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TAXATION AND CUSTOMS UNION

Annual Activity Report 2010

DG Taxation and Customs Union

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1. Policy achievements

In line with its general objectives, in 2010 DG TAXUD made further progress to improve the tax environment in the EU and to modernise customs, so that business and citizens can benefit to a greater extent from the potential of the Internal Market whilst at the same time seeking to help Member States to combat fraud and evasion. DG TAXUD also played an active role in promoting EU interests in the area of taxation and customs in international organisations and in bilateral relations with third countries.

Chapter 1.1. details DG TAXUD's general objectives with the related impact indicators. Chapter 1.2 gives an overview of the DG's main achievements for each activity (taxation, customs and international aspects of taxation and customs) presenting them according to the specific objectives.

1.1. General objectives

<i>POLICY AREA: TAXATION AND CUSTOMS</i>					
<i>GENERAL OBJECTIVES</i>		<i>IMPACT INDICATORS</i>			
		<i>Indicator</i>	<i>Target (long-term)</i>	<i>Milestones</i>	<i>Situation at year end</i>
1	To create a simpler and more efficient tax environment in order to fully exploit the economic potential of the Internal Market	Ease of paying taxes indicator (source: World Bank); sub-indicators: Number of tax payments, Time to comply, Total tax rate	All MS within the top 100, those MS which are already in the top 100 in 2009 move to the top 50	No MS below the rank 120	At the end of 2010 from 26 MS: - 5 below the rank 120 - 2 between the ranks 101-120 - 10 between the ranks 51-100 - 9 within the top 50.

2	To protect citizens and serve business by creating a modern, simple, interconnected customs environment and promoting cooperation and EU customs standards worldwide	Ratio of paperless transactions (declarations made by computerised means)	95 %	75%	2009: Normal procedures: 83.8% for import and 86.3% for export Simplified procedures: 97% for import and 87% for export
		Number of Authorized Economic Operators (AEO)	Number of submitted applications could be 40,000. Number of certificates 20,000.	Number of submitted applications could be 20,000. Number of certificates 10,000.	At EU level 4887 issued AEO Certificates were issued out of 7743 applications in 2010 (as on 31/12/2010)
		Logistics Performance Index (source: World Bank)	All MS within the top 50	No MS below the rank 60	In the 2010 ranking from 27 MS: - 15 within the top 30 - 10 between the ranks 31-60 - 2 below the rank 60.
		Number of agreements on mutual recognition of Authorised Economic Operator (AEO) programmes	Conclusion of mutual recognition of AEO programmes with major trade partners (US, Japan, China, Canada)	Conclusion of mutual recognition of AEO programmes with the US and Japan	Mutual recognition of AEO programmes was signed with Japan in 2010. Discussions are ongoing with the US.
3	To use tax policy in a coordinated way to exit the crisis and to create a greener economy with high employment and growth¹	Degree of alignment of MS coherent tax policy	Regular Council conclusions	First Council conclusion in 2011	No Council conclusion yet
		Share of renewables in gross inland consumption (transport, heating)	Target of 20 % in 2020	15 % in 2015	EU-27 average (2007): 7.8 %
		Energy intensity of the economy (gross inland consumption)	Decrease intensity to: 147 kgoe/1000 Euro for EU-27 and 143 kgoe/1000 Euro for EU-25	Decrease intensity to: 155 kgoe/1000 Euro for EU-27 and 151 kgoe/1000 Euro for EU-25	EU-27 average (2008): 167.11 kgoe ² / 1000 Euro, which is a 1.2% decrease compared to the 2007 basis; EU-25 average (2008): 162.89 kgoe / 1000 Euro, which is a 1.1% decrease compared to the 2007 basis

¹ Measures taken to improve the environment-friendly energy consumption can be carried out in various forms (e.g. trading schemes) and by various actors. Nevertheless, they have an impact on the indicators for objective 3.

² Kgoe – Kilogram of oil equivalent

4	To secure tax revenues of Member States through fight against fraud and promoting good governance in the tax area	Level of VAT revenues effectively collected	Reduce the VAT gap to 8 %	Reduce the VAT gap to 10 %	The exact amount of money involved in VAT fraud is difficult to quantify. The result of the "Study to quantify and analyse the VAT gap in the EU-25 Member States" showed that the VAT gap ³ is around 12% (difference between theoretical and effective tax receipts), which amounted to around 107 billion EUR (25 Member States) in 2006.
		Level of acceptance and implementation of EU good governance principles in the tax area	Successful conclusion of all agreements on which negotiations have started	Successful conclusion of 40% of the tax aspects of those agreements where the tax chapter has been opened	Of the 28 negotiation directives or ongoing negotiations including a good governance provision 10 good governance provisions have been agreed. Work programme to mid 2010 of the Code of Conduct group on business taxation tackling promotion of code principles with third countries / regions. Further work ongoing on implementing ideas in COM(2009)201 and COM(2010)163 on good governance in the tax area.
5	To ensure the efficient collection of own resources such as customs duties and VAT	Monitoring activity related to simplified customs procedures	The practice of all MS to be monitored	The practice of half of the MS to be monitored	Simplified customs procedures were monitored by DG BUDG in the past. DG TAXUD started this activity in 2010 and will continue it in 2011.
		Number of those own resource related infringements which are taken up by DG BUDG	Increase of compliance by MS, measured by number of infringements not exceeding 45 cases	Increase of compliance by MS, measured by number of infringements not exceeding 50 cases	Currently there are 42 infringements procedures ongoing. This figure covers VAT (27), excise duties (5) and customs (10).

³ The estimate of the VAT gap is based on a comparison of accrued VAT receipts with a theoretical net VAT liability for the economy as a whole.

1.2. Overview of main achievements by activities

Taxation Policy

2010 has been a successful year for taxation policy: not only were taxation issues put back on the political agenda, but their implementation progressed well. The guiding priorities of this activity were to combat fraud and tax evasion through strengthened cooperation of EU tax administrations, to reduce administrative costs and tackle tax obstacles and to develop coordinated tax initiatives supporting broad EU objectives.

1. To strengthen the framework for EU tax administrations to efficiently combat fraud and tax evasion

In 2010 significant progress was made towards the achievement of this specific objective. **The Council reached political agreement on the draft Directive aimed at strengthening administrative cooperation between the Member States in the field of taxation⁴**. In the light of greater taxpayer mobility and a growing volume of cross-border transactions, the draft directive sets out to fulfil the Member States' growing need for mutual assistance – especially via the exchange of information. Besides providing for the automatic exchange of information to be introduced on a step-by-step basis, the directive will also ensure that an important OECD standard for the exchange of information on request is implemented in the EU.

The Council adopted a **Directive on an optional and temporary application of the VAT reverse charge mechanism** to be applied to domestic transfers of **greenhouse gas allowances⁵**. The Directive's objective is to put an end to a massive fraud that had appeared in this area.

The Council adopted the recast **Regulation on administrative cooperation and combating fraud in the field of value added tax⁶** aimed at enabling the Member States to step up their efforts in combating fraud with regard to value-added taxation (VAT). To this end, the Regulation specifies the cases in which Member States must exchange information spontaneously, the procedures for providing feedback on such information and situations in which Member States can have automated access to certain well defined categories of information. Another important innovation involves the creation of Eurofisc, a network of national officials to quickly detect and combat cases of cross-border VAT fraud.

The Council adopted a **Directive concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures⁷**, which aimed at clamping down on tax evasion by better fulfilling the Member States' needs with regard to the recovery of taxes. The Directive is designed to provide for an improved assistance system, with rules that are easier to apply, including as regards information held by banks and other financial institutions. It also provides for more flexible conditions for requesting assistance. New e-forms were developed accordingly and are now operational, which enable the secured electronic exchange of recovery information between the Member States.

⁴ ECOFIN Council of 07/12/2010.

⁵ Council Directive 2010/23/EU of 16 March 2010

⁶ Council Regulation (EU) 904/2010 of 7 October 2010 (recast of Council Regulation (EC) No 1798/2003 of 7 October 2003)

⁷ Council Directive 2010/24/EU of 16 March 2010

In May 2010 the Council also adopted a Resolution on coordination of the controlled foreign corporation (CFC) and thin capitalisation rules within the European Union. This is a welcome and good example of the coordination approach advocated by the Commission⁸ being capable of bringing tangible results in respect of very complex and at times sensitive tax issues. The Resolution contributes to an improved understanding of the concept of "wholly artificial arrangements" in the direct tax field.

