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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

pursuant to Article 14(3) of Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods

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1. INTRODUCTION

Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019[1] on the introduction and the import of cultural goods ("the Regulation") aims to prevent the illicit trade in cultural goods, in particular when it contributes to the financing of terrorist activities, and to prohibit the import into the Union customs territory of cultural goods exported illegally from third countries.

The Regulation subjects the import of certain cultural goods, considered to be particularly endangered heritage, to import licences and others, which are considered as less endangered, to importer statements and ensures that they undergo uniform controls when imported into the Union. Furthermore, any physical introduction, for instance, through transit, into the Union of cultural goods which have been removed from the territory of the third country where they were created or discovered in breach of its laws and regulations is prohibited (the so-called 'general prohibition rule').

The material scope of the Regulation is inspired by the 1970 UNESCO Convention[2] and defined in its Annex, by listing the categories of cultural goods for which the general prohibition rule applies (part A), and those which are subject to import licences (part B) and importer statements (part C), respectively.

The Commission's original proposal provided for the possibility - without prescribing a specific timeframe - for an electronic system to be developed, in order to facilitate the administrative co-operation between the Member State authorities in charge of implementing the Regulation. However, following the request of the European Parliament and of the Council during the adoption negotiations, an obligation for the Commission to establish a centralised electronic system within a specific timeframe was introduced in the Regulation.

The centralised electronic system is to become operational at the latest within a period of six years from the entry into force of the Regulation (28.06.2019), i.e. by 28 June 2025 at the latest. Furthermore, the system will not only serve as a means for the storage and the exchange of information between Member States administrations, but also for the accomplishment of formalities by operators, namely the submission of applications for import licences to the Member States competent authorities and the issue of those licences, and the submission of importer statements to customs.

Moreover, the development and functioning of the centralised electronic system for the import of cultural goods (hereafter 'the ICG system') is closely linked with another major initiative of the Commission in the field of customs: the EU Single Window Certificate Exchange System (EU-CSW CERTEX)[3].

The EU-CSW CERTEX aims at interconnecting EU centralised systems for Union non-customs formalities, with national customs systems in view of allowing a digital exchange of supporting documents, results of controls and the outcome of customs and non-customs procedures. Operators will benefit from this mechanism by not having to carry physical copies of documents, and competent authorities will not have to deal with verifying the authenticity of importer statements and import licences.

To achieve these objectives, the Regulation requires the European Commission to lay down by means of implementing provisions the arrangements for the deployment, operation and maintenance of the centralised electronic ICG system, as well as the detailed rules regarding

[1] OJ L 151, 7.6.2019, p. 1–14

[2] The UNESCO Convention on Preventing and Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property, signed in Paris in 1970.

[3] https://ec.europa.eu/taxation_customs/general-information-customs/electronic-customs/eu-single-window-environment-for-customs_en

the submission, processing, storage and exchange of information between the authorities of the Member States through the same electronic system.

Despite of the project progressing on several levels at the same time, it can be figuratively divided into three phases:

- **Phase 1 – Conceptualisation:** in this phase the Commission has to study how the ICG system is going to work, and determine the detailed rules regarding the submission, processing and storage of the information between the authorities of the Member States. As a result of this phase, the Commission will produce an implementing act and a parallel set of technical documents detailed in Table 1 (see Annex I);
- **Phase 2 – System development:** following the provisions of the implementing act and the technical documents describing the system requirements, the Commission has to produce detailed technical system specifications, develop the ICG system and its link with the EU Customs Single Window Certificates Exchange System (EU-CSW CERTEX);
- **Phase 3 – Deployment and Operations:** this last phase consists in the deployment and test of the ICG system, including specific training activities in each Member State to ensure that by 28 June 2025, operators and competent authorities are capable and well trained in the use of the system. To this phase will follow a 6 months after-care period, in which the system will be fine-tuned to match any operational need that may become evident only after an IT system becomes mandatory, and to ensure that operations are running smoothly.

The Regulation provides that by 28 June 2020 and every 12 months until the electronic system becomes operational, the European Commission is to present a report to the European Parliament and to the Council on the progress made in adopting the relevant implementing provisions and establishing the electronic system.

