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**WORKING DOCUMENT**

Summary Report of the

272nd Electronic Customs Group Informal Meeting held jointly with Trade Contact Group (TCG) and representatives of the eMS group (DG MOVE) dedicated to discuss the coordination on maritime initiatives with customs impact in Brussels on 28 November 2013

## **AGENDA**

**272nd Electronic Customs Group Informal Meeting on 28 November 2013 jointly with Trade Contact Group (TCG) and representatives of the so-called eMS group (DG MOVE) dedicated to discuss the coordination on maritime initiatives with customs impact**

**Address: Albert Borchette Conference Centre, 36 rue Froissart, 1040 - Bruxelles**

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## 1 WELCOME AND INTRODUCTION

The **Chair** welcomed the participants and thanked everyone for their presence at this joint Meeting of the Electronics Customs Group with Trade Contact Group and the Maritime Experts organized by **DG TAXUD** and **DG MOVE**. It was highlighted that the objective of the meeting was to inform about latest activities on the development of the Blue Belt concepts and the electronic Manifest in particular as well to provide feedback from the visits of the COM to four Member States (MS). The **Co-Chair** welcomed the participants and added that the maritime sector has the additional task of finalising the technical specifications to ensure a coordinated implementation of the Reporting Formalities Directive (RFD), which is interdependent with the works on the eManifest. Indeed, it was decided to postpone any work on customs or cargo related information until a concrete orientation is taken on the eManifest. In addition, the eManifest will have to be lodged in the National Single Window (NSW) to be established by 1st June 2015.

## 2 ADOPTION OF THE AGENDA

The **Chair** introduced the items to be presented and discussed during the meeting. The agenda was adopted without amendments.

## 3 COMMENTS ON THE MINUTES OF THE PREVIOUS INFORMAL ECG MEETING ON 20 SEPTEMBER 2013

WSC (World Shipping Council) reported they will resubmit comments regarding the previous informal ECG meeting. All comments will be reflected in the next draft available shortly in [CIRCABC](#).

## 4 eMANIFEST INITIATIVE COMMISSION WORKING DOCUMENT

### 4.1 FEEDBACK FROM THE VISITS TO FI, EE, IT, PT, AND THE MEETING WITH ADVANCED NATIONAL NETWORKS FOR ADMINISTRATIONS (ANNA)

The **Chair** informed the delegates about the COM performed visits to ports in Finland, Estonia, Italy and Portugal and thanked the authorities for the very warm welcome and organisation of presentations. The **COM** provided to the delegates detailed feedback from each of these visits.

The **Chair** informed that a meeting was held in Brussels with the Irish Administration where it was stated that in the first half of 2014 the implementation of eManifest is planned, as well as of a meeting held with the Norwegian Administration to discuss the evolution of the eManifest file.

The **Co-chair** informed about the AnNa project. AnNa stands for "Advanced National Networks for Administration" and is a Member States driven project selected under the TEN-t Motorways of the Sea 2012 Multi Annual Call. The main goal is supporting Member States in implementing the Reporting Formalities Directive (RFD) and the National Single Window, e.g. by supporting ICT based system integration. 14 Member States are active participants in the project; 6 more have observer status. **AnNA** speakers gave a presentation (available in [CIRCABC](#)) of the work carried out in relation to data mapping, including on FAL 1 and 2. There is an opportunity to benefit from their work in establishing the eManifest data set.

WSC and UK delegates highlighted that too many initiatives are existing duplicating the work as well as in particular asking the relation between the work done in AnNA project, the eMS subgroup on data mapping and DIH (Data Integration and Harmonization) section of the Customs Code Committee (CCC). **COM** was asked for more coordination and not replicating activities. The **AnNA**

speakers clarified that the project covers not only eManifest but additional formalities and requirements and the **COM** confirmed that the results of the work need to be validated by the e-MS group. **IT** suggested making sure that work is coordinated and proposed possible joint collaboration of the mentioned groups as the AnNA project is Maritime driven project not dealing with customs only. Some delegates requested more information on the visit ID, mentioned in the presentation, and **AnNA** speakers reported that this data element is not required by RFD, but it is technically required to connect the information and is to a broad extent already existing with a different naming convention.