The Commission regrets that the work in the Council on the revision of the **Savings Taxation Directive**⁹ could not progress on the same path as the other proposals to combat tax evasion and tax fraud. The Commission proposal intends to close loopholes identified in this Directive through the extension of its scope to income obtained through investments in certain innovative financial products with capital protection and in certain life insurance products. It also proposes to improve the effectiveness of the Directive by including within its scope interest payments which are channelled through intermediate tax-exempted structures such as trusts and foundations. The Commission hopes that the Council will reach an agreement quickly, as it is urgent to improve cooperation within the EU and to start negotiating similar improvements with the third countries and territories which are already a part of the savings taxation mechanism.

Finally – as a result of the work done by the Commission in 2010 – **the Excise Movement and Control System (EMCS)**, a new computerised system for monitoring the movement of alcohol, tobacco and energy products within the EU, having started on 1 April 2010, **became fully operational on 1 January 2011**. The EMCS will make intra-Community trade in excise goods under duty suspension cheaper and simpler for operators, while also making it quicker and easier for Member States to tackle excise fraud.

2. To reduce administrative costs and to tackle tax obstacles in the Internal Market

In 2010 significant proposals were adopted in this field – often with a very tight schedule. Following the Commission's proposal¹⁰ in June, the Council adopted in December a **Directive**¹¹ **maintaining the current minimum standard rate of VAT** at 15% until 31 December 2015. **Regarding the amendment of the refund directive**, the Commission's proposal¹² made in July resulted in a Council Directive¹³ in October focusing on the refund of value added tax to taxable persons not established in the Member State of refund but established in another Member State. In view of the late implementation by Member States of the new VAT refund procedure, the new Directive provided for the exceptional extension of the deadline for the submission of refund applications for expenses incurred in 2009 from 30 September 2010 to 31 March 2011.

The Council also adopted a Directive¹⁴ amending the 'VAT Directive'¹⁵ as regards the rules on invoicing. This **Directive aimed at simplifying VAT invoicing requirements, in particular as regards electronic invoicing**. It sets out to ensure the acceptance by tax authorities of e-invoices under the same conditions as

⁸ The discussions that lead to the adoption of this resolution were inspired by the Commission initiatives dating back to December 2006 (COM(2006) 823 "Co-ordinating Member States' direct tax systems in the Internal Market" and to December 2007: COM(2007)785 "Application of anti-abuse rules in the direct tax area – within the EU and in relation to third countries"

⁹ 2003/48/EC

¹⁰ COM(2010)331 of 24 June 2010

¹¹ Council Directive 2010/88/EU of 7 December 2010

¹² COM(2010)381 of 15 July 2010

¹³ Council Directive 2010/66/EU of 14 October 2010

¹⁴ Council Directive 2010/45/EU of 13 July 2010

¹⁵ Council Directive 2006/112/EC of 28 November 2006

for paper invoices, and to remove legal obstacles to the transmission and storage of e-invoices. The Commission estimates the potential annual cost savings for businesses at up to EUR 18 billion if obstacles to e-invoicing in VAT rules were to be removed. While the Commission's initial proposal would also have led to a set of simplified rules on invoicing, the Council could not reach agreement on the removal of the many options available under the current rules.

On the basis of the **Green Paper on the future of VAT**¹⁶ - "Towards a simpler, more robust and efficient VAT system", the Commission launched a wide public consultation in December on how the EU's VAT system can be strengthened and improved, to the benefit of citizens, businesses and Member States.

The new VAT Refund IT system entered in operation on the 1st January 2010 and the teething problems have smoothed out over 2010. The VAT Information Exchange System (VIES) was added with additional functionalities as from the 1st January 2010. The volume of taxation trans-European transactions increased up to 51% compared to 2009. The new VAT refund IT system accounted for 1,98 millions messages exchanged which represented 349 gigabyte of data.

The **Joint Transfer Pricing Forum (JTPF)** adopted two reports: **Guidelines on low value adding intra group services** and a **report on potential approaches to non EU transfer pricing triangular cases**. The first report aims to reduce the amount of resources dedicated to determine whether these kind of low value adding services are provided in accordance with the arm's length principle. The guidelines provide a set of recommendations that should lead to fewer disputes on this topic. The second report provides suggestions to eliminate double taxation when the tax dispute is to be considered as a transfer pricing triangular case involving EU Member States and non-EU countries.

The Commission launched two public consultations to obtain information from all stakeholders on cross-border double taxation problems¹⁷ and on cross-border inheritance tax problems¹⁸, which will feed into future proposals for EU action in these areas.

In December a **Communication on "Removing cross-border tax obstacles for EU citizens"**¹⁹ was also adopted. The Communication outlines the most serious tax problems that EU citizens face in cross-border situations (like double taxation, difficulties in claiming tax refunds or obtaining information on foreign tax rules). It plans to: ensure greater transparency and information for citizens on the results of complaints about Member States' tax laws, present solutions in some areas such as cross-border income, inheritance taxes, dividend taxes, car registration taxes and e-Commerce and launch a debate with Member States on ways of simplifying tax compliance in cross-border situations.

The report on removing tax obstacles to cross-border venture capital investment²⁰ should be mentioned as well. The report, published in April, sets out the findings and recommendations of an independent group of EU tax experts, which was set up by the Commission to look at how to remove the main tax barriers to cross-border investment in venture capital.

In 2010, DG TAXUD opened 99 **new infringement cases**, whereby 806 were related to indirect taxes (VAT: 46; Excise duties: 22; Car, energy and environmental taxation: 12) and 19 were related to direct taxes. At the date of 31 December 2010, 307 infringement cases, were still ongoing (148 were related

¹⁶ COM(2010)695 of 1 December 2010

¹⁷ http://ec.europa.eu/taxation_customs/common/consultations/tax/2010_04_doubletax_en.htm

¹⁸ http://ec.europa.eu/taxation_customs/common/consultations/tax/2010_06_inheritance_en.htm

¹⁹ COM(2010)769 of 20 December 2010

²⁰ http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/initiatives_small_business/venture_capital/tax_obstacles_venture_capital_en.pdf

to indirect taxes (VAT: 107; Excise duties: 18; Car, energy and environmental taxation: 23) and 159 to direct taxes). During 2010, 131 infringement cases were **closed after Member States modified their national legislation** and therefore complied with Community Law.

3. To favour more environment-friendly energy consumption and to develop coordinated tax initiatives supporting broad EU objectives

In 2010 results were delivered with reference to the development of coordinated tax initiatives supporting broad EU objectives. The Commission adopted a **Communication on Taxation of the Financial Sector**²¹ in October, which puts forward a two-pronged approach. At global level, the Commission supports the idea of a Financial Transactions Tax (FTT), which could help fund international challenges such as development or climate change. At EU level, the Commission recommends that a Financial Activities Tax (FAT) would be the preferable option. If designed and implemented carefully, FAT could generate significant revenues and help to ensure greater stability of financial markets, without posing undue risk to EU competitiveness. These options will be further assessed to evaluate the possibilities of bringing forward policy initiatives on the taxation of the financial sector in 2011.

The re-launch of the high-level Taxation Policy Group, which brings together personal representatives of EU Finance Ministers to discuss key tax policy issues, **took place in October**. The Group is chaired by Commissioner Semeta and its first meeting was dedicated to issues like the financial sector taxation or the recommendations in Professor Monti's report on the re-launch of the Internal Market in tax matters. The Group will provide a regular fixed forum for high-level discussions to explore the scope and priorities for tax policy coordination within Europe. It will help the Commission and Member States to exchange views on proposals before they are put on the table, and to push forward discussions on important taxation dossiers.

Following a request from the October 2009 European Council, the Commission services (ECFIN/MARKT/TAXUD) published a **Staff Working Document**²² **assessing the potential of innovative financing at a global level**. The analysis shows that for some of the instruments a "double dividend" of both raising revenues and improving market efficiency and stability could be reaped. It also emphasises that global coordination will be essential for a successful implementation of most instruments of innovative financing. It shows, however, that actions at the EU level alone should not be discarded.

