementing similar or nearly identical functionalities 28 times separately within the European Union neither will allow coping with the challenges lying ahead nor can be justified taking into account the budget constraints that Member States face.

Indeed, many taxation European Information Systems (EIS) across national taxation portfolios often share functional similarities. It is important to reinforce the existing

collaborations and foster new ones. during the design and development of IT systems and components to avoid the management in "silos" of IT projects.

This shall increase the IT efficiency and quality of EIS in the taxation domains. Indeed, working in a more synchronised, coordinated and/or collaborative way allows Member States not only to save money and time but also to increase the quality of their IT solutions. IT Collaboration further promotes reusability and interoperability of IT systems.

The Fiscalis 2020 programme is supporting this implementation with the whole range of tools available, like expert teams to accelerate the IT systems' implementation in particular within the Member States.. Expert teams can complement the efforts already undertaken in the IT field for enhanced collaboration.

The expected outcome of establishing an expert team dedicated to IT collaboration is that IT projects can be collaboratively supported and developed, and that properly managed IT collaboration increases the number of shared IT activities between MS as well as the number of reusable components across the different taxation “silos”. This would reduce the costs for IT implementation, deployment and operation for Member States while offering increased agility in responding to European Union policy expectations.

Description of the activities to be funded by the grant awarded without a call for proposals on the basis of Article 190 (1) (f) of Delegated Regulation (EU) No 1268/2012<sup>4243</sup>

**This grant will fund activities on:**

- Assisting in project initiation, development and execution to reduce the complexity for Member States to engage in IT Collaboration
- Identifying and assessing new IT Collaboration initiatives among Member States.
- Establishing the processes and know-how within Member States to collaborate sustainably and contributing to a higher quality of the collaborative deliverables throughout the whole process.
- Supporting the coordination, continuity and consistency to the IT Collaboration activities.
- Improving main IT Collaboration tools – such as the “Taxation Strategic Overview”, the “IT Collaboration Framework”, the “CBA methodology” or the “IT Collaboration Architecture”

<sup>42</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1) ("RAP")

<sup>43</sup> The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of Fiscalis 2020 Regulation, under a grant agreement with multiple beneficiaries .

Essential eligibility, selection and award criteria

**This grant is awarded on the basis of the following criteria:**

***Eligibility criteria***

The beneficiaries of the grant will be the Member States and other eligible countries fulfilling the conditions for participation listed in Article 3 of the Fiscalis 2020 Regulation, under a grant agreement with multiple beneficiaries.

- The proposed activities correspond to the eligible actions listed in Article 7 (1) (a) (v) of the Fiscalis 2020 Regulation

***Selection criteria***

In accordance with Article 131(3) of the Financial Regulation<sup>44</sup>, the financial and operational capacities of the beneficiaries will not be verified, since the beneficiaries are public administrations.

***Award criteria***

The grant will be awarded based on its relevance, conformity and EU added value, its methodological and organisational qualities, its management and the dedicated resources, the expected results and value-for-money.

Implementation

BY DG TAXUD

Indicative timetable and indicative amount of the grant awarded without a call for proposals

| <b>Reference</b>   | <b>Date</b> | <b>Amount</b> |
|--|-------------|---------------|
| Grant for expert team for managed IT collaboration in taxation | Q1 2017     | EUR 650 000   |

<sup>44</sup> Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1) ("the Financial Regulation")

## Maximum possible rate of co-financing of the eligible costs

### ***Description of the grant***

The grant will take the form of a combination of:

- Reimbursement of the following eligible costs actually incurred by the beneficiaries for the following items:
  - a) costs for travels, up to 100%
  - b) costs for hosting experts of the project, up to 100%
  - c) direct personnel costs, up to 50%
  - d) Depreciation costs for equipment needed for the project (only depreciation costs prorata the duration of the expert team), up to 75%
  - e) costs for Subcontracting, (external services for hiring special expertise, limited in volume and to non-essential parts of the project), up to 75%
  - f) other direct costs (e.g. organisational costs for events, printing promotion material, the purchase of consumables and supplies needed for the project), up to 100%
- Reimbursement on the basis of unit costs for daily allowances and accommodation costs for national delegates.
- Reimbursement on the basis of a flat rate for Indirect costs (overheads), corresponding to 7% of all direct eligible costs.

The amounts to be used for the second indent above are those listed in the Commission Decision for the general implementing provisions adopting the guide to missions for officials and other servants of the European Commission in force at the moment of the signature of the grant agreement. The list of rates shall be annexed to the grant agreement.

### ***1.3. Procurement***

The overall budgetary allocation reserved for procurement contracts in 2017 amounts to EUR 26 889 000. To this end, it is estimated to sign about 40 specific contracts under existing or new multi-annual framework contracts.

#### ***1.3.1. Procurement for IT Capacity Building Actions***

##### **LEGAL BASIS**

Article 5(2) and 7(1)(b) of Regulation (EU) No 1286/2013

**Specific objective:** To support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.

##### **BUDGET LINE**

14 03 01

##### **Subject matter of the contracts envisaged**

In 2017, the Commission intends to undertake IT Capacity building activities through contracts following public procurement. It concerns notably the development, maintenance, operation, and quality control of Union components of the existing and new European Information Systems with a view to ensure interconnecting taxation authorities.

The total indicative amount of the procurement is EUR 22 347 000<sup>45</sup> and will be divided as follows:

- The network (CCN/CSI including CCN2 development): EUR 4 037 000;
- Development of taxation system: EUR 4 320 000;
- Support for taxation systems: EUR 10 990 000;
- Quality control for taxation systems: EUR 3 000 000.

#### Type of contract and type of procurement

Procurement of services will be undertaken through specific contracts under existing or new framework contracts or administrative arrangement

Following new framework contract procedures for services will be launched in 2017:

- A new tender procedure is expected to be launched for "Provision of Services for Quality Assurance, Quality Control and Project Management of IT Activities managed by the Directorate-General for Taxation and Customs Union" (QA4).

The contract will be shared by Customs 2020 and Fiscalis 2020 with an estimated budget ratio of 65% Customs 2020 and 35% Fiscalis 2020.

The estimated publication date of the procurement procedure: 2nd quarter 2017.

Estimated value of the framework contract: EUR 80 000 000 with a duration of 5 years.

- A new tender procedure is expected to be launched for the "Provision of Services and Infrastructure for Platform Integration and Consolidation of the IT platforms of DG TAXUD".

The contract will be shared by Customs 2020 and Fiscalis 2020 with an estimated budget ratio of 65% Customs 2020 and 35% Fiscalis 2020.