#### **4.2 FEEDBACK FROM THE VISITS TO FI, EE, IT, PT, AND THE MEETING WITH ADVANCED NATIONAL NETWORKS FOR ADMINISTRATIONS (ANNA)**

**DG TAXUD** provided the delegates with the presentation of item #4.2 regarding the external review of the eManifest working document - overview of the comments received from MS and Trade, which is available in [CIRCABC](#).

**DE** thanked for the comprehensive presentation and requested clarifications on which business cases cover the FAL form 7 implementation and asked for an overall view of the eManifest future stages.

**DG TAXUD** replied that FAL form 7 is not envisaged to be part of the implementation based on legal constraints. The future phase of the eManifest will be discussed and implemented under UCC requirements. **DG TAXUD** replied that FAL form 7 is not envisaged to be part of the implementation based on legal constraints. The future phase of the eManifest will be discussed and implemented under UCC requirements.

**WSC** pointed out that current proposal will not fulfil the Blue Belt objective of facilitating customs and maritime transport. The **Chair** clarified that the first priority is to distinguish the EU and non EU goods and the second one is the progress on harmonization. For the latter, we are limited by the short deadline and we can only go as far possible without needing a new legislative act to be agreed by EP and Council. **COM** committed to work towards this ambition. **WSC** clarified that their reaction was in response to **DE**'s proposal to completely drop FAL form 7 from the eManifest initiative. **WSC** agreed that FAL form 7 should be dealt with in a later phase of the initiative. **AnNa's Speaker** clarified that FAL form 7 is already related to cargo, which means that it is within the scope of customs interest. The **Chair** clarified that customs purposes do not require FAL form 7, in contrast with RFD. This functionality needs to be taken into account in the next phase.

**IT** asked clarification if the eManifest covers FAL form 1 and 2 and expressed the need to define the data that customs have to pass to the NSW to cover FAL form 1 and 2. The **Chair** replied that **COM**'s first proposal is quite reduced and **COM** is committed to make it more complete in a later phase.

**PL** stated that according to their understanding the eManifest will be optional for traders and asked if it is trader's responsibility to define the eManifest use. Regarding the risk analysis, they stated that the data set presented is too limited. Furthermore, if MS continue to use their national elements, the harmonization objective cannot be achieved. The **Chair** replied that in case the eManifest is not used, the existing mechanisms to e.g. prove the Union status apply. Regarding the risk analysis, **DG TAXUD/B2** considered the dataset as adequate. However, if more elements are needed, **COM** will introduce them in a later version of the proposal. Finally, the **Chair** clarified that the national data elements should remain as long as they are needed for functionalities which are to be introduced in the later phase. Furthermore, **PL** asked for clarification if the addition of data sets already used within directive 2010/65 in the customs legislation would be redundant. If this is the case, they asked if the eManifest transmission from the NSW to customs environment is foreseen for phase 1 or for later. Furthermore, he asked if the eManifest data fields have to be introduced in the data matrix of eMS group. The **Chair** clarified that the scope of the text was to stress out the limited effort for the implementation of the approach currently proposed and highlighted that there is no intention to give another interpretation to the directive 2010/65. The NSW within the MS will share the information with the competent authorities. The **Chair** confirmed that the datafields from the customs side are input to the maritime side. **The Co-chair** added that the eManifest can be considered as an element to

facilitate MS for the implementation of RFD. Moreover, they added that the datafields should be validated within the eMS group to cover RFD harmonized implementation.

**UK** requested clarification on the scope of the eManifest implementation at phase 1. Taking into account that the use of an eManifest is optional and MS have the ability to provide for other means to proof the Union status, they could agree to the focus on the simplification target.

