

5th meeting of the Republic of Moldova-EU Customs Sub-Committee

Chisinau 21 November 2019

Joint Report and Conclusions

Opening and welcome remarks

Both sides welcome the close cooperation on customs affairs between the Republic of Moldova and the EU. The Customs Service of the Republic of Moldova (MDCS) recalled the ambitions set out in the Association Agreement and underlined its dedication to achieve harmonisation in the area of customs legislation. They stressed the importance of continuous modernisation of the MDCS in order to achieve trade and security objectives.

Policy and organisational developments in the Moldovan Customs & Integrity

MD reported on the positive impact of its reform that focussed on streamlining, financial resources and professionalization of human resources became visible in 2019 with a demonstrated increase in efficiency of the customs service. A new law on the activity of customs officers from June 2018 ensures that recruitment and promotions are exclusively based on meritocracy and on individual objectives. A code on ethics and conduct aims to ensure the delivery of quality service and inform the public about the rules to ensure compliance. Training events on anti-corruption and professional development are provided regularly.

COM welcomed the amendments made on 15 August 2019 on Law 180, regarding audit's prohibition for periods before 1 January 2018, which were cancelled by Parliament. COM enquired about the five-fold lowering of the criminal thresholds for smuggling as set in 2018 in the Law #179 "on improving investment climate" and asked if there is an intention of an amendment in order to strengthen and restore the power of the Customs Service. COM indicated that it would appreciate any information on the likely evolution of this legislation. MDCS reminded that they were not involved in the drafting nor the implementation of the law, which is conducted by the criminal persecution bodies.

As regards the thresholds on smuggling and import tax evasion, the MDCS said they were not the initiator and that so far there were no changes on that issue. MDCS is however performing an analysis on the impact of the legislation on duties, and will present an assessment based on the definition of smuggling. It however reminded that changes will have to be introduced together with the Ministry of Justice and the General Prosecutor.

Operational conclusions:

- MDCS promised to raise the question on Law 179 "on improving investment climate" with the Ministry of Justice, which is the author of the Law. MDCS will present and share with the COM its impact analysis as regards the thresholds on smuggling and import tax evasion.
 - The Republic of Moldova will continue its efforts to promote integrity and enhance capacity of the customs service.

Developments in custom legislation and procedures

COM made a presentation on the new EU legislation on E-commerce to enter into force as from 1 January 2021.

MDCS explained that the tax-free allowance for goods purchased online and imported into the country will be reduced from 430/300 to 200 euro (starting from 1 January 2020) and upon request from the operators might extend to all type of parcels. MDCS also announced its intention to develop software to allow for advanced exchange of information, and is identifying donors for this purpose.

New Customs Code

Both sides welcome the amendment to Annex XXVI referring to the Union Customs Code for harmonization. The EU informed about the implementation phases of the Union Customs Code and the related IT systems.

MD reported on his new Customs Code that will be adopted in coming months. In this context, MD informed about TAIEX mission that was held at the beginning of October 2019 and the draft Report was submitted on 16 October with recommendations for amendments and clarification in the new draft code.

MDCS is in a process of examining the recommendations of the TAIEX mission on the new Customs Code. The intention is to send the draft to the Government in January 2020, which will then be submitted to the Parliament for adoption. They expect that the new Customs Code will be fully in force as of 2022. A second TAIEX mission is under preparation to run a quality check of the text before the Parliament. COM underlined that the Customs code is an important step to ensure the fulfilment of the Association Agreement and a condition for the third instalment of the EU macro-financial assistance. It also reminded of the importance of developing enabling secondary legislation (MDCS said a working group will be established in 2020 to develop such legislation).

Operational conclusion:

- MD has to ensure that the draft text of the new Customs code that will be presented to the Parliament is mostly in line with the UCC.

Duty relief regulations, incl. duty free shops

MD informed about the latest developments regarding fuel sales in duty-free shops: recently published Law # 119/2019, starting from 1 January 2020, the duty-free shop will continue to benefit from tax exemption however this measure will be in place until the expiry of the shop licence (i.e. which is December 2022). Once expired, the duty-free licences will not be prolonged.