The estimated publication date of the procurement procedure: 3rd quarter 2017.

Estimated value of the framework contract: EUR 55 000 000 with a duration of 5 years.

Indicative number of contracts envisaged: 30

Indicative timeframe for launching the procurement procedure

Q2 2017

Implementation

BY DG TAXUD

<sup>45</sup> The specific contracts are usually shared with budget line 14.0201 Customs 2020. Thereby the actual value of the specific contracts will be higher.

### 1.3.2. Procurement for Joint Actions and Common Training Activities

#### LEGAL BASIS

Article 5(2), 7 (1)(a)(vii-viii) and 7(1)(c) of Regulation (EU) No 1286/2013

**Specific objective:** To support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.

#### BUDGET LINE

14 03 01

#### Subject matter of the contracts envisaged

In 2017, the Commission intends to undertake activities through contracts following public procurement notably:

- Specification, development, maintenance, support and dissemination of common taxation training (e-learning, blended learning), online collaboration services and staff performance building services
- Studies and scientific support (e.g. typology, data collection and comparative analyses in taxation issues and communication and information support )
- Communication and Information Support, including translations

The total indicative amount of the procurement is EUR 4 542 000 <sup>46</sup> and will be divided as follows:

- Common Taxation Training: EUR 1 242 000
- Studies, scientific and communication and information support: EUR 3 300 000

#### Type of contract and type of procurement

- Procurement of services will be undertaken through specific contracts under existing or new framework contracts , administrative arrangement with JRC (Joint Research Centre) or service level agreement with Directorate General for Translations.

Indicative number of contracts envisaged: 10

Indicative timeframe for launching the procurement procedure

N/A

#### Implementation

BY DG TAXUD

<sup>46</sup> The specific contracts are usually shared with budget line 14.0201 Customs 2020. Thereby the actual value of the specific contracts will be higher.

#### **1.4. Other expenditures**

##### **1.4.1. Reimbursement of external experts participating in Joint Actions**

###### **LEGAL BASIS**

Article 5(2) and 7 (1) (a) (i)-(iv) and (vi) of Regulation (EU) No 1286/2013

**Specific objective:** To support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.

**Article 4** of Regulation (EU) No 1286/2013

External experts may be invited to contribute to selected activities organised under the Programme wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6 of the Regulation. The external experts shall be selected by the Commission together with the participating countries, on the basis of their skills, experience and knowledge relevant to the specific activities.

###### **BUDGET LINE**

14 03 01

Amount

EUR 70 000

Description and objective of the implementing measure

This measure allows to support the participation of external experts to selected activities wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6 of the Regulation.

## 2. **Fiscalis 2020 projects pursued for 2017**

### 2.1. ***Support the fight against tax fraud, tax evasion and aggressive tax planning***

In line with the EU's top political priorities<sup>47,48</sup>, EU coordinated action is essential to securing greater fairness and economic efficiency in the internal market. Tax fraud and tax evasion threaten the fairness and the economic efficiency and limit the capacity of EU countries to collect taxes and implement their economic and social policies. As the problem knows no borders, it can only be solved effectively with concerted and joint effort amongst Member States and coordinated approach in the administrative cooperation with third countries. The activities organised under this heading will support this cooperation amongst Member States to combat tax fraud and tax evasion<sup>49</sup>, by ensuring tax transparency to fight tax evasion and avoidance<sup>50</sup> and a fair and efficient corporate tax system in the EU<sup>51</sup> as well as by preventing aggressive tax planning, boosting transparency and creating a level playing field for all businesses<sup>52</sup>. Tackling fraud, helping digital economy and e-commerce<sup>53</sup> with regard to VAT also remain high priorities on the EU agenda and the projects herein within aim at addressing these issues.

#### 2.1.1. *The fight against tax fraud, tax evasion and aggressive tax planning – Value Added Tax*

The Commission published in February 2014 two reports, which listed a number of recommendations to improve the administrative cooperation and the fight against fraud. One report concerns the functioning of the administrative cooperation (the Article 59 Report<sup>54</sup>) and the other concerns the VAT collection and control procedures (the Article 12 Report)<sup>55</sup>. Together with the VAT gap study<sup>56</sup>, these reports give an overview of the problem that VAT fraud continues to represent in the EU. They also look at the way in which Member States tackle this cross-border problem with the tools offered to them through the Union legislation on administrative cooperation in the field of VAT and VAT collection and at the control procedures used in Member States. On 7 April 2016,

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<sup>47</sup> Doc. EUCO 79/14 CO EUR 4 CONCL 2, point 2

<sup>48</sup> Doc. EUCO 237/14 CO EUR 16 CONCL 6, point 3

<sup>49</sup> COM (2012) 351 final - Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries and COM (2012) 722 final - Communication from the Commission to the European Parliament and the Council - An Action Plan to strengthen the fight against tax fraud and tax evasion

<sup>50</sup> COM (2015) 136 final - Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, 18.3.2015

<sup>51</sup> COM (2015) 302 final - Communication from the Commission to the European Parliament and the Council - A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action

<sup>52</sup> COM(2016) 23 final - Communication from the Commission to the European Parliament and the Council: Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, 28.1.2016

<sup>53</sup> COM(2016) 148 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT Towards a single EU VAT area - Time to decide, 7.4.2016

<sup>54</sup> COM(2014) 71 final - Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EU) no 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax, 12.2.2014

<sup>55</sup> COM(2014) 69 final - Report from the Commission to the Council and the European Parliament - Seventh report under Article 12 of Regulation (EEC, Euratom) n° 1553/89 on VAT collection and control procedures, 12.2.2014

<sup>56</sup> [http://ec.europa.eu/taxation\\_customs/common/publications/studies/index\\_en.htm](http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm)

the Commission adopted an Action Plan on VAT – Towards a single EU VAT area. The Action Plan sets out immediate and urgent actions to tackle the VAT gap and adapt the VAT system to the digital economy and the needs of SMEs. In this framework, the Commission proposes 20 measures to tackle the VAT gap by enhancing administrative cooperation, collectively improving the performance of European tax administrations and improving voluntary compliance. The action plan also sets out actions to adapt the VAT system to the digital economy and the needs of SMEs. It provides clear orientations towards a robust single European VAT area in relation to the definitive VAT system for cross-border supplies and proposes options for a modernised policy on EU rules governing VAT rates.