#### **4.3 CONTENT OF THE COMMISSION'S REVISED WORKING DOCUMENT "PROPOSAL FOR THE IMPLEMENTATION OF AN eMANIFEST (REV 1.0)**

**DG TAXUD** provided the delegates with the presentation of item #4.3 regarding the Content of the **COM's** revised working document "Proposal for the implementation of an eManifest, which is available in [CIRCABC](#).

**WSC** expressed their initial disappointment in **COM's** proposal to create an overall electronic manifest that would harmonise and standardise all information that need to be provided by the vessel operator or carrier on customs and maritime issues. **WSC** concluded that they do not support the proposal as it does not meet all core objectives of the Blue Belt initiative. **WSC** stated that they could share their ideas to improve further the proposal. The **Chair** admitted that an overall harmonization of the eManifest cannot be achieved given the time constraints and the absence of legal empowerment to ensure an overall harmonisation of the administrative requirements (customs and other authorities) in the customs legislation. The national administrations should keep the existing mechanism under phase 1 as harmonization will accompany the functionalities to be introduced in the later phase. The **Co-chair** stated that the work on the customs business rules in the eMS group has been provisionally agreed until the cargo eManifest is agreed in a harmonized manner. This question is to be raised in the eMS group meeting on 11/12/2013. FAL form 1 is the key formality that has to be further analysed. **ECSA** (European Community Shipowners' Association) explained the disappointment on the proposal by sharing that the perception of deep sea and short sea shipping companies is that they are moving away from the simplification and harmonization target.

**EPCSA** (European Port Community Systems Association) stated their support on the current pragmatic **COM's** proposal given the time and legal constraints.

**PT** raised their concern regarding the overall harmonisation, as the proposed data set annexed to the legal proposal is too limited to fulfil other customs requirements, e.g. serve as declaration for Temporary Storage. Furthermore, according to their understanding, the proposal leads to a supplementary eManifest. The **Chair** clarified that no supplementary manifest needs to be submitted. The proposal's aim is to distinguish EU goods from non-EU goods via the eManifest and the incorporation of other functionalities and related further harmonisation is going to take place in the following phase under the UCC legal basis. **BE** agreed with **ECSA** and **WSC** interventions as the proposal diminishes the **COM** initial ambitions. The **Chair** clarified that the full harmonization has to be based on a new legal act and be voted in EP and Council. **UK** underlined the difficulty in alignment of the eManifest with RFD and asked for disassociation of the initiatives. They realize the already implementing work on this direction by MS with **DG MOVE**, nevertheless they acknowledge the need for clarity on the eManifest scope in order to diminish the risk on RFD. The **Co-chair** clarified that RFD's goal is simplification. Regarding the customs related information under RFD, the eMS group decided to put that on hold to allow solutions in the framework of the Blue Belt initiative.

**EE** requested clarification on where to check for the authorised consignor. The **Chair** replied that the authorisation applies to the ports/MS included in the application for the time being. The EU wide authorisation functionality is envisaged to be widely used under the eCustoms decisions as part of the UCC.

**WSC** stated that they had understanding for the time constraints and the political context in which the **COM** services had to develop an eManifest proposal by June 2014. However, it was **WSC's** belief that a "barebone eManifest" could be developed under the CCIP. Specifically, Article 184g CCIP

could be used to develop a maximum set of arrival manifest data to include the so-called “Entry Key” for approval by June 2014. A maximum set of data elements for the cargo manifest could also be developed pursuant to existing CCIP articles for approval by the same date. Also, rather than identifying the NSWs as the sole recipient for the manifest submissions, it would be more appropriate to require that manifest information be provided using established channels and methods, e.g. port inventory systems and EDI/EDIFACT. Finally, **WSC** noted that their proposal, while focusing on amendments to the CCIPs in view of the aforementioned time constraint and political context, would also facilitate the implementation of three elements in the import Pentalogy under the UCC, i.e. the arrival notification, presentation and declaration for temporary storage.

**ECSA** stated that it was reviewing the proposal to eliminate article 324e CCIP and was therefore unable to support the deletion pending the elaboration of further proposals in this area. The **Chair** replied that this will be taken into consideration.