EU expressed positive feedback in this regard and strongly recommends to pursue the approach of avoiding such duty free sales.

Customs valuation

MD is applying the Law on Customs Tariff No 1380-XIII of 20.11.1997 - linked to the rules of Agreement on the Application of Article VII of GATT, 1994; Moldova informed that the Regulation on the Declaration of Commodity Value of Goods approved by Government Decision No. 974/2016 partially transposes Commission implementing Regulation (EU) 2015/2447 of 24 November 2015.

Moldova highlighted three main priorities in the area of Customs valuation:

1. Transfer of customs valuation from 1st customs control line to the 2nd line - implementation of the blue corridor
2. Development of the regulatory framework
3. Improving the communication process with the business.

By Customs Service Order no. 436-O of 19.09.2019, the Instruction regarding the way to perform the Customs declaration re-verification on the Blue corridor was approved; starting on 01.10.2019, the testing stage is implemented; there have been identified 5 economic agents, whose customs declarations are placed on the blue corridor.

The EU welcomes the improvements made on current procedure of determination of customs value, which is based to a risk and post release audit, rather than direct checks at the border.

- Both sides take note on the explanations on customs valuation.

Authorised economic operators (AEOs) and SEED

MD informed about the successful pilot project at RO-MD crossing Leuseni-Albita with unilateral recognition of EU AEOs. The national legislation on AOE in approximation to EU provisions applies since 2017, with currently 135 AEOs in the Republic of Moldova. Within CEFTA, a working group on the validation of AEOs was set up, but the process is less advanced in other member countries, where MD shares its experience. Therefore, MD underlined its expectation that the mutual recognition within CEFTA and with the EU are two distinct processes in parallel. The CEFTA validation does not affect EU-MD mutual recognition. Reference document is the proposed work plan for mutual recognition, which includes 15 actions.

EU informed that in the beginning of the 2020 it will be selected a European expert for a Mission in Moldova to evaluate the progress made by MD in implementation of AEO Programme.

Operational conclusion:

- It was agreed that the work on mutual recognition of AEO will start with an update of the Roadmap and the identification of the most appropriate instrument for the continuation of work: twinning project or a short-term expert mission under the high-level representative. The first task of the expert will be to verify the Moldavian AEO legislation and its compliance with the EU legislation.

SEED+

MD had objected to the launch of the SEED+ project in CEFTA arguing that it did not benefit for EU financing, contrary to the situation of its Western Balkan CEFTA partners. A solution to provide for financing to MD was in sight, as the platform EU4digital will establish a link between CEFTA and Eastern Partnership countries for the adoption of SEED+., Taking into account that Western Balkans benefit from IPA II in order to move forward with the system, COM may offer a support to MD for the software under the EU4digital scheme; MD also

explained that on 26 November will meet with UA customs authorities to check for the possibilities to use SEED+ at their common border.

- The Republic of Moldova will continue the pilot project.
- The EU takes note on the explanations regarding CEFTA.

Convention on a common transit procedure

Both sides underline the objective for MD to join the Convention on a Common Transit Procedure and SAD. The EU facilitates the preparation with a twinning project from September 2017 to 2019.

MD informed on measures for NCTS application, the appointment of project managers and the organisation of an NCTS implementation committee and the benefits of the Twinning project. The intention of MD is to start on national level with NCTS4 in order to get experience before the update of NCTS5. Lithuania donated a package which is currently operational allowing the experts to have the same possibilities before the adaptation of the software. There will be a test of the system in April next year, which will allow MD to apply formally to the convention.

EU (Lithuanian expert) made a presentation on the main outcomes of the project.

Operational conclusion:

- A Roadmap will be shared on technical level with all steps that need to be taken between this moment and the accession to the Convention.

IPR

COM made a presentation of the new Customs Action Plan to Combat IPR infringements for the years 2018-2022. MD made a presentation on recent development in IPR

MD explained that the customs protection is covered on national and regional levels. At national level, the IPR division within the MDCS examines applications for customs intervention, then it decides on acceptance / rejection of IPR protection applications, MDCS also manages the Registry of IPR and proposes creation of new risk profiles. At international level, MDCS mentioned its cooperation with WCO, EUBAM, Inter- and Europol, WIPO, SELEC and OLAF. MDCS also provided statistics about the applications for actions (AFOs), either ex officio or launched by the right holder, and the subsequent seizure of goods at customs.