Activities and expected results:

- Support the implementation, possibly also through IT developments, and increase the knowledge of tax authorities with regard to all EU acts and initiatives in the area of VAT tax transparency and fight against tax fraud, tax evasion and aggressive tax planning;
- Exchange experiences in the area and identify forms of cooperation between tax authorities inside and outside the Union;
- Identify schemes and trends of tax fraud and the appropriate solutions to tackle these challenges in VAT taxation domain, and raise the awareness on tax fraud related to the growth of sharing economy activities;
- Collect and exchange information about new business models, commercial B2C innovations and cross border e-commerce to find effective and efficient taxation methods;
- Support the development of a transaction network analysis;
- Assess the implementation and further develop the available tools, including Eurofisc and its possible extension to new working fields;

2.1.2. *The fight against tax fraud, tax evasion and aggressive tax planning – Excise duties*

Excise fraud is a growing issue costing Member States billions in un-collected taxes and, in certain cases, threatening the EU citizens' health and environment. Excise goods are particularly lucrative for organized crime groups due to potentially enormous profits that can be earned with fraud. Despite Member States having tools to monitor the movement of certain types of excise goods, excise fraud is still a major problem. The reason is that the tools can be abused and certain categories of products which could be put to excisable use are not moved under those tools. In addition, there is a different level of interest among different Member States towards excise fraud as different levels of taxation exist and, as a result, different perceptions of the problem. In addition, there are substantial differences in control practices and processes for granting authorisations among Member States. Therefore, there is room for improvement in gathering good practice and providing guidance on what is the essence of the problem and how it could be dealt with.

Activities and expected results:

- Identify schemes and trends of tax fraud and the appropriate solutions to tackle these challenges in excise domain;
- Raise awareness of excise fraud related issues by providing educational materials to Member States;
- Undertake study on the possible extension of data collection on excise traders and on movements, particularly looking at the experiences of Eurofisc in the field of VAT, and CIS/FIDE, Surveillance 2 and CRMS IT systems in field of customs controls, with a view to providing Member States with the means to identify potential fraud.

### 2.1.3. *The fight against tax fraud, tax evasion and aggressive tax planning – Direct taxes and other taxes*

In the Commission's Communication on tax transparency to fight tax evasion and avoidance<sup>57</sup>, 6 measures have been identified, i.e.: establishing strict transparency for tax rulings; streamlining legislation on the automatic exchange of information; assessing potential further transparency initiatives; reviewing the Code of Conduct on Business Taxation; working towards better quantification of the tax gap and promoting greater tax transparency internationally. This Communication was followed by a detailed Action Plan on corporate taxation which identifies 5 key areas where EU action would be the most effective way to address corporate tax challenges and to target particular types of abuse: the Common Consolidated Corporate Tax Base (CCCTB), ensuring fair taxation where profits are generated, additional measures for a better tax environment for business, further progress on tax transparency and EU tools for coordination. Furthermore, the Commission adopted a chapeau communication<sup>58</sup> to launch an anti-tax avoidance package for fairer, simpler and more effective corporate taxation. The overall package aims at preventing aggressive tax planning, boost tax transparency and create a level playing field for all businesses in order to ensure that companies pay tax in the country where profits are generated. The key features of the package include legally-binding measures to block the most common methods used by companies to avoid paying tax; a recommendation to Member States on how to prevent tax treaty abuse; a proposal for Member States to share tax-related information on multinationals operating in the EU; actions to promote tax good governance internationally and a new EU process for listing third countries that refuse to play fair.

Finally, the global economic interdependence and the interaction of national tax rules can lead to double taxation or double non-taxation of most multi-national enterprises. In the area of transfer pricing, multi-national enterprises and tax administrations are confronted with practical problems in pricing cross-border transactions between associated enterprises for tax purposes. There is also empirical evidence of profit shifting to low tax jurisdictions through manipulation of the transfer pricing system. Therefore, programme initiatives are required to help identify solutions for cross-border tax problems such as double taxation.

#### Activities and expected results:

- Support the implementation, possibly also through IT developments, and increase the knowledge of tax authorities with regard to all EU acts and initiatives in the area of direct taxes and other taxes transparency and fight against tax fraud, tax evasion and aggressive tax planning;
- Exchange experiences in the area and identify forms of cooperation between tax authorities inside and outside the Union;

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<sup>57</sup> COM (2015) 136 final - Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, 18.3.2015

<sup>58</sup> COM(2016) 23 final - Communication from the Commission to the European Parliament and the Council: Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, 28.1.2016

- Provide training and exchange best practices on selected anti-tax avoidance measures (for example on General Anti-avoidance rule – GAAR and Controlled Foreign Company – CFC) and on preventing tax treaty abuse (use of automatic refund and attestation mechanisms);
- Identify schemes and trends of tax fraud and the appropriate solutions to tackle these challenges in direct taxes and other taxes domains, and raise the awareness on tax fraud related to the growth of sharing economy activities;
- Enhance tax administration capacity to better identify the beneficial owners of entities, also by maximising synergies and exchanging experiences with Anti-Money Laundering (AML) domain, depending on the progress reached in other fora, including the adoption of amendments proposed by the Commission on administrative cooperation directives and anti money laundering directive and discussions in OECD and Global Forum groups;
- Support the implementation of an improved transfer pricing framework in the EU in particular by sharing of knowledge, improving procedures, identifying best practices and carrying out studies, on topics such as application of value chain approach and absence of comparables;
- Develop appropriate tools and materials (manuals, specifications, recommendations, etc.), ensure exchange of best practices and training to disseminate and facilitate an effective implementation of the EU Joint Transfer Pricing Forum work.

#### 2.1.4. *Risk management*

Improving risk management is an important element of an effective strategy to fight against tax fraud and tax evasion. Tax administrations have to deal with a wide scope and a high number of risks. This may concern *inter alia* risk of non-compliance including risk of tax fraud and risk of insolvency by the taxpayer. In order to achieve a higher level of risk management in all Member States and to assist Member States to reduce the tax gap, the Commission will further support the risk management area by sharing good administrative practices. Special focus should be put on risk management in relation to the automatic exchange of information further to the first exchanges under the EU legislation on administrative cooperation.

##### Activities and expected results:

- Provide guidance and support in the design and implementation of a Compliance Risk Management strategy;
- Foster communication and information exchange among risk management experts from all participating countries;
- Identify good practices among Member States in the area of risk analysis to better target and fight against tax fraud and tax evasion and facilitate a quick response among the Member States;
- Develop special tools for risk assessment by exchange of practical experience and best practices in the areas of transfer pricing and aggressive tax planning and sharing economies schemes;

- Raise the awareness on risk management;
- Examine the collection and analysis tools to be used for risk analysis for excise movements;
- Work out tailor-made solutions for individual Member States to address some newly emerging challenges.