The topic chosen for the **Brussels Tax Forum** in 2010 was 'Tax Policies for a Post-Crisis World'. The conference focused on the lessons to be learned from the financial crisis for tax policy, how to reform in the current context, and which reforms to implement. The report on "Taxation Trends in the European Union" published in June 2010 included in addition to statistical data on tax burdens in the EU a detailed overview of tax measures taken by Member States following the economic and financial crisis²³. The report on '**Monitoring tax revenues and tax reforms in EU Member States 2010**' – published in October – also looked at tax policy issues related to the crisis and how reforms of the tax system could contribute to bringing public finances back on a sustainable path in a growth-friendly way, including the role tax coordination in the EU might play in this context.

²¹ COM(2010)549 of 7 October 2010

²² SEC(2010)409 of 1 April 2010

²³ The Taxes in Europe Database is available from the Europa portal.

Customs Policy

2010 has been a difficult year for customs: in between the end of the transition period for the implementation of the safety and security amendment and the implementation of the Modernised Customs Code, which is a complex challenge demanding a lot of efforts to answer concerns of the stakeholders and difficulties deriving from the economic constraints, customs having been faced with increased challenges that it tried to address. The main priorities of customs activity were – besides the modernisation of the Customs Union – the fight against illicit traffic and fraud using common customs risk management and the efficient management of the Customs Union.

1. To reinforce security and protection of the external borders through the effective controls of goods and to support the fight against illicit traffic and fraud using common customs risk management

As a consequence of the Security Amendment to the Customs Code **new security rules entered fully into implementation in the EU on 1 January 2011**. From that date on, traders have to make an electronic declaration to Customs with security data on goods before they leave or enter the European Union. The aim of this measure is to increase security in international trade, by enabling customs to carry out better risk analyses on the basis of the information received in advance, and therefore to better target controls.

To facilitate the preparation of the traders for the changes as of 2011, **DG TAXUD launched the first phase of the European Customs Information Portal (ECIP) in April to clearly communicate information on the Safety and Security Amendment to the Customs Code**. Designed as a single point of access to relevant and practical information, the portal includes animated scenarios to explain each step of the import, export and transit procedures. It also outlines the legal framework for such procedures, and includes information sourced from Commission and Member States' customs websites. The portal aims to keep pace with changing policy needs on the basis of decisions taken by the Steering Group for the Modernised Customs Code and Electronic Customs. The Commission also published **new guidelines for import and export procedures** as well as updated import and export scenarios, export fallback rules and FAQs on entry summary declarations in November. In parallel, DG TAXUD supported the Member States in deploying the Import Control System (ICS), which is the last IT trans-European system in support of the Security Amendment²⁴ and to get the trade connecting to it.

Regarding the **EU customs enforcement of Intellectual Property Rights (IPR)**, the Commission published its Annual Report in July, which provides statistics on the type, origin and transport method of IPR infringing products stopped at the external borders. The Commission also pursued the review of Regulation 1383/2003, by preparing an Impact Assessment following a Public consultation in May-June. A Strategic Seminar on "Counterfeiting and the internet" held in Paris in October 2010, resulted in recommendations to the Commission and the Member States customs administrations on ways of addressing the phenomenon of counterfeit goods sent by post.

With reference to the **functioning and implementation of the EU drug precursors legislation**, Council conclusions were adopted in May 2010 – based on the report of the Commission²⁵ issued in January. In its conclusions the Council welcomed the findings of the report and invited the Commission to address the weaknesses identified in the existing control system, in close cooperation with the Member States. The **Summary Report on EU Drug Precursors Seizures**

²⁴ The EORI (Economic Operator Register and Identification), the AEO (Authorised Economic Operator), the Export Control System (ECS) being operational since 2009, in addition to the already existing New Computerised Transit System (NCTS).

²⁵ COM(2009)709 of 7 January 2010

2008 – published in July – also indicates the effectiveness of the implementation of EU legislation by providing a brief overview of the seizures and stopped shipments of drug precursors made by EU Member States in 2008.

In the row of the reports published in 2010, the **Commission's report²⁶ on the application of the 'cash control regulation'²⁷** should be mentioned as well. This document assesses the system established by the EU and the Member States for collecting cash declarations, in the context of the fight against money-laundering and terrorism. In its conclusions adopted on 20 December 2010, the Council asked the Members States and the Commission to step up the implementation of the cash control regulation, and invited the Commission to review some of its aspects. To facilitate implementation, the Commission established a **Handbook of Guidelines on cash control** in 2010, which was disseminated to all Member States in January 2011.

2. To modernise the Customs Union's rules, computerise its procedures and evaluate its functioning for the benefits of the traders

Implementing the Modernised Customs Code (MCC) and the e-Customs Decision by June 2013 is currently the top priority for the Commission in the area of customs legislation. In order to achieve the main objectives of these proposals (offering better customs legislation through streamlined and more unified rules on the legal side and setting up and operating interoperable electronic systems on the IT side), the Commission must work on legal provisions and on IT solutions in tandem.

To cope with the multiple implementation challenges and to ensure timely delivery, a new governance structure had to be put in place both within the Commission and the Member States in 2010. As the Commission is well aware of and dealing with the fact that the difficult economic situation and decreasing budgets in public administrations provide additional challenges in implementing the MCC (which was negotiated prior to the financial and economic crisis); it also launched an IT scoping dialogue with the Member States. The objective of this exercise is to ensure the best scope and sequence for developing IT projects, in accordance with the requirements of the MCC. However taking into account the complexity of this project, delay in the implementation of the MCC can - at this stage - not be excluded.

3. To ensure effective management of the Customs Union through uniform application of legislation and equal treatment of economic operators

DG TAXUD's daily workload was to a large extent connected with the management of the Customs Union. Efforts continued to ensure that the 27 national administrations provide equivalent levels of protection of the external border while maintaining an adequate level of facilitation for trade (e.g. by granting simplified procedures in accordance with harmonised rules²⁸). In order to protect the EU financial interests, the correct and uniform application of the EU customs legislation (i.e. the monitoring of simplified procedures, the procedures for non recovery, remission or repayment of customs duties (REM-REC) and the management of tariff quotas and surveillance of goods) was also monitored and appropriate measures were taken.

Achieving a consistent approach throughout the Community required close cooperation and coordination between the Commission and the Member States as well as updating basic legislation (e.g. the common customs tariff, i.e. the Combined Nomenclature) and information (e.g. the TARIC²⁹ and other databases

²⁶ COM(2010)429 of 12 August 2010

²⁷ Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005

²⁸ Commission Regulation (EC) No 1192/2008 of 17 November 2008

²⁹ A major technical upgrade of TARIC was achieved in 2010.

with indispensable information for importers and exporters). Several monitoring visits to the Member States concerning specific policy areas have also contributed to ensuring consistency.

Overall the volume of trans-European transactions in Customs increased compared to 2009³⁰. The Common Communication Network (CCN) which is used by both Customs and Taxation national administrations experienced 38% increase of number of messages and 64% increase of data volume³¹ compared to 2009.

International Aspects of Customs and Taxation

The main objectives of TAXUD's international activity were in 2010 to improve international recognition and to promote EU policies in the tax and customs fields in international organisations and agreements, to facilitate trade, promote security and enforce Intellectual Property Rights through enhanced cooperation with international organisations and third countries and to promote EU tax principles. With reference to enlargement and pre-accession countries, TAXUD prepared in 2010 the technical assessment on Customs and Taxation for the Commission's Opinions on the applications for EU membership of three requesting countries – Montenegro, Albania and Iceland.

1. To protect EU interests in the tax and customs fields in international organisations and agreements

Since the World Customs Organisation (WCO) granted the EU rights and obligations akin to membership as of July 2007, the EU has become one of the most important contributors to the WCO, particularly in priority areas such as supply chain security, trade facilitation, IPR enforcement and capacity building. The WCO is an independent intergovernmental body whose mission is to enhance effectiveness and efficiency of customs administrations representing 177 customs administrations across the globe that collectively process approximately 98% of world trade. In June 2010 the WCO Council endorsed the SAFE Package, covering also the inclusion of the updated **Authorised Economic Operators (AEO) Compendium**.