This first annual progress report focuses mainly on Phase 1, and describes the developments during the first year after the Regulation entered into force. **It analyses the progress made, outlining also the objectives to be met, the project architecture and the planning approach. On that basis, it highlights the risks for potential delays, as well as the mitigating measures envisaged.**

The overall assessment of the progress made is summarised in the conclusions section of this report.

2. OBJECTIVES TO BE MET

The electronic system will have to become operational by 28 June 2025 at the latest, as on that date it will become mandatory for all operators to obtain import licences or submit importer statements through that electronic system, in order for them to be able to import[4] cultural goods legally into the Union.

The Regulation entered into force on 28 June 2019 and has set a final deadline of 28 June 2021 for the adoption via the examination procedure of implementing provisions laying down the detailed rules for the electronic system.

Following the adoption of the implementing provisions, the development phase of the electronic system will cover about two years, at the end of which, the third phase will start, during which the ICG system will be interconnected to the EU-CSW CERTEX, to allow the

[4] The placement of goods under the following customs procedures is defined as 'import' in the Regulation: release for free circulation; storage in customs warehouses or free zones; temporary import; end use, including inward processing.

exchange of documents with Member States' customs systems. Training sessions will be organised to familiarise their administrations with the systems operational functionalities.

Alongside other activities of the Commission in the field of customs, the project on the import of cultural goods is also planned in detail through the Multiannual Strategic Plan for electronic Customs 2019 revision[5] (MASP-C rev. 2019). The MASP-C is a management and planning instrument, based on existing legislation or international agreements, which is drawn up by the Commission in partnership with Member States in accordance with Article 8(2) of the e-Customs Decision[6]. An excerpt of the planning of the project on the import of cultural goods from MASP-C rev. 2019 is provided in Annex I to this report.

Part of the project on the import of cultural goods is developed also within the EU Single Window Environment for Customs (MASP-C rev 2019 Fiche 1.13) of which EU CSW-CERTEX is the key IT system. An excerpt of the planning of EU CSW-CERTEX from MASP-C Fiche 1.13 is provided in Annex I to this report.

In fact, the import of cultural goods entails a close cooperation between national competent authorities who issue the import licences, and customs, who need those licences to clear cultural goods at the border. The Commission has carried out (starting already in Q1 2017) a preliminary analysis on the possible interconnection between the ICG system and customs. This analysis fed the initial work for the conceptual phase of the ICG system, and progresses in parallel to the milestones detailed in Table 1 (see Annex I).

3. PROJECT ARCHITECTURE AND PLANNING APPROACH

The Project Architecture is based on the methodology provided for in MASP-C rev. 2019 and its Annexes, including the Governance Scheme[7], the EU Customs Business Process Modelling Policy[8] and the IT strategy[9]. A comprehensive roadmap, with the main project phases and the critical milestones is detailed in Annex II.

Phase 1 – Conceptualisation:

The work of developing IT systems involves several phases. Initially, a business case is prepared, which provides the project justification and defines budgetary requirements. Typically, the business case would include the business context, problem description, project description and scope, possible alternative solutions, costs and timescale.

Next a vision document is produced, which provides more detailed information regarding the project definition in terms of architecture, cost, time, and risk, as well as information such as milestones, deliverables and project organisation. Subsequently, to enable common understanding and analysis, Business Process Modelling (BPM) is used, the practice whereby the business processes from the legislation are graphically represented in process flows or process models, to help develop the functional specifications for the system.

Phase 2 - System development:

Following this, the technical specifications are developed which identify in more detail how the system will be constructed, the architecture to be used, the messages to be submitted by economic operators, the interfaces to other systems, test plans, etc.

[5] See https://ec.europa.eu/taxation_customs/general-information-customs/electronic-customs_en.
[6] Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless customs environment for customs and trade, OJ 2008, Nº L23, p. 21.
[7] https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_masp_annex3_en.pdf
[8] https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_masp_annex4_en.pdf
[9] https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_masp_annex5_en.pdf

Once the design of the system is ready from the conceptual perspective and the deliverables listed in Table 1, Milestones 1 and 3 (see Annex I) are produced, a more in-depth work begins and more technical aspects are taken into account in the Application & Service specifications and Technical System Specification documents, which are the natural evolution of the deliverables produced during the Business Analysis and Project Initiation phases.