#### 2.1.5. *Cooperation between tax administrations and other administrations and authorities, including customs*

The primary goal of the tax authorities is to collect the taxes in accordance with the law. However, often, the proceeds of tax fraud are reinvested in other criminal activities. This requires, when collecting taxes and fighting fraud in a global economic environment, on the one hand, tax administrations cooperate and assist each other and on the other hand strong cooperation with other administrations and authorities. Therefore, tax administrations should make use of strategies and structures to cooperate with other national administrations and authorities and EU services such as to ensure that non-compliance with tax law or tax fraud is kept to the minimum possible. The VAT action plan - Towards a single EU VAT area - Time to decide proposes actions to support a deeper cooperation between different authorities.

In particular, the cooperation between tax and customs authorities in specific areas of mutual concern should be enhanced in order to fight against tax fraud, tax evasion and aggressive tax planning and to facilitate legitimate trade. The European Court of Auditors also issued observations and recommendations on the necessity to address the lack of cooperation and overlapping competences of administrative, judicial and law enforcement authorities to fight against VAT fraud<sup>59</sup> and the misuse of the customs 4200 procedure<sup>60</sup>.

#### Activities and expected results:

- Exchange experiences in the area and identify forms of cooperation with law enforcement bodies;
- Improve and share administrative procedures for cooperation between customs and tax administrations and increase knowledge in this area taking into account the impact and implementation of the Union Custom Code (UCC) and its delegated and implementing acts;
- Identify good practices related to methods and tools used by Member States to analyse risks and new trends of fraud in the field of VAT and other tax domains and Customs;
- Develop a series of recommendations to be approved by the Indirect Tax Expert Group (ITEG) and the Customs Code Committee concerning the application of Union law to excise goods in both areas;

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<sup>59</sup> 2015 Special Report Tackling intra-Community VAT fraud: More action needed

<sup>60</sup> Customs procedure 4200 (warehousing) is referring to customs control for excisable goods. It covers the importation of goods followed by the intra-community transactions.

- Develop proposals for efficient methods to enhance the cooperation between customs and tax administration including information exchange, in areas such as cash controls and customs procedure 4200;
- Provide business process models to describe and explain the customs and excise procedures and the processes contained in legislation;
- Upgrade the European Information Systems responsible for the movements of excise goods to coincide with the UCC import specification and the Automatic Export System (AES);

## **2.2. *Support the implementation of Union law in the field of taxation by securing exchange of information via the European Information Systems building***

This heading includes projects that aim to support the development, maintenance and operation of European Information Systems (EIS). The EIS play a vital role in interconnecting tax authorities and thus facilitating the coexistence of 28 taxation systems in the Union. They allow information to be exchanged rapidly and in a common format that can be recognised by all Member States. A closed and secure Common Communication Network/Common Systems Interface (CCN/CSI) enables this information exchange. This heading also addresses the issue that tax EIS or national IT systems are often developed in isolation both from a geographical and reusability perspective.

### **2.2.1. *Development, operation and maintenance of and horizontal support to European Information Systems (EIS)***

To implement the EU tax policy, the development, operation and maintenance of and horizontal support to existing or new European Information Systems (EIS) should be carried out. The continuity, integrity and availability of the existing IT systems and their corrective maintenance and evolution should be ensured. An operational environment needs to be available which meets the EIS requirements.

Moreover, it is necessary to ensure that an overall quality of the EIS is achieved through maturity improvement. Efficient management of projects, timely deliverables and respect of the budget are to be achieved. The services should be delivered according to expectations within the framework of the TEMPO methodology. Security requirements should be fulfilled. The taxation EIS security policy should respect the taxation legal instruments. The use of standards and best practices, including for the security aspects of the development, deployment and operations of the EIS for taxation, needs to be further supported and enhanced.

Finally, a central application for e-forms will replace the current e-forms applications for which the development, operation and maintenance nationally imply heavy national costs and are time consuming. In addition, such IT platform could be used for other purposes such as the quick update of the information in country profiles or as a management and statistical tool.

Activities and expected results:

- Support the continuity, availability and integrity of the EIS systems listed in the Fiscalis 2020 Regulation (refer to annex);
- Develop and operate new EIS according to business requirements, based on appropriate decisions to be made on their implementation;
- Carry out the evolution of the infrastructure supporting the EIS, including an operational environment with active back-up facilities and a set of automated workflows; complete a benchmarking report; re-engineer the management of data in the EIS;
- Implement and develop CCN2;
- Maintain SPEED2 and adapt it to future needs;
- Deliver and operate IT systems on time and according to agreed level of service;
- Support the implementation by Member States of the security policy;
- Develop and implement a central application (or IT platform) for e-forms to be available for all domains.

2.2.2. *IT collaboration*

Currently, the tax EIS are too often developed in isolation both from a geographical and reusability perspective. This risk impairs the capacity of IT to deliver in years to come. Closer collaboration across taxation domains and across Member States is expected to merge requirements and expertise and thereby significantly increase cost-effectiveness of tax EIS. A managed IT collaboration will allow increasing the number of IT activities shared between the Member States as well as increasing the number of reusable components across the taxation areas. This will reduce the costs for IT implementation, deployment and operation in the Member States while offering increased agility in responding to the EU policy expectation.

The Commission will initiate and trigger IT collaboration initiatives in a managed way, and act as a catalyst to make IT collaboration effective and efficient.

Activities and expected results:

- Support efficient and effective IT collaboration initiatives coming from the Member States in the context of the EU tax policy needs and in line with principles of effectiveness and efficiency;
- Further develop the IT collaboration strategy, the lifecycle of the IT collaborative domain, the master plan, the IT valuation methodology for IT collaboration activities, the IT collaboration communication plan and complete the IT architecture;
- Deliver and coordinate main IT collaboration activities possibly via an expert team;
- Assess the extension of IT collaboration to the operational aspects;
- Enhance the use of the IT collaboration platform.

### 2.3. *Support the implementation of Union law in the field of taxation by supporting administrative cooperation*

In a global environment, tax fraud and tax evasion appear not only within a country but also across countries and beyond EU. Uncoordinated, single national actions to fight against tax fraud and evasion and recover the tax due would not be effective. It is important that countries coordinate and exchange information with each other. This heading contains therefore projects that support the administrative cooperation amongst Member States and with third countries as provided for by the EU law.