In order to facilitate combating fraud – not only within but also outside the EU- the Commission adopted a **Communication on Tax and Development Cooperating with Developing Countries on Promoting Good Governance in Tax Matters**³². (jointly prepared by DEV-TAXUD and supported by Council conclusions). This Communication – which follows on from the 2009 Communication on Promoting Good Governance in Tax Matters³³ – identifies the difficulties encountered by developing countries in the mobilisation of revenue through taxation. It suggests ways in which the EU can do more and make better use of its existing funds and instruments. The Communication sets out a consistent approach to provide enhanced support in building efficient, fair and sustainable tax systems and administrations and in introducing tax reforms. In parallel the Commission continued negotiations on agreements with third countries for the inclusion of a provision on good governance in the tax area. The principles of good governance in tax matters have been initially introduced to the Eastern EU neighbours within the framework of the Eastern Partnership, Platform 2 on "Democracy and convergence with EU policies".

³⁰ 8% increase for NCTS (New Computerised Transit System), 51% increase for ECS (Export Control System).

³¹ Figure consolidated for both Customs and Taxation areas; 1.022 million of messages and 2,6 terabytes of application data have been exchanged in 2010.

³² COM(2010)163 of 21 April 2010

³³ COM(2009)201 of 28 April 2009

To promote trade facilitation and reduce border congestion, the Commission adopted a Communication³⁴ in November on the "**Strategy to prepare certain neighbouring countries for accession to the 1987 EC-EFTA Conventions** on a common transit procedure and the simplification of formalities in trade of goods". Extending the Conventions to further countries (EU candidate and potential candidates, countries covered by the Eastern Partnership Initiative, Russia) able to implement them is clearly in the interest of the Union and of the European traders and will promote alignment with the relevant EU acquis in the region.

2. To enhance cooperation with third countries to facilitate trade, promote security and enforce Intellectual Property Rights

In June 2010 the **EU and Japan signed mutual recognition of Authorised Economic Operators (AEO)**. This mutual recognition offers enhanced trade facilitation opportunities provided by customs to certified trustworthy traders on both sides who have invested in securing their supply chains. In this way customs can also concentrate on high risks. **EU-U.S. cooperation on mutual recognition of AEO programs was revived in June when a timetable for the final steps towards mutual recognition was agreed.** A work programme setting out a series of joint validations was also agreed at the end of September and discussions on a mutual recognition decision intensified. Prospects for the mutual recognition with the U.S. were also discussed at the **Transatlantic Economic Council (TEC)**, which was held in December.

With reference to the **U.S. legislation which foresees 100% scanning** at foreign ports of all US-bound maritime containers by 1 July 2012, the Commission issued a **Staff Working Paper**³⁵ in February. The document confirms that the 100% scanning legislation would create a disproportionate economic burden without proven benefits for security. The EU advocates an alternative approach based on multilayered risk management. The U.S. administration confirmed at the December TEC meeting the shift away from the 100% scanning logic towards an "intelligence-based risk management strategy".

The Commission and the U.S. Treasury agreed to open a dialogue on the implementation of the U.S. **Foreign Account Tax Compliance Act (FATCA) legislation.**

In the framework of **EU-China customs cooperation**, the 5th EU-China Joint Customs Cooperation Committee (JCCC) met in September and formally adopted the Evaluation report on phase 1 of the **EU-China Smart and Secure Trade Lanes (SSTL) pilot project** and approved to proceed to SSTL phase 2. The JCCC also asked for a roadmap to be drafted for the remaining steps to achieve mutual recognition of AEO programmes. The EU China JCCC Steering Group approved the roadmap in December 2010. In the same month, **the Intellectual Property Rights Action Plan with China** was extended until the end of 2012, best practices with the Chinese administration on preventing the diversion of drug precursors in maritime transport were exchanged and a Strategic Framework for Cooperation was signed.

The visit of Commissioner Šemeta to Moscow in November conduced to stepping up the **EU-Russia customs cooperation**. The parties agreed on a **Strategic Framework** to recast the previous customs cooperation strategy dating from 2007. The Framework will be built on the basis of three broad priorities: a) safe and fluid trade lanes, b) risk management and the fight against fraud, and c) customs modernisation. It was agreed that the EU-Russia Working Group on Customs Border Issues would see to the implementation of the specific objectives and activities under the "Strategic Framework for Customs Cooperation". The negotiations for an EU-Russia Agreement on the control of trade in drug precursors were well-advanced. The EU sent some 850.000 TIR declarations to Russia in 2010 via the SPEED system.

³⁴ COM(2010)668 of 18 November 2010

³⁵ SEC(2010)131 of 11 February 2010

Within the Eastern Partnership the customs policy objectives are to enhance security and safety of the supply chain, combat customs fraud and facilitate development of legitimate trade and economic interaction throughout the region and with the EU. Several actions have already taken place (such as promotion of strategic planning in customs modernization, actions related to coordinated border management) and further are foreseen such as preparation for extension of the common transit and possible introduction of a mechanism for pre-arrival exchanges of information. The principles of the Strategic Frameworks for the Customs Cooperation with the Eastern neighbours were agreed at the EU level with the aim of recasting and upgrading customs cooperation with Ukraine, Moldova and Belarus.

As a follow-up to the Customs 2013 Seminar on Strategies for the Exchange of Customs Information between the European Union and Third Countries (Vilnius, November 2010), the general assumption and the framework for an EU strategy and action plan for exchanges of customs information have been agreed with EU Member States.

The decision on the signing and provisional application of the Protocol extending to customs security measures the Customs Union agreement between the EU and the Principality of Andorra was adopted by Council.

As to the developing countries, the European Commission adopted a **Regulation³⁶ revising rules of origin for products imported under the generalised system of preferences (GSP)** on 18 November 2010. This regulation relaxes and simplifies rules and procedures for developing countries wishing to access the EU's GPS preferential scheme, while ensuring the necessary controls are in place to prevent fraud. The new rules of origin apply from 1 January 2011. Regarding Council activities, the Commission regrets that the Council has not yet signed nor concluded the Regional Convention on preferential pan-Euro-Mediterranean rules of origin, as this delay could entail a loss of credibility of the EU towards partner countries. At the same time the Commission welcomes the adoption of the Council Decision on the signing, on behalf of the European Union, and provisional application of the Protocol extending to customs security measures the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra.

3. To promote EU tax principles at international level

The reason of the limited progress made towards the achievement of this objective in 2010 lies in the limited progress that Council could achieve on the amending proposal for the EU Savings Directive. Until this proposal is adopted by the Council, the Commission cannot proceed with the negotiations with Norway on savings taxation. Similarly, negotiations cannot be started with Switzerland, Andorra, Liechtenstein, Monaco and San Marino to update their respective agreements on savings.

With a view to promoting the principles and criteria of the Code of Conduct (business taxation) towards third countries, the Commission was invited by the ECOFIN Council to start a dialogue with Liechtenstein and Switzerland on the application of the principles and criteria of the Code. Discussions with both countries have started in 2010 and will continue in 2011.

In the framework of enlargement negotiations, the EU has provisionally closed Chapter 16-Taxation with Croatia in 2010.

³⁶ Commission Regulation (EU) No 1063/2010 of 18 November 2010

2. Management and internal control systems

2.1. Introduction to DG TAXUD

2.1.1. Policy activities and operations

DG TAXUD's mission is to develop and manage the Customs Union, a foundation of the European Union, and to develop and implement tax policy across the EU for the benefit of citizens, businesses and the Member States. Particular attention is given to the internal market by making sure it functions efficiently.

In the area of customs, DG TAXUD is responsible for revising and adapting EU customs law and monitoring its implementation in order to ensure that the 27 customs administrations in the Member States work consistently and coherently, without discrimination, regardless of the place where goods enter or leave the EU.

Currently, the customs policy of the EU focuses on safety and security (including the fight against goods infringing intellectual property rights), use of IT systems and trade facilitation.

The main customs legislation has recently undergone a complete overhaul. The Modernised Customs Code (MCC) has been adopted introducing changes which will bring improvements and simplifications for industry and operators. In parallel, DG TAXUD is developing the e-customs project aiming at a paperless environment using state-of-the art information and communication technologies.

In the area of taxation, DG TAXUD's activities focus on the elimination of tax obstacles to all forms of cross-border economic activities, the analysis of Member States' tax laws in the context of their compatibility with the EU legislation and the enhancement of cooperation among Member States' tax authorities. Tax policy supports wider EU goals such as competitiveness, economic growth and sustainable development.