MDCS is organizing different events to inform the society of the risk of IPR. MDCS is organising trainings for customs officers and enhancing cooperation between stakeholders to incentivise the requests for intervention.

- EU will provide Report on combating IPR infringements 2018-2022 via mail.

WTO Trade Facilitation Agreement

Moldova informed about the national action plan and stakeholder consultation on the implementation of WTO Trade Facilitation Agreement, which entered into force in Moldova in 2017.

Implementation of Protocol II on rules of origin

MD applies the PEM convention since 2016, following a decision of the EU-MD customs sub-committee to replace Annex II with the reference to the PEM convention. A FTA between the Republic of Moldova and Turkey also refer to PEM convention for rules of origin.

EU debriefed about the latest developments on the revision of the PEM convention. The revised rules will be presented at the beginning of 2020. The consolidated text of the revised convention will be published to the attention of all contracting parties of the convention. The EU thanked MD for the support during the revision. MD expressed the intention to support and ratify the revised convention.

COM raised the question of requests for verification made by Transnistria to EU economic operators, and inquired about existing cases. MD explained that the requests for verification sent from Transnistria to MS (in addition to requests from MS concerning imports from Transnistria) have to be sent to the relevant contact points in the MDCS. It was agreed that copy of such requests will be sent to the EU Delegation in Chisinau.

Operational conclusions:

- The Commission will analyse and update the “matrix” in the Commission notice (2019/C 333/03)
- It was agreed that EU Member States’ customs authorities will be informed that requests from and to Transnistria has to be submitted to a contact point in the MDCS irina.cozlova@customs.gov.md and vadim.oprea@customs.gov.md with a copy to the EU delegation delegation-moldova@eeas.europa.eu
 - MD updated on the state of a play on its draft guide on rules of origin.

Implementation of Protocol III on Mutual Administrative Assistance in Customs Matters; fight against fraud

The COM gave the updated list of Member States contact points for mutual administrative assistance, COM enquired about the intention of MD to ratify FCTC (Framework convention tobacco control) Protocol and explained that OLAF is ready to assist in case of questions and clarifications.

Both sides expressed general satisfaction on past and ongoing assistance. Main areas are tobacco smuggling and counterfeit goods, also for international operations.

MD informed that it has established a Working Group on tobacco smuggling involving all services concerned, and adopted a national strategy on tobacco. MD has strengthened its anti-smuggling activities, including by creating a special tobacco Unit. It is closely following imports and exports of tobacco and informing counterparts concerned, including OLAF.

MD informed that it had adopted measures to gradually increase excises on cigarettes but expected that neighbouring countries (Ukraine in particular) would do the same, so as to avoid fraud.

On its accession to the Protocol to the WHO Framework Convention on Tobacco Control, MD communicated that the process was at the level of the Ministries of Interior and Health. The proposal for accession would then require approval by Parliament. Tracking and tracing is competence of the Ministry of Economy. EU indicated the importance of acceding to the FCTC Protocol steadily, and the convenience of adopting a tracking and tracing mechanism that would be compatible with that of the EU and offered assistance for Protocol implementation.

- MD will work towards the accession to the WHO FCTC Protocol

EU will send via mail the list of contact persons responsible for providing MAA in customs matters

Border cooperation and risk management

Moldova informed about ambitions and preparations for a pilot project on joint control or shared border management with Romania. A joint customs control on commercial freight could be a starting point. Sharing infrastructure has benefits for both countries.

The EU, while acknowledging the benefits of shared border management, notified that border controls are a responsibility of the individual Member States.

- COM stated that it does not oppose shared border crossing cooperation between EU and third countries.
- MD updated on the state of a play on risk management methodologies

AOB

The EU recognizes the value of an updated ASYCUDA system in Moldova, which is a precondition for joining the Convention on a Common Transit Procedure and actively endeavours different means to support the project.

- EU will make a Flash Report to be published on official website

Next meeting

Indicative date for the next customs sub-committee is November 2020 in Brussels.