#### 2.3.1. *Administrative cooperation between Member States and with third countries – horizontal actions*

The Union legislation on administrative cooperation and fight against fraud in the field of indirect taxes, excise and direct taxes provides the Member States with the legal and practical instruments and tools to engage in effective administrative cooperation (Council Regulation (EU) 904/2010<sup>61</sup>, Council Regulation (EU) 389/2012<sup>62</sup> and Council Directive 2011/16/EU<sup>63</sup> (DAC1) and its amendments). In particular, in the area of direct taxation, the internal market requirements and the increased globalisation brought developments in the legal provisions governing the area. Firstly, Council Directive 2011/16/EU (DAC1) introduced the automatic exchange of information with regard to categories of income and capital. Secondly, as part of the intensified fight against tax evasion, Directive 2014/107/EU<sup>64</sup> (DAC2) extended the automatic exchange of information on financial items between EU tax administrations. Thirdly, it appeared necessary within the EU to ensure a more systematic and binding approach to information exchange on advance cross-border rulings and advance pricing arrangements. Directive 2015/2376/EU<sup>65</sup> (DAC3) introduced the automatic exchange of information in this area. Finally, the proposal COM(2016) 25 final (DAC4) introduces the country-by-country reporting on certain financial information, in line with the international developments in OECD, i.e. Action 13 of the OECD's Action Plan on Base Erosion Profit Shifting (BEPS).

At international level and given its long-standing experience in administrative cooperation, the EU tackles tax fraud and tax evasion by bringing its expertise and by taking an active part in the work carried out by the OECD Working Party 10 and the Global Forum on Transparency and Exchange of Information for Tax Purposes ("the Global Forum"). Those fora are in charge of the implementation among their members of the international standards on transparency and exchange of information. Furthermore, as Member States work to coordinate their corporate tax policies within

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<sup>61</sup> Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast) (OJ L 268/1, 12.10.2010)

<sup>62</sup> Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121/1, 8.5.2012)

<sup>63</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64/1, 11.3.2011)

<sup>64</sup> Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359/1, 16.12.2014)

<sup>65</sup> Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, 18.12.2015, OJ L 332/1

the Single Market, in order to counter-act abusive tax practices and ensure effective taxation, they also need to address their divergent approaches to tackling external base erosion threats. A Commission Communication<sup>66</sup> proposed in 2016 a framework for a new EU external strategy for effective taxation. In the Communication, key measures are identified that can help EU to promote tax good governance globally, tackle external base erosion threats and ensure a level playing field for all businesses.

Activities and expected results:

- Enhance the knowledge and understanding of Union legislation in this field and develop specific training activities, such as on practical issues in tax administrations and addressing inappropriate use of benefits arising from the EU direct tax directives;
- Carry out and support evaluations activities and studies as well as assess and support the implementation of EU legislation in this field;
- Carry out analytical and preparatory work for possible recommendations to update legislation and its implementation;
- Support to the functioning of the liaison officers networks in charge of administrative cooperation;
- Undertake preparatory work in view of concluding Union agreements with third countries, if the Council has authorised the Commission to open negotiations and further support the practical implementation of these agreements;
- Develop toolkits for effective Tax Administration to address special issues arising in relation to third countries – including exchange of practical experience and sharing best practices;
- Develop common approach in the areas of administrative assistance, capacity building and sharing best practices with third countries;
- Support exchanges at strategic level between tax administrations on issues of common interest;
- Support participating countries with their common activities and commitments at the OECD and in the Global Forum;
- Build synergies with international organisations (such as IOTA, IMF, OECD, Global Forum, CIAT and CEF) in the area of tax compliance and contribute to establish an international system of administrative cooperation.

*2.3.2. Administrative cooperation between Member States and with third countries – exchange of information*

Under the Union legislation on administrative cooperation, the Commission is assisting Member States in their efforts to engage in effective administrative cooperation by providing them with the practical tools and instruments they need, such as electronic formats for exchange of information and secure channels of communication. It is necessary to improve the existing instruments for exchange of information and develop

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<sup>66</sup> COM(2016) 24 final, Communication from the Commission to the European Parliament and the Council on an External Strategy for Effective Taxation, 28.1.2016

new ones according to the evolution of the legislation, and promote the most effective use of practical IT tools.

In the field of direct taxation, administrative cooperation with third countries is also important, as there is a tremendous development of the mobility of taxpayers, of the number of cross-border transactions and of the internationalisation of financial instruments beyond the EU borders. Therefore, many initiatives are taken on the international scene, e.g. the Standard on the Automatic Exchange of Financial Account Information or BEPS. The Commission will assist the Member States in the proper and timely implementation of these actions in the EU.

In the field of indirect taxation, the report from the Commission concerning administrative cooperation and combating fraud in the field of VAT (COM (2014) 71)<sup>67</sup> highlighted that an approach coordinated at EU level to establish administrative cooperation with third countries in the area of VAT would be a response to the diverging manner in which the Member States arrange their contacts with third countries at present.

Activities and expected results:

- Enhance the exchange of information:
  - o review existing and, if need be, develop new electronic sub-forms for exchange of information on request, spontaneous exchange of information and feed-back between Member States, in particular in the context of the development of the electronic e-Forms central application; provide supporting and training activities for their use;
  - o develop and support computerised forms and formats for automatic exchange of information and a central directory, as provided for in Council Directive 2011/16/EU (DAC1) and its amendments: DAC 2, DAC 3 and DAC 4;
  - o promote initiatives and sharing of best practices as regards the use of advance analytics in relation to data collected through automatic exchange of information (AEOI);
  - o support the improvement of the quality of the exchanged data for example by further investigating ways of improving the identification of taxpayers: the possibility to create an EU Tax Identification Number (TIN) as well as the analysis of any alternative solution such as updating the information on the Europa website concerning the national TIN and/or informing various target audiences about the TIN and providing new information;
  - o support new initiatives and sharing of best practices as regards compliance activities launched by Member States, in particular in the context of automatic exchange of information which is opening new possibilities of actions beyond the mere exchanges themselves;

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<sup>67</sup> Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax

- consider necessary modifications to allow batch requests between Member States and from business to check VAT numbers.
- Develop an automatic exchange of information (AEOI) Statistics and Validation module;
- Ensure IT developments and functioning for online transmission of statistical data: online collection and design of a web application to collect and publish the statistics related to Directive 2011/16/EU and its amendments;
- Consider enhancements to trader access to excise authorisation data to allow controlled access to more data;
- Revise the EMCS administrative cooperation functionality and enhance EMCS Statistics: update the CS/MISE statistics and reporting system;
- Identify and implement solutions for supporting the Member States in their international exchanges of information and, if possible and need be, develop the channels of communication and security aspects in relation to exchanges under the global standard and FATCA.