2.1.2. Administrative and management structure

Following the administrative reorganisation which took place in May 2010, DG TAXUD is composed of five directorates:

- Direction A: Customs Policy, Legislation, Tariff
- Direction B: Security & Safety, Trade Facilitation & International Coordination
- Direction C: Indirect Taxation and Tax Administration
- Direction D: Direct Taxation, Tax Coordination, Economic Analysis and Evaluation
- Direction R: Resources

The Internal Audit Capability (IAC) reports directly to the Director-General.

In addition, the following governance structure has been set up in DG TAXUD to strengthen the management capacity and ensure integrity and coordination of the cross-cutting activities:

- **DG TAXUD Board** ensures central coordinating functions in relation to major policy issues, human resources, financial matters, the overall strategy and agenda planning. The Board meets weekly and it is chaired by the Director General, with the presence of the Directors, the Head of Unit R1 (HR & Finances) and the Head of Unit R2 (Relations with the Institutions, Internal Coordination, Strategic Planning). In order to ensure greater coherence of management within DG TAXUD, since March 2010 the Board meetings have been extended to all Heads of Unit who participate in its meetings every other month.
- **IT Steering Committee (ITSC)** is the highest decision-taking body as regards the overall IT strategy of DG TAXUD. It approves DG TAXUD's annual Work Plan. It is composed of the Director General, the Directors R, B, C, D and Units R1 (HR & Finances), R4 (Customs & Taxation Trans-European Systems), R5 (Customs & Taxation Automated Services). The Committee meets at least quarterly.
- **Modernised Customs Code Implementation & e-Customs' Joint Internal Governance** ensures the implementation of the Modernised Customs Code and related IT systems in a coordinated way. It establishes objectives, identifies necessary actions and working methods. It is composed of the Director General, the Directors A, B, R and the Units A1 (Customs Policy and Electronic Customs), A2 (General Legislation and Uniform Application of Customs Law) and R4 (Customs & Taxation Trans-European Systems). The Committee meets at least twice a year.
- **General Tax Policy Steering Committee** discusses future initiatives and ensures a common approach in the area of taxation. The Committee is also a forum for reflection on tax aspects of Commission's strategies such as Europe 2020. It is composed of the Director General, the Directors C, D, R and the Units D1 (Company Taxation Initiatives), C2 (Environment and other Indirect Taxes) and R2 (Relations with the Institutions, Internal Coordination, Strategic Planning). The Committee meets at least quarterly.
- **Economic Analysis, Impact Assessment and Evaluation Steering Committee** coordinates economic analysis, evaluations and impacts assessments in DG TAXUD in the area of taxation and customs. It is composed of the Director General, the Directors and the Units R2 (Relations with the Institutions, Internal Coordination, Strategic Planning), A1 (Customs Policy and Electronic Customs), C2 (Environment and other Indirect Taxes), D4 (Economic Analysis, Evaluation & Impact Assessment Support) and the Internal Audit Capacity. The Committee meets at least twice a year.
- **International Coordination and Enlargement Steering Committee** is responsible for the approval of DG TAXUD's priorities in relation to third countries. It is composed of the Director General, the Directors and the Units R1 (HR & Finances), R2 (Relations with the Institutions, Internal Coordination, Strategic Planning), B4 (International Coordination Americas, Africa, Far East & South Asia; Multilateral Organisations) and B5 (International Coordination Enlargement & Neighbouring Countries). The Committee meets at least twice a year.
- **Interface – Taxation and Customs Steering Committee** ensures further coordination in relation to the procedures and the objectives common to the taxation and customs areas. It is composed of the Director General, the Directors A, C and the Units A1 (Customs Policy and Electronic Customs), A2 (General Legislation and Uniform Application of Customs Law), A3 (Customs Procedures) and C2 (Environment and other Indirect Taxes). The Committee meets at least twice a year.

- **Public Procurement Committee** examines the respect of the procedures and principles of objectivity and neutrality in relation to the calls for tender. It has to be consulted before a contract of at least €60.000 is awarded by the corresponding sub-delegated officer. It is composed of the Director General, the Directors and the Head of Unit R1 (HR & Finances). Heads of Unit responsible for the file under discussion also participate in meetings. The Committee represents an additional safeguard in relation to what is considered a risk area for the service. In 2010, the Public Procurement Committee met 4 times and issued 15 favourable opinions.

- **Internal Audit Capability**

The Internal Audit Capability's activities cover the operational side of the DG, including budgetary and financial management. Its annual work programme is determined on the basis of a risk analysis and is approved by the Director General.

The Internal Audit Capability reports directly to the Director General. It is independent from the analysed activities and does not have executive responsibilities. The Internal Audit Capability has access to persons, systems, documents and resources of the Directorate General necessary for the good performance of its duties.

Currently, DG TAXUD occupies two buildings located at a far-off distance: J79/SPA complex and LX 40. The split of the DG between the two buildings is a cost factor and has an impact on the efficiency of the service.

2.1.3. Resource management

2.1.3.1 Expenditure

The expenditure managed by DG TAXUD falls into the following categories:

- **Contracts (IT procurement, intra-muros and miscellaneous)**

The great part of DG TAXUD operational budget is dedicated to IT expenses through several framework contracts between the Commission and IT suppliers to ensure the ongoing work of the trans-European networks and related data bases, as well as the IT training tools, in line with the Fiscalis 2013 and Customs 2013 programmes. The total IT expenditure in 2010 amounted to €4.1 million.

Miscellaneous contracts relating to the procurement of different tools or services (such as studies, databases, consultations, communication campaigns etc.) amounted to €4 million of commitments in 2010.

The expenditure linked to intra-muros (technical assistance) contracts amounted to €3.6 million of commitments in 2010.

Overall, the contracts represented in 2010 around 75% of the total committed budget.

- **Joint Actions under Customs and Fiscalis 2013 programmes**

The Joint Actions represent the second major category of the expenditure.

Their aim is to develop better cooperation in the tax and customs areas among the public administrations of the 27 Members States (total commitments of €4.1 million in 2010, representing around 17% of the total committed budget) and 4 candidate countries: Croatia, FYROM, Serbia and Turkey (€0.7 million in 2010, representing around 0.8% of the total committed budget).

The Joint Actions-related expenditure consists of grants awarded to the participating national tax and customs administrations and the reimbursement of costs incurred by experts. DG TAXUD reimburses costs related to the participation of tax and customs public officials in events such as meetings, seminars, exchanges workshops and multilateral controls.

- **Contributions to international organisations**

This type of expenses relates to the membership in internal organisations: the World Customs Organisation and the International Tax Dialogue (€1.2 million a year, representing around 1,8% of the total committed budget).

- **Initiatives in the area of the Good Tax Governance**

This type of expenses covers studies, consultations, workshops, trainings, conferences, expenditure on technical and administrative assistance, meetings of experts, information and publications directly linked to the promotion of good governance in tax matters (€0.8 million in 2010, representing around 1,2% of the total committed budget).

- **Administrative expenditure**

The administrative expenditure managed by DG TAXUD (mission's expenses, meetings of committees and expert groups, training, conferences and other miscellaneous expenditure) is estimated at €3.6 million of commitments in 2010, representing around 5% of the total committed budget.

2.1.3.2 Financial Circuits

DG TAXUD uses the following financial circuits:

- For the vast majority of the expenditure (IT procurements, Joint Actions, other operational expenses) and some of the administrative expenditures, a fully centralized financial circuit is applicable. It is based on the operational initiation and verification performed at the operational units' level, followed by the financial initiation and verification in Unit R1 (HR & Finances). The Authorising Officer by Sub-Delegation (AOSD) is the director who is the direct superior of both the financial unit and the relevant operational units.
- For other operational expenses and some administrative expenses, DG TAXUD uses a partially decentralised financial circuit. The operational initiation and verification is performed at the operational units' level, followed by the financial initiation and verification in Unit R1 (HR & Finances). The AOSD is a director from the operational part of the DG.