Phase 3 – Deployment and Operations:

Lastly, the actual IT development phase begins (Construction Phase), which is followed by a Transition phase where the early versions of the system are gradually rolled out to the different groups of users and tests are performed. Parallel to the roll-out and testing, the training activities and communication on the functioning of the system take place.

In the case of the electronic system for the Import of Cultural Goods (ICG), it is not foreseen to integrate the service with national cultural goods licencing systems already existing in some Member States, nor a national technical implementation, due to the fact that the ICG system will be centrally managed by the Commission. Operators and competent authorities alike will be able to access and use the system through the Graphic User Interface (GUI) provided by the Commission.

From a policy perspective, this choice is considered the best-fitting solution, given the complexity of the cultural goods subject to trade. In fact, customs systems on their own are ill-equipped to allow for a complete, detailed description of each piece of cultural heritage which is, in most cases, unique in itself.

On the other hand, the ICG system will be interconnected with Member States' customs administrations via the EU CSW-CERTEX, to allow customs automated controls on the documents issued for the import of cultural goods. This activity will require Conformance Testing.

4. PROGRESS OVERVIEW

Consultation and discussions

In the first phase the Commission is preparing the adoption of implementing provisions for the establishment of the electronic system. In order to get a better perspective from a practical implementation point of view, it consults regularly on policy options with the Members States delegates at the Expert Group on customs issues related to cultural goods.

The Expert Group is a forum for the discussion of implementation issues of Union legislation on cultural goods pertaining to customs and, in particular, the Regulation on the export of cultural goods[10], a set of rules that also provides for a licencing system – at export - which has been in force since 1993[11].

The Commission informs art market associations about the progress of work at every opportunity, listens to their concerns and has taken them into consideration, in order to ensure that the practical implementation of the Regulation is well adapted to the realities of the market.

As the drafting of the implementing act progresses, the Commission will carry out the final consultations with the Committee of Regulation 2019/880, as this would be the body ultimately voting on the implementing act.

[10] Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ L 39, 10.2.2009, p. 1–7)

[11] Before the creation of Expert Groups for the purposes of the Lisbon Treaty, these same discussions were taking place within the Committee of Regulation (EC) No 116/2009. The members of the Expert Group are mostly the same authorities that are meeting within that Regulation's Committee.

In parallel, the Commission has created a 'Customs 2020 Project Group on the import of cultural goods' ("PGICG"), which serves as a discussion platform, where experts from national customs administrations and competent (cultural) authorities with experience in carrying out licencing formalities in heritage matters, in particular digitally, come together to provide support with drafting the implementing act, defining the parameters and elaborating the criteria for the functional specifications of the system.

The Project Group consists of 18 delegates from 11 Member States (AT, BE, BG, ES, LV, PT, RO, DE, NL, IT, FR) and to-date it has met six times.

Specifically, the Project Group provides support and expertise on:

(a) The preparation and progressive refinement of the implementing act in what concerns the creation of a centralised electronic system;
(b) The development of system functionalities for an interoperable electronic licensing system at EU level to ensure uniform controls for the import of cultural goods upon their entry into the customs territory of the Union;
(c) Technical arrangements on the deployment and maintenance of the centralised electronic system and detailed rules concerning the submission, processing, storage and information exchange between national authorities;
(d) Roles and responsibilities of the actors involved in the processing of import licensing procedures for cultural goods;
(e) Creation of the standard electronic template for the import licence and development of the format for the importer statement;
(f) Procedural rules for the submission and processing of the application for the import licence and registration of the importer statement;
(g) Consultation on the business case for future system development.