### 2.3.3. *Means of administrative cooperation other than exchange of information*

Besides the exchange of information, the Union legislation on administrative cooperation provides to Member States also other means of administrative cooperation, i.e. multilateral controls (MLC) and presences in administrative offices and participation in administrative enquiries (PAOE). The use of these means of administrative cooperation and their operation has to be enhanced by identifying and disseminating good practice as regards their organisation for all tax related areas, through better project management techniques, improved communication and enhanced use of risk criteria and success indicators.

#### Activities and expected results:

- Support and enhance the use and functioning of the tools for administrative cooperation with the view of strengthening administrative cooperation in cross-border control activities;
- Support the follow-up of the recommendations raised in the final reports of the MLCs and possibly all other means of administrative cooperation;
- Assess the implementation of existing tools on administrative cooperation in the field of excise and make steps towards modifying those or providing new ones should it be deemed necessary;
- Support the implementation of multilateral cooperation and of the tools for administrative cooperation that are available within the Union in relation with third countries, especially the exchange of information in the field of electronic services;
- Support the follow-up of the recommendations raised in the final reports of the MLCs and possibly all other means of administrative cooperation.

#### 2.3.4. *Mutual recovery assistance and national tax collection and recovery*

Since 1 January 2012, Member States apply Council Directive 2010/24/EU for mutual recovery assistance<sup>68</sup>. As recovery of taxes is a corner stone of the fight against fraud, the use of this legal instrument should be evaluated and enhanced. It is necessary to check whether the legislation meets the needs of tax authorities to request/provide efficient and effective recovery assistance and whether legislative amendments or new legislative initiatives are needed to improve this assistance. In addition, it is necessary to enhance the exchange of information for recovery purposes for example by improving the use of existing instruments for exchange of information and develop new ones according to the legislation or promoting the most effective use of practical IT tools.

Best practices should also be shared for facilitating the dissemination of practice-proven national and international methods applied and to identify national tax collection methods.

##### Activities and expected results:

- Improve the understanding and implementation and raise awareness of Union law in this area;
- Strengthen mutual assistance for the recovery of tax debts in particular by improving and extending the exchange of information that is relevant for tax collection and recovery purposes;
- Follow-up of the evaluation of the use of the Directive 2010/24 EU;
- Promote the use of the EU legislation on mutual assistance for precautionary measures and for the enforcement of tax claims;
- Identify solutions in the Member States to efficiently and effectively collect the taxes due, in direct taxes and other taxes domains;
- Exchange experiences of cooperation between other tax areas (tax control, tax management) and tax collection;
- Identify good practices, IT tools and effective national legislation in the collection field;
- Exchange experiences regarding fraud in the collection area at a national level;
- Analyse possibilities to improve the coordination between the collection of evidence of excise irregularities and the provision of evidence for recovery claims of excise duty; examine the development of the available IT tools for this purpose;
- Foster communication amongst the experts in the area of mutual recovery assistance and national tax collection and recovery;
- Identify good practices and effective national legislation related to payments of tax arrears in instalments, in deferral and remission of tax debts, in compensation and methods of tax debts payments used by debtors in participating countries;
- Identify and develop ways of effective prevention of tax arrears in participating countries;

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<sup>68</sup> Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84/1, 31.3.2010)

- Support the reinforcement of skills and competences of tax officials.

**2.4. *Support the implementation of Union law by enhancing administrative capacity of participating countries with a view to assisting in reducing administrative burden of tax authorities and compliance costs for taxpayers***

Tax administrations and tax systems of participating countries should be supported and improved on the one hand, to deliver the best results for the tax administrations and the tax payers, and on the other hand, to enhance the relationship between the tax authorities and the tax payers. This heading contains projects aiming at these purposes.

**2.4.1. *Well-functioning tax systems in programme participating countries***

Tax systems should be made more growth-friendly to promote job creation and investment and to facilitate the tax collection. It is important to reduce costs and complexity of tax systems, while making them more efficient. The Commission will encourage and support best practices exchange amongst the countries in need of reinforcing their tax systems to boost growth friendly fiscal consolidation while increasing compliance and reducing costs for taxpayers and tax administrations.

**Activities and expected results:**

- Exchange views, knowledge and experiences between participating countries on key tax policy issues, mainly on the basis of findings and recommendations of economic studies made for the Commission;
- Identify and map methodologies to assess the tax gap;
- Analyse and exchange good administrative practices to develop simpler tax forms and declarations, including forms and systems for claiming relief from double taxation (see the Commission's Recommendation of 2009 – the FISCO recommendation<sup>69</sup> and the OECD TRACE implementation package<sup>70</sup>);
- Exchange good practices on how to measure the outcome of tax compliance measures;
- Exchange experiences and best practices on cooperative compliance programmes, to improve and enhance the relationship between tax administrations and businesses, increasing transparency and legal certainty;
- Support the implementation of compliance policies derived from the insights of behavioural economics;
- Participation in the development of the knowledge sharing platform that will enable broader and more timely sharing of knowledge and expertise amongst tax administrations;
- Improve the functioning of excise movement monitoring systems for excise goods that have been released for consumption, which are of particular interest to SMEs by improving the existing paper based systems and subsequently investigating the automation of the monitoring of business-to-business movement.

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<sup>69</sup> Commission Recommendation on withholding tax relief procedures, C(2009)7924 final, 19.10.2009

<sup>70</sup> <http://www.oecd.org/ctp/exchange-of-tax-information/treatyreliefandcomplianceenhancementtrace.htm>

#### 2.4.2. *Well-functioning tax administrations in programme participating countries*

Effective and efficient tax administrations are key in collecting the taxes due. Tax administrations should be solid in terms of structural mechanisms and all should be brought on the same level playing field to ensure a smooth cooperation and the co-existence of diverse tax systems in the internal market. Furthermore, building trusted tax administrations and related systems is critical to ensure a good relationship with the taxpayers. It is important to remove tax disincentives to the exercise by EU citizens of their right to free movement within the internal market such as the absence of information that Union citizens often face when active across borders within the Union.

In the context of the reviews of the Economic Adjustment Programmes, the enlargement process and on request of a Member State, the Commission is providing technical assistance (TA) on tax administration. TA on tax administration focusses on the internal organisation of the revenue administration, the implementation of tax legislation and procedural aspects of collecting taxes. It aims to assist countries in improving the effectiveness of their tax administration and to increase tax compliance. In the last years, the programme is being used for several TA missions to participating countries. Specific support can also be provided to pool good practices to deal with the recommendations on revenue administration addressed to one or several Member States.