- For the administrative expenditure covered by the provisional commitments, DG TAXUD uses also a fully centralised financial circuit. All financial commitments (provisional commitments) are initialled and verified in Unit R1 (HR & Finances) and then validated by the AOSD in this unit. The subsequent validation of legal commitments (e.g. validation of the missions in MIPS, or of meetings in WEBDOR or orders for refreshment in PRESTO) is done by a director from the operational part of the DG.
- For all payments, DG TAXUD uses a fully centralised financial circuit. The operational initiation and verification are performed by the operational units, followed by the financial initiation and verification in Unit R1 (HR & Finances). The AOSD is a member of Unit R1.

In October 2010, the IAC launched an audit on the financial circuits in DG TAXUD. The aim of the audit is to examine whether the financial circuits are in conformity with all the requirements and possibly identify areas where they could be simplified.

2.1.3.3 Sub-delegations given to the Authorising Officers by Sub-Delegation (AOSD)

The following requirements have been put in place for the AOSD for specific operations such as establishing legal and budgetary commitments, authorising payments or issuing recovery orders:

- acknowledgment of receipt of the Charter of Tasks and Responsibilities of the AOSD;
- obligation to fulfil the obligations set forth in the Charter or requested by the Director General;
- reporting to the Director General of any matter which might compromise sound management or prevent attainment of the objectives set in particular as regards forecasts of utilisation of appropriations;
- obligation to sign a declaration in support of the assurance given in the Annual Activity Report.

2.1.3.4 Activities covered by crossed sub-delegations

In 2010, DG TAXUD gave a crossed sub-delegation to DG DEV for the amount of €780.000,00 for actions in the area of the good governance in fiscal matters. A report on the use of the appropriations has been issued by DG DEV without reservation.

A crossed sub-delegation given and committed in 2009 to DG EMPL for the action "Calculating Tax Wedge and Effective Tax Rates on Labour" was in force in 2010 for the payment appropriations amounting to €10.058,08. A report on the use of the payment appropriations in 2010 has been issued by DG EMPL without reservation.

A crossed sub-delegation was received from the Director General of DG ELARG for the amount of €200.000 for financing a service contract of IT customs and taxation systems in the candidate countries. A report on the use of the appropriation without reservations has been issued by DG TAXUD.

2.1.4. Implementation of the mission statement and the working arrangements with the Commissioner

Working arrangements between the Commissioner and DG TAXUD have been established on the basis of the Commission's Rules of Procedure, the Code of Conduct for Commissioners, the Code of Good Administrative Behaviour and the provisions of the Staff Regulations.

The Commissioner assumes full political responsibility, while the Director General is answerable for the sound implementation of the policy guidelines and full management in accordance with the mission statement and the annual work programme.

The Director General informs the Commissioner of any difficulty which could impede the implementation of the policy guidelines and ensures that the Commissioner agrees to any major initiative in the policy areas. The main elements of the Annual Activity Report and the assurance declaration are also brought to the attention of the Commissioner.

DG TAXUD follows closely inter-departmental work outside the Commissioner's portfolio and keeps the Commissioner's cabinet fully informed of the on-going consultations.

The Commissioner and the Director General keep each other informed about contacts with external actors on matters falling within the portfolio.

Regular meeting between the Commissioner and DG TAXUD are held every two weeks. The cabinet is informed of the DG's activities on a regular basis.

2.2. The functioning of the entire control system

Internal control in DG TAXUD is a process intended to provide reasonable assurance on the achievement of the DG's objectives. It covers measures taken by the management and staff to ensure that operational activities are effective and efficient, the legal and regulatory requirements are met, the financial and other management reporting is reliable and the assets and information are safeguarded.

2.2.1. Compliance with the requirements of the control standards

In November 2010, the assessment of the compliance with the Commission's internal control standards was carried out in DG TAXUD. The assessment covered all the 16 standards (for details see annex 6) and consisted in:

- a detailed examination of the standards prioritised in the Management Plan 2010 (ICS 10 Business Continuity and ICS 11 Document Management);
- a self-assessment in respect with the standards where a partial compliance was identified in 2009 (ICS 5 Objectives and Performance Indicators, ICS 13 Accounting and Financial Reporting and ICS 16 Internal Audit Capability);
- the review of actions taken in respect with the remaining standards.

The assessment concludes that DG TAXUD fully complies with the requirements of 14 out of 16 internal control standards.

The two cases of partial compliance concern the ICS 5 Objectives and Performance Indicators and ICS 13 Accounting and Financial Reporting.

Both standards have been prioritised in the Management Plan 2011 for further monitoring of the compliance with the Commission's requirements.

As far as the ICS 5 is concerned, the partial compliance concerns the quality of the performance indicators for DG's objectives. Though it has improved in the last years, more efforts are needed to identify relevant measurable indicators.

In case of the ICS 13, the partial compliance concerns the lack of adequate documentation in respect with the accounting procedures, controls and the accounting quality plan. This will be done in the course of 2011, with the ABAC SAM user guide applicable to the whole contractual IT expenditure of DG TAXUD.

The review of actions taken in 2010 concerned the following standards:

- ICS 2 Ethical and Organisational Values

In addition to the measures already in place, the following actions took place in 2010:

- ethics declarations were signed in directorates A and B;
- a guide on ethics was prepared;
- a survey on ethics was conducted;
- training courses on general and specific IT and customs related ethical issues took place.

- ICS 8 Processes and Procedures

In the field of the Joint Actions, grant agreements with the Member States were put in place in March 2010 in order to comply with the applicable provisions, in particular the Financial Regulation.

- ICS 9 Management Supervision

In relation to two critical risks identified in the Management Plan 2010, IT units maintain dashboards covering the activities related to the risks. These dashboards are presented to the IT Steering Committee, the Customs Policy Group and the MCC E-Customs Steering Group for information, progress measurement and management decisions. Regular progress measurement at unit level is made through weekly and quarterly activity reports and through ad hoc meetings.

In the field of the Joint Actions, the points noted during the closing of the accounts on 31/12/2009 (pre-financing not cleared and consequently charges not booked) have led to the regularisation of the transactions concerning the candidate and potential candidate countries for the period 2008-2010. An IAC's follow-up audit was finalised in 2010.

- ICS 14 Evaluation of Activities

Following the administrative reorganisation in DG TAXUD, unit D4 (Economic Analysis, Evaluation & Impact Assessment Support) has been granted a horizontal mandate of a "service provider" for the entire DG. The unit's objective is to support policy units in preparing their impact assessments and evaluations, and to provide expertise in economic analysis for the entire DG.

Moreover, a high-level Steering Committee on Economic Analysis, Impact Assessment Support and Evaluation was created and an Evaluation Charter was put in place, which defines procedures, practices, responsibilities and roles of all the actors involved in the evaluation of activities in DG TAXUD.

2.2.2. Effectiveness of implementation of the prioritised control standards

Two ICS have been prioritised in the Management Plan 2010:

- ICS 10 Business Continuity

In 2010, the Business Continuity Plan was updated following the changes in the organisational structure of the DG.

The update took into account the outcome of the Business Impact Analysis and the recommendations made by the IAS following an audit on the Business Continuity arrangements conducted in 2009.

It is considered that the requirements concerning this standard have been met.

- ICS 11 Document Management

Following the introduction of ARES in DG TAXUD, all documents are registered and filed in accordance with the Filing Plan and the e-Domec guidelines.

Document management systems and related procedures in DG TAXUD comply with the security measures provisions on document management and protection of personal data in the Commission.

In order to familiarise staff with the functionalities of ARES, a series of training sessions took place.

It is considered that the requirements concerning this standard are fully met.

2.2.3. Conclusion

Taking into account the above information, it can be concluded that the internal control system in DG TAXUD is implemented effectively.

There is satisfactory evidence that the control procedures put in place in DG TAXUD provide reasonable assurance that the key objectives are met and the activities are carried out as intended.

The areas where further improvements are needed have been identified and actions are undertaken in order to address any shortcoming.

2.3. Information to the Commissioner

The main elements of this report and assurance declaration have been brought to the attention of Commissioner Šemeta.