**ECSA** stated that time constraints should be reconsidered and focus on the quality of work. **IE** agreed with **UK**, **WSC** and **ECSA** interventions.

**The Chair** concluded, upon having received further clarifications about the **WSC** proposal, that it should be pursued under the UCC rather than under the CC/CCIP due to uncertainties about or lack of existing legal empowerment. **WSC**, while not agreeing, took note of the Chair’s decision but requested that in this case, a maximum date set should also be developed under the UCC for the exit manifest. **The Chair** agreed to investigate if the UCC provides empowerment to do this. **AnNA’s Speaker** stated that an agreement should be reached on the scope of eManifest for all the concerned authorities (customs, maritime, Trade, MS). **WSC** encouraged the synchronisation of the two initiatives (RFD, eManifest).

## **5. EMANIFEST INITIATIVE LEGAL PROPOSALS FOR AMENDMENTS TO THE CUSTOMS CODE IMPLEMENTING PROVISIONS**

**DG TAXUD** briefed the delegates on the state of play on the draft legal text to implement the proposals presented under point 4.3. The eManifest could be used to prove the Union status, with a distinction being made between the treatment of authorised consignors and others. Authorised consignors would indicate the status on the eManifest and this would be the proof. Other operators could also indicate it, but it would not be the actual proof: they would have to hold a proof issued in accordance with the normal rules, and Customs would carry out controls on the basis of risk analysis. The Customs status and transit section (TRA) of the CCC will consider the procedural aspects, while the Data Integration and Harmonisation Section (DIH) will consider the data requirements, but it is a single text and there will be a single vote. DIH held a first discussion on 22 November, while TRA will hold its first discussion on 9 December. The **COM** has thus fulfilled its commitment to have a proposal on the table by the end of 2013 and it believes it is fully in line with the SMA II aim of facilitating the movement of Union goods by sea within the internal market: it will allow Community goods to move freely with the minimum of formalities, while ensuring that non-Union goods are identified and subject to appropriate Customs supervision.

**The Chair** suggested that in view of the previous comments from MS and trade regarding the proposal, it would not be productive to have a lengthy discussion about at this time. **WSC**, while reaffirming its disagreement with the proposal and without prejudice to this position, made a number of proposals to improve the draft legal text: First, a provision should be included regarding who is responsible for submitting the cargo and arrival manifests. Secondly, a provision should be included to specify the time lines for the lodgment of the cargo and arrival manifests as their timely submission is necessary for initiating subsequent Customs procedures. Thirdly, today there is no requirement that the carrier holds proof of Union status before submitting a manifest with that status indicator. Proof is only to be provided upon request by Customs. There is no need for changing this principle in the proposed legal text, in particular considering that there is agreement by the **COM** and the MS that proof should only be requested following a risk analysis; requiring carriers to always

have proofs before submitting their manifests would therefore be burdensome and wholly unnecessary.

The **Chair** announced that **COM** will go ahead with the consideration of the legal proposal in the CCC (TRA and DIH), review it in the light of discussions and seek approval by June 2014. Furthermore, **COM** will investigate what further harmonization could be achieved in the framework of the UCC on the customs side (e.g. arrival of means of transport, presentation of goods and Temporary Storage declaration) and for the maritime requirements.

An alternative solution could be a long-term larger political initiative where **DG MOVE** and **DG TAXUD** would prepare a joint legal initiative resulting in a basis legislative act that regulates the EU harmonized reporting of all customs and maritime information by the shipping world. This requires at least 5 years of work to prepare, approve and work out practical implementation. The **Chair** concluded that they are going to consult their management and legal department to decide on the best way forward and asked the delegates to send their preferable directions.

## **6. AOB**

**PT** briefed the delegates with their practices on the use of the eManifest under the existing customs code. **WSC** thanked **PT** and noted that other MS also today apply and interpret the CCIPs in a flexible way to allow for the electronic submission of manifests with good status indicators. This was proof that, with the right motivation and will, further harmonization and simplification could and should be done regarding manifests beyond the **COM**'s most recent, disappointing proposal.