##### Activities and expected results:

- Exchange good practices between participating countries to improve the administrative capacity of their tax administrations;
- Update tax information on the Europa website for the assistance of EU citizens who are active across borders;
- Support the publication of the “Taxation Trends in EU” report;
- Undertake a study on the provision of effective tax rates and access to a database for this purpose;
- Ensure a reinforced dialogue between heads of tax administrations and heads of administrations in charge of a specific fiscal function;
- Improve the understanding of tax procedures in the core functions of a tax administration and exchange good practices in this area;
- Exchange good practices between participating countries on assessment of their tax administration’s performance and how to develop a set of strategic outcome metrics;
- Exchange of experience and good practices in the implementation and application of standards for quality of business processes;
- Promote Member States assessment of the performance of their tax administrations (TADAT) and provide to them training and support;
- Update of the Fiscal Blueprints;
- Support follow-up activities related to the European Tax payers' code;
- Exchange good practices regarding the use of social media in tax administrations;
- Provide targeted technical assistance in the field of tax administration, fight against fraud and tax policy;
- Raise the awareness of the target audiences on the availability of the information.

#### 2.4.3. *Training and competency building*

Seen from a European viewpoint, training and development for professionals in taxation is highly fragmented across the European Union and could profit from the availability of more common training programmes to align levels of knowledge of tax officials in the EU.

This project aims to support the participating countries in their efforts to strengthen professional skills and knowledge relating to taxation through the development of a multi-faceted, commonly agreed training support programme for the Union.

In this sense, the activities under the Fiscalis 2020 programme which provide training support target the ‘people dimension’ in the wider context of public tax administrations performance development.

In practise, the common tax training programme works along 3 main activity strands: eLearning course development and maintenance; eLearning course localisation (creation of national eLearning course versions for national use) and specific EU Taxation Performance development initiatives, such as the Common Learning Events Programme (CLEP).

The effective realisation of the project is ensured through coordinated annual planning, progress monitoring and follow-up of common training activities with the support of a joint group of tax and customs training representatives (Training Support Group - TSG).

#### Activities and expected results:

- For excise purposes, update 2 EU EMCS eLearning modules and to this purpose, maintain, update and further evolve the Union's Customs eLearning portfolio, with particular emphasis of ensuring widest possible EU language coverage;
- Agree and implement a meaningful and value-adding Common Learning Events Programme (CLEP) 2017, with a strong focus on establishing staff competencies to better fight tax fraud and tax avoidance;
- Prepare a strategic human competency building initiative for EU tax professionals including the development of an EU Competency Framework for taxation (EU CFW-Tax).

#### 2.4.4. *Operational procedures and working methods*

Common understanding and coordinated and improved application of working methods in operational procedures require intensive and systematic cooperation, exchange of information and sharing of good practices among the tax officials who carry out operational tasks.

Modern technologies, concepts and approaches can facilitate tax administrations in performing everyday tasks to effectively meet their strategic challenges with available resources.

The administrative capacity of the Member States should be reinforced by encouraging the use of electronic audit techniques in the participating countries and identifying

related good practices. It is intended to maintain and improve a permanent communication and exchange platform for the development of common approaches towards e-auditing.

Activities and expected results:

- Improve the understanding of tax working methods in the operational functions of a tax authority and exchange good practices in this area;
- Exchange of experiences in the use of advanced analytics and big data for fraud detection;
- Provide guidance and support in the design and implementation of an E-audit strategy;
- Facilitate a quick response and sharing of good practices among Member States to address the newly emerging challenges in the field of e-audit;
- Foster communication and information exchange among e-audit experts from all participating countries;
- Support cooperation between Member States to identify good practice in the area of e-audit to better target and fight tax fraud and provide training in the application of (new) e-audit tools;
- Raise awareness on e-audit.

## 2.5. *Support the implementation of Union law and legislation*

This heading of the Annual Work Programme contains projects that are aimed to enhance the understanding of EU tax law, in all taxation domains with a view to support its implementation and reform. Programme activities are organised in particular to address the constant developments in the area of tax legislation and evolution of the application of EU law by the courts of Member States and the Court of Justice of the European Union. Activities will also be organised under this heading to increase the understanding of tax officials and judiciaries of the interpretation of EU law by the Court of Justice of the European Union.

### 2.5.1. *Consistent implementation of Union law in the field of VAT*

The Commission supports a consistent understanding and implementation of the EU VAT legislation (i.e. Council Directive 2006/112/EC on the common system of value added tax<sup>71</sup>, and its implementing provisions) and case law of the Court of Justice of the European Union.

There is a genuine need to address in a systematic way all conflicts of law due to national divergences, in particular in the interpretation of the place of supply rules, and to provide for a dialogue between Member States and stakeholders on Union law in the field of VAT implementation and evolution.

Furthermore, the Commission has adopted, on 7 April 2016<sup>72</sup>, an action plan on VAT presenting measures to modernise VAT in the EU. It is the first step towards a single EU VAT area that is equipped to tackle fraud, to support business and help the digital economy and e-commerce. It is therefore important to achieve the objective of improving the Union VAT system by implementing the actions envisaged under the VAT action plan. It is also needed to provide for a dialogue between Member States and stakeholders on each of the actions pursued with a view to implement the VAT action plan which includes the following key elements:

- A future definitive EU VAT system for cross-border trade to reduce opportunities for fraud
- Immediate measures to tackle VAT fraud under the current rules
- More autonomy for Member States to choose their own rates policy
- Support for e-commerce and SMEs

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<sup>71</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

<sup>72</sup> COM (2016) 148 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide. 7.4.2016.

Activities and expected results:

- Enhance the understanding and implementation of Union law;
- Address conflicts of law caused by differences between Member States in the assessment of facts;
- Support the convergence between Member States in their understanding of the place of supply rules and other VAT rules;
- Support the actions under the Commission VAT action plan;
- Undertake studies in the area of VAT necessary for the implementation of the VAT action plan;
- Support the smooth functioning of the Mini One-Stop-Shop (MOSS) in all Member States, including by carrying out a study on the MOSS web-portal;
- Evaluate the functioning of the MOSS, collect relevant statistics, and assess the needs for improvement and possible extension – in line with the Expert Group recommendations on the digital economy and the DSM Strategy;
- Define methods to establish contacts with taxable persons and deliver the information to Member States;
- Undertake study and start development of the EU VAT web portal; analyse a possible extension of the EU VAT web portal to other domains;
- Undertake study on the evaluation of VAT invoicing rules, including electronic invoicing;
- Inform various target audiences.