3. Building blocks towards the declaration of assurance

3.1. Building blocks towards reasonable assurance

3.1.1. Building block 1: Assessment by management

The main elements of the control strategy applied by DG TAXUD to its expenditure in 2010 were:

- Ex-ante verification of commitments: All commitments in DG TAXUD were ex-ante verified by the head of Unit R1 (HR & Finances). Consequently, 100% of the committed amount was covered by the ex-ante verification. Though this procedure is relatively complex from the administrative point of view, it gives a high level of assurance as to the legality and regularity of commitment transactions.
- Ex-ante verification of payments: Minimum one payment (from all categories of expenditures) per week was randomly selected for ex-ante verification. This verification was performed by the Head of Unit R1 (HR & Finances). There was no target concerning the coverage, as the purpose of this verification was to check payments "randomly" in order to verify that all payments were prepared in line with the requirements. Total amount of €17.8 million was verified ex-ante in 2010, representing 24% of the total paid amount. 55 payments were verified ex-ante, representing 5% of all payments made in 2010.
- Technical verification: IT units in DG TAXUD perform controls of deliverables and supervise operations and services carried out by contractors. They also conduct quality and security audits of their contractors on a regular basis. Quality audits verify the compliance of the contractors' actual processes against the rules and procedures defined in their quality plans. Security audits focus on the specific processes, procedures and set-up. In 2010, the action plans of the quality audits of FITSDEV2 and CCN/TC were completed. The action plan of the security audit of ITSM was implemented, but not completed. A new quality audit on FITSDEV2 was prepared and a new security audit on SPEED at CCN/TC took place in December.
- Declarations of the AOSD: All the Authorising Officers by Sub-Delegations signed declarations supporting the Annual Activity Report for the year 2010. The AOSD declared that the sub-delegated tasks had been performed within the limits set in the instruments of sub-delegations, that the operations connected with the implementation of the budget had been executed in accordance with the principles of the sound financial management, that the management and control systems in place provided satisfactory assurance concerning the legality and regularity of the transactions and that the risks associated to these operations had been properly identified, reported and that mitigating actions had been implemented.

The assessment by management of the legality and regularity of the transactions is further supported by the following indicators:

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target</i>
Coverage of ex-ante verification of commitments	100% commitments are verified ex-ante by the Financial Unit	100% of commitments to be verified ex-ante
Coverage of ex-ante controls of payments	In 2010, the ex-ante controls of payments performed by the HR & Finances Unit covered: - 5 % of number of payments paid by DG TAXUD; - 24 % of the total amount paid by DG TAXUD.	- Ex-ante control of at minimum one payment a week (which means with current volume of payment the coverage of about 5%); - No target concerning the amount coverage as the purpose is to check the payments "randomly" and not based on the amount.
Amount of potentially abnormal RAL	No potentially abnormal RAL	No potentially abnormal RAL
Number of late payments resulting in an obligation to pay interests	No late payments resulting in an obligation to pay interest in 2010	No late payments resulting in an obligation to pay interest
Number of cases received by the Ombudsman relating to procurement	None in 2010	None
Number of proceedings initiated by contractors or economic providers against the Commission before the Court	None in 2010	None

In the field of the Joint Actions under the Customs and Fiscalis 2013 programmes, following the disclosure of shortcomings when closing the 2009 accounting year, a follow-up IAC audit on the management of the Actions was finalised in October 2010. A qualified opinion on the financial management of the Actions issued by the IAC concerned the following issues:

- control strategy;
- set up of procedures addressing the participation of the third countries;
- internal organisation, supervision and proper documentation of procedures.

It is considered, however, that in spite of the qualified opinion delivered by the IAC, DG TAXUD's management can provide the assurance of the legality and regularity of the transactions related to the Joint Actions because of the following factors:

- The level of risk in relation to the expenditure is low, since the beneficiaries of the grants are the public administrations of the 27 Member States and of the 4 candidate countries (Croatia, FYROM, Serbia and Turkey). All participating national administrations engage themselves to respect Commission's financial and administrative rules on the expenses.
- All budgetary commitments, legal commitments (grant agreements) and payments made in the framework of the programmes are subject to *ex ante* controls.
- The control of the expenditure declared by the Member States' national administrations participating in the programmes (€14,1 million in 2010, representing 17% of the total budget committed by DG TAXUD) is done in the IT reporting tool ART2 used for the daily management of the Actions). A number of adjustments to the tool were made and detailed instructions were issued in 2010 to help ensuring that transactions are dealt with in an appropriate manner.
- In relation to the 4 candidate countries, which cannot currently use the ART 2 tool, (€0.7 million in 2010, representing 0.8% of the total budget committed by DG TAXUD), controls of supporting documents are carried out in the context of the daily management of the Actions. In addition, DG BUDGET (Unit D3 - Financial Procedures and Control Systems) confirmed in 2010 that the current Framework Contract could be used to perform on-the-spot controls in the 4 candidate countries in 2011. Preparatory works were initiated to put an integrated control strategy in place in 2011.
- Two multi-beneficiary grant agreements (one per programme) were signed in March 2010 by DG TAXUD and all the participating beneficiary national administrations. In parallel, two Memoranda of Understanding covering the accession of Albania and Montenegro to Customs 2013 programme were drafted at the end of 2010.
- Re-organisation of the allocation of tasks among the members of the staff in terms of management and supervision took place in the course of the year, accompanied by the recruitment of a lawyer from the Central Financial Service in the unit responsible for the financial management of the Joint Actions.

It can therefore be concluded from the above, that the overall control strategy in DG TAXUD, which includes the ex-ante verifications of commitments and payments, technical verifications, declarations of the AOSD and the management of the Joint Actions, gives the management a high degree of assurance of the legality and regularity of the underlying transactions. The identified shortcomings were dealt with by taking appropriate corrective actions.

3.1.2. Building block 2: Results from audits during the reporting year

In 2010, the following audits took place:

1) Internal Audit Capability (IAC)

- **Follow-up audit on the review of the management of the Joint Actions under the programmes Customs & Fiscalis**

The objective of this follow-up audit finalised in October 2010 was to assess the progress made in the implementation of the recommendations resulting from the initial audit carried out in 2006 (audit report issued in 2007) and to conduct specific audit work on the financial management of the Actions, as requested by the management, following the disclosure of shortcomings in the context of the closure of the 2009 accounting year.

The follow-up audit report delivered a qualified audit opinion on the financial management of the Actions and issued 12 further recommendations, out of which 7 are new and 5 are complementary to those made in the 2007 audit report.

A revised action plan for the implementation of the recommendations was adopted in December 2010.

By the end of 2010, the state of the implementation of all the recommendations related to the management of the Joint Actions was as follows:

- Recommendations originating from the 2007 audit report - out of 27 recommendations:
 - 15 were fully implemented;
 - Necessary works concerning 3 other recommendations were carried out in view of the new activity period (1/04/2011-31/03/2012);
 - Actions linked to the remaining 9 recommendations were effectively carried out, but need to be documented.
- Recommendation originating from the 2010 audit report - out of 12 recommendations:
 - 7 new recommendations - preparatory actions concerning 6 of them took place and the implementation of the 7th recommendation will occur when the update of the "*Guide des procédures budgétaires et financières de la DG TAXUD (Partie 7 – Actions conjointes)*" takes place.
 - 5 complementary recommendations: 1 was put in place on 1/10/2010 and the remaining 4 will be documented in the "*Guide des procédures budgétaires et financières de la DG TAXUD*".

- **Impact Assessments**

The objective of the audit was to assess the organisation and the internal control system in DG TAXUD for delivering impact assessments (respect of procedural rules, consistency of the approach, planning requirements, support to operational units, strengths and weaknesses of the reports delivered, quality control) and to compare it with the best practices identified in other services.

The main identified risks concerned the absence of a central support function, the quality control, the identification of needs and planning requirements.

10 recommendations were made ranging from very important to desirable.

An action plan for the implementation of the recommendations was adopted at the end of the year. A major action took place in May 2010 with the creation of a sector dedicated to impact assessment and evaluation in Unit D4.

- **Financial Circuits**

This audit started in the last quarter of the year and will continue in 2011.

The objective of the audit is to assess the compliance of financial circuits in place in DG TAXUD with the Financial Regulation (notably the segregation of duties and the '4 eyes' principle), as well as their efficiency. The audit covers financial transactions (commitments, payments, recoveries) from the 2009 and 2010 exercises and involves the operational and administrative expenditure.

2) Internal Audit Service (IAS)

- **The Management of IT Project Setup - SPEED**

The objective of this Commission-wide audit is to assess the application of the internal control system, the risk management and governance processes related to the set up of the information system development projects from the recording of new business needs to the decision to start their execution. Preliminary findings were presented in October. No recommendations will be issued to the individual DGs participating in this audit.