2.5.2. *Consistent implementation of Union law in the field of excise duties*

Excise goods that are moved from one Member State to other Member States are subject to different national procedures and differing interpretations of Union law. A consistent implementation of Union law (including of Council Directive 2008/118/EC<sup>73</sup> – General arrangements for excise duties) in this area is needed, both in the interests of trade facilitation and to assist Member States to ensure the compliance of traders with the law.

In the area of energy, in order to follow up on the correct implementation of the Council Directive 2003/96/EC – Energy Taxation Directive<sup>74</sup> (ETD) and increase its understanding in the Member States, it is necessary to ensure effective exchange of experience and know how in the area, especially tax exemptions/tax reductions and proper classification for certain energy products. This also includes the identification of the existing non-harmonised indirect taxes applied by Member States that causes disruptions to the functioning of the internal market. A number of practical issues might require further clarification via recommendations, or through discussions on technical level and possibly legislative proposals, taking stock as well of the findings of the ongoing evaluation that will be finalised by the end of 2016.

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<sup>73</sup> Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9/12, 14.1.2009)

<sup>74</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L283/51, 31.10.2003).

In the area of alcohol excise (regulated under Council Directive 92/83/EEC<sup>75</sup> - Structures of excise duties on alcohol and alcoholic beverages; Council Directive 92/84/EEC – Rates of excise duties on alcohol and alcoholic beverages), denatured alcohol is exempt from excise duty when it is denatured in accordance with the Article 27 (1) (a) and (b) of Council Directive 92/83/EEC. There are still too many national completely denatured alcohol (CDA) formulations in existence with easy to remove components. For the partially denatured alcohol (PDA), the industry is very diverse with multi-sectors with differing needs and concerns to be addressed. Harmonization and clarification is needed in this area to both reduce the opportunities for fraud, and lessen the administrative burden for both Member States and the legitimate economic operators. It is therefore important to scope, identify and analyse the existing denaturing formulations with the objective of removing as many of the weaker formulations as possible and developing harmonized denaturing formulations for alcohol used in the various manufacturing sectors across the EU. Moreover, an ongoing evaluation study has identified significant structural weaknesses in the definitions of excisable alcohol products and in the conditions for granting excise duty exemptions and reduced rates.

In the area of excisable tobacco products, in December 2015, the Commission finalized the evaluation of Council Directive 2011/64/EU<sup>76</sup>. Following the request of the Council, the Commission prepares an impact assessment on the possible revision of Council Directive 2011/64/EU. Weaknesses have been identified in the definition of excisable tobacco products and in the conditions under which certain new products are not considered taxable tobacco products.

For both, alcohol and tobacco taxation, the aim is to reduce administrative cost while obtaining a higher degree of compliance and security in imposing excise duties on alcohol and tobacco products.

Activities and expected results:

- Develop recommendations to be approved by the Indirect Tax Expert Group (ITEG) in the area of holding and movement provisions, specifically coordination with customs procedures, the operation of the arrangements for the movement of goods that have been released for consumption under Chapter V of Directive 2008/118/EC and the processing of irregularities.;
- Enhance understanding and support the implementation of Council Directive 92/83/EEC and Council Directive 2011/64/EU;
- Exchange experiences and identify policy options for weaknesses in the area of reduced rates of alcoholic beverages for small producers, own consumption, private production, exemptions for fruit growers;
- Exchange experiences and identify policy options for weaknesses in the area of excisable tobacco products and treatment of new (tobacco) products and raw tobacco;

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<sup>75</sup> Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992).

<sup>76</sup> Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification) (OJ L 176/24, 5.7.2011)

- Provide analysis and collection of information concerning the implementation of Directive 2003/96/EC;
- Organise technical discussions between the Member States on questions raised concerning further harmonisation of energy taxation.

### 2.5.3. *Consistent implementation of Union law in the field of direct taxes*

Currently, most of the direct tax case law of the Court of Justice of the European Union, which creates a binding framework for policymaking, is driven and developed by means of references for preliminary ruling. It is therefore very important that national administrative (tax) law judges, who can make such references, have a thorough knowledge of the Court of Justice of the European Union direct tax case law in its broader policy context.

Furthermore, proper implementation of the EU direct tax case law by national administrative courts and tax administrations should reduce the number of complaints addressed to the Commission in the field of direct taxation.

#### Activities and expected results:

- Enhance the knowledge and understanding of the national administrative (tax) law judges and/or the national tax administrations of the ECJ direct tax case law, including the case law relevant to the ongoing compliance initiatives, such as the one in the area of Taxation of Mobile Persons and/or the Taxation of cross-border investment by pension funds and life insurance companies;
- Improve the awareness of the national administrative (tax) law judges and/or the tax administrations of the Member States regarding the policy context of the ECJ direct tax case law: the most important policy objectives of the European Commission in the field of EU direct tax law.

### 2.5.4. *Implementation or adaptation of national taxes subject to present or potential Union legal initiatives*

In order to support the on-going work on the financial transaction tax (and in case of adoption of a Council Directive implementing the enhanced cooperation in this area to facilitate its implementation) the Commission will support discussions with administrations and markets representatives to look into the practical FTT implementation, among others collection of FTT. For the system to operate properly, Member States will be required to coordinate the functioning of the common FTT both inside the enhanced cooperation area and outside.

In the area of vehicle taxation (registration and circulation taxes), there is only very little harmonisation at the EU level. This may lead to double taxation and high administrative burden in case of cross-border transfers. National registration and circulation taxes do not always take into account the technological changes and environmental performance of the car (CO<sub>2</sub> or other emissions). Therefore, it would be useful to evaluate the current situation on vehicle taxes with the view of assessing

possible problems in case of cross-border transfers of vehicles. The importance and the added value of an environmental element in vehicle taxes shall also be assessed, in particular in the broader context of climate change and energy efficiency policy goals.

Regarding the European agenda for the collaborative economy “peer-to-peer” or “sharing economy” is a fast growing business trend and a new business model which needs better understanding and more flexible taxation regime. To create a common taxation approach identification of new business models and sharing related information and practices supports the better understanding of these market trends.

Activities and expected results:

- Support the implementation of a common FTT by sharing administrative practices (at the level of all MS) on difficulties that (may) arise from the application of the common FTT and of national taxes on FTT, among others in respect of FTT collection;
- Exchange experiences and identify policy options for weaknesses in the area of vehicle taxation;
- Discussions for a possible future initiative on car taxation;
- Support cooperation between Member States to identify new peer-to-peer market models and to share good practice in the area of taxation of these business activities.