3) European Court of Auditors (ECA)

- **VAT Evasion at Import Using Customs Procedure 42**

The objective of this audit is to examine whether the Commission and the Member States have set up a sound regulatory and control framework in respect of imports under the customs procedure 42 and the intra-Community supplies or transfers following such imports in order to prevent and detect fraud. The audit is expected to be finalised in 2011.

- **DAS 2010 audit on VAT based own resources**

The objective of the audit is to monitor the implementation of the VAT Directive into national laws of the Member States and the conveyance of key information regarding the Member States' VAT systems to other interested parties. The audit is expected to be finalised in 2011.

3.1.3. Building block 3: Follow-up of previous years' reservations and action plans for audits from previous years

DG TAXUD did not make any reservation in the AAR 2009.

As far as the follow-up of actions plans for audits from previous years is concerned, the audited units are requested to prepare periodic updates of the implementation status and explain any significant delay. Such reporting is done twice a year for the recommendations made by the IAS and once a year for those made by the IAC and the Court of Auditors. The last periodic update took place in December 2010.

The situation at the end of 2010 was as follows:

Internal Audit Capacity

- **Inventory of IT Equipment (2004 – 2006)**

The audit covered the balance of IT assets on 31/12/2004 and the restatement needed for the opening balance on 01/01/2005, following the introduction of the new accounting rules.

The main risks identified concerned the off-the-shelf assets which were not inventoried. The opening balance of assets was therefore significantly understated.

7 very important and 10 important recommendations were made.

The follow-up audit conducted in 2008 identified 6 recommendations. Their implementation is in progress.

The next follow-up audit is planned in 2012.

- **Execution of Budgetary Line 140201 (2007)**

The objective of the audit was to review internal procedures and assess their adequacy and effectiveness regarding the expenditure planning process and budgetary execution of the operational budget line 14 0201 "Implementation and development of the Internal Market". The audit also focused on the issue of the recurring under-execution of the budget line.

The main risks identified concerned difficulties encountered to implement the actions planned on a timely basis and achieve a sufficient level of budgetary execution of the budget line.

4 very important and 13 important recommendations were made.

DG TAXUD considers that all recommendations have been implemented.

The follow-up audit is planned in 2011.

- **Management and Data Processing of Customs Databases in Unit B4 (2008 – 2009)**

To objective of the audit was to review the internal procedures for the management and data processing of customs operations (TARIC Tariff Quota and Surveillance).

The identified risks relate to the information systems (availability and continuity), human resources (dependence on specific skills), planning and organisation.

26 recommendations were made for TARIC management, 16 for Tariff Quota management and 14 for Surveillance management, ranging from very important to desirable.

The action plan for the implementation of the recommendations was established in 2010. The recommendations are being gradually implemented. The follow up audit is planned in 2012.

Internal Audit Service

- **Large IT Systems (2005 - 2006)**

The objective of the audit was to assess the adequacy and the quality of the internal control system put in place for the information systems owned by DG TAXUD.

27 recommendations were made, one of which was critical. It concerned business continuity arrangements for the trans-European networks, which was the subject of a reservation in the TAXUD Annual Activity Report in 2005. The recommendation was implemented by the end of 2007.

The IAS conducted a follow-up audit in 2009. It concluded that all critical and very important recommendations had been implemented, except for 2 very important recommendations, which were downgraded to "important". All other recommendations were closed.

The implementation of the open recommendations will be reviewed in a second follow-up audit.

- **IT Procurement and Subcontracting (2007)**

The purpose of the audit was to assess whether the internal control system in DG TAXUD provides the reasonable assurance regarding the achievement of business objectives set up for the management and monitoring of IT contracts with external contractors.

No major risk has been identified.

Three recommendations (two important and one desirable) have been implemented.

- **New IT Organisation and Contractual Framework (2009)**

This audit covered Customs 2013 programme, the e-Customs project supporting the implementation of the Modernised Customs Code and related IT processes and procedures.

Major observations were made in the area of project management, risk management, IT service management, IT sourcing strategy and a service level agreement with a contractor.

8 recommendations were made (5 very important and 3 important).

One recommendation is still open, which should be implemented in 2011.

- **Business Continuity Management (2008-2009)**

10 very important recommendations have been issued for DG TAXUD. All of them have been implemented and are ready for review by the IAS.

The follow-up audit is planned in 2011.

Court of Auditors

- **Binding Tariff Information (2008-2009)**

The objective of the audit was to examine whether the Commission has adequate procedures, mechanisms and resources to ensure the management of the BTI system.

Weaknesses were found, notably in the area of supervision. Recommendations were made with a view to enhancing the overall functioning of the system and strengthening the legislative provisions.

The implementation of the recommendation is in progress:

- legislative amendments regarding the MCC were adopted in 2008;
- MCCIP are being finalised;
- monitoring of the Member States was finalised in 2010.

The follow-up audit is currently taking place.

- **Simplified Customs Procedures (2008-2009)**

The objective of the audit was to verify whether legal provisions and the supervision ensure a correct functioning of simplified customs procedures.

The audit concluded that simplified procedures were not yet effectively controlled in the majority of the audited Member States. Recommendations were made concerning the EU-wide automated risk management system and a standardised approach for ex-post audits.

The implementation of the recommendation is ongoing:

- Monitoring visits aiming to assess the degree of the implementation of the regulatory framework, the effectiveness of controls and ex-post audits are taking place in all the Member States and should be finalised by 2013.
- The Commission will consider further developments of the common standards for the controls of the simplified procedures, including ex-post audits.
- DG TAXUD requested to include a legislative proposal on the approximation of customs infringements and penalties in the Action Plan of the Stockholm Programme.

- **Community Transit System (2005-2006)**

The aim of the audit was to examine whether the Member States apply the legal provisions correctly and whether the new procedures for transit have been correctly implemented and coordinated by the Commission so that the EU's financial interests are protected effectively.

The Court concluded that the application of the revised legal provisions in the Member States was often unsatisfactory.

Recommendations were made regarding the inspections in the Member States, the risk management process at the European level and the fraud prevention.

The follow-up of the recommendations is ongoing, in particular in relation with the anti-fraud transit information system and better cooperation in the area of the risk management.

- **VAT Administrative Cooperation (2006)**

The object of the audit was to examine whether information exchanges among the Member States take place in an effective manner and are supported by sound procedures and administrative structures.

The Court concluded that the administrative cooperation among the Member States was not intensive enough to cope with intra-Community VAT evasion and fraud.

Recommendations were made regarding the VAT information exchange system, the use of tools available for multilateral controls, quantifying and analysing VAT fraud, common rules for withdrawing VAT numbers and the cross-border prosecution.

A number of legislative initiatives were taken between 2008-2010 to improve the exchange of data and the use of the existing and new instruments such as Eurofisc, standards for registration and deregistration of VAT numbers, enhancing the rules for the exchange of information.

3.1.4. Building block 4: Assurance received from other Authorising Officers in cases of crossed sub-delegation

Assurance of the regularity and legality of the transactions concerning the use of payment appropriations in 2010 amounting to €10.058,08 in the framework of the crossed sub-delegation for the action "Calculating Tax Wedge and Effective Tax Rates on Labour" made in 2009, has been received from the Director General of DG EMPL. A report issued by DG EMPL (Ares/2011/98500) in this respect states that the total amount of the payment appropriations has used.

A report concerning the crossed sub-delegation given to DG DEV for actions in the area of the good governance in fiscal matters amounting to €780.000,00, has been received (Ares/2011/122583). No reservation has been made. 96% of the sub-delegated budget line was committed in 2010 to promote good governance in tax matters in developing countries.

3.1.5. Completeness and reliability of the information reported in the building blocks

Information reported in the building blocks 3.1.1, 3.1.2, 3.1.3 and 3.1.4 is complete and reliable as regards the coverage of the budget assigned to DG TAXUD.

3.2. Reservations

None

3.3. Overall conclusions on the combined impact of the reservations on the declaration as a whole

Since no reservation is made, there is no impact on the declaration.

4. The declaration of assurance

I, the undersigned,

Director-General of DG TAXUD

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view³⁷.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution.

Brussels, 30/03/2011

Walter Deffaa

(signed)

³⁷ True and fair in this context means a reliable, complete and correct view on the state of affairs in the service.