Design challenges

Several challenges have been encountered with designing the architecture of the electronic system. One of them is the best way for applicants (for import licences) and declarants (for importer statements) to describe a cultural good, given the particular and unique nature of the product, which distinguishes it from regular commodities that can be exhaustively described through Common Nomenclature tariff codes. The cultural goods that come within the scope of the Regulation are not mass-produced products and their creation and historical origin dates back several centuries, if not millennia.

That is why the standard data set that will have to be provided by operators will need to be particularly adapted in order to allow, on the one hand, the adequate identification of the objects for the purposes of e-licencing and declarations and, on the other, to take into consideration the reality of the market and the difficulty in certain cases to obtain all the required provenance information. The Commission, in co-operation with the Project Group are making efforts to define these core data.

Another identified challenge is the design of the import licence 'lifetime' stages in such a way within this digital framework, that all possible eventualities and needs of the applicants and the competent authorities are anticipated while, at the same time, the procedures and the related implementing provisions do not become overly complicated and remain applicant-friendly, in particular in the case of applicants who will only import cultural goods on an occasional basis and who are not art market professionals.

A third matter to consider is the compatibility with existing national administrative procedures and practices, as all Member States have been implementing since 1993 the Union legislation on authorising the export of Union cultural goods, which also provides for a

licencing scheme. Although those export licences still have to be issued on paper, a significant number of Member States have developed electronic means to process the applications. In fact, the experience of certain Member States with the export licence system and controls of trade in cultural goods in general has been particularly useful in analysing the requirements for the import electronic system.

In the process of designing the architecture of the electronic system for the import of cultural goods, it is taken into consideration that in the future and, provided that the necessary human and financial resources become available, the same system should be scalable to allow the digitalisation and electronic issue of export licences as well.

Operational considerations and functionalities

As the Project Group is comprised by both customs and cultural authorities representatives with experience with cultural goods, they have been actively contributing by analysing and discussing proposals from the Commission, and providing statistics/information on how procedures involving cultural goods are designed at national level.

In particular, the Project Group provided useful insights to estimate the number of import licences the ICG system could end up managing every year, and the average estimated value per licence; in 2019 the number of estimated licences seems to amount to 49,610 for an average total value of 29.4 billion EUR, limited to the 11 Member States participating in the Project Group.

Moreover, the Project Group is working on a Frequently Asked Questions master-document, to feed the communication process afterwards and to anticipate potential hindrances and gaps in the development of the ICG system.

Lastly, the Project Group is constantly reviewing and providing feedback to the data set and the BPMs produced for the system and for innovative approaches to the description of cultural goods through Image Recognition and Artificial Intelligence.

5. RISKS FOR DELAYS

Project Summary

The Commission is tasked to develop a centralised electronic licensing system and interface it with national customs within 6 years after the entry into force of the Regulation. Two Administrator (AD) posts in DG TAXUD are required to deliver on this initiative, as set out in the relevant Legislative Financial Statement.

Risk title & Description

The delivery of the ICG system is dependent upon the approval by Member States and by the European Parliament of appropriate funding for the customs programme which will succeed Customs 2020 in the next Multiannual Financial Framework (MFF), and upon the allocation of resources in DG TAXUD taking into account the various priorities facing that Directorate General.

Risk 1 – Staff allocation

The initial proposal from the Commission did not foresee the creation of an IT system. Thus, resources were not allocated accordingly. However, in the course of the negotiations and at the request of the co-legislators, the creation of the ICG system was included in the Regulation, which called for unforeseen at that point, additional resources. The needs for this six-year project in terms of IT development personnel in DG TAXUD were estimated at the time of the final political trilogues in December 2018 to be two full time Administrator posts. However, based on financial availabilities sourced from the current Multiannual Financial Framework (MFF), only one contract staff could be allocated, from late September 2019.

Moreover, the objective complexity of the project, the specific knowledge required in terms of policy and the technical tools used to develop the ICG system, made the preparation and training of a resource to be able to work on the file considerably lengthy. However, the progress on business functional specifications and system design is only slightly delayed.

Risk 2 – Budget availability

Budget uncertainty due to the negotiations on the new MFF render progress very challenging. Depending on the outcome of the MFF negotiations, and in the worst-case scenario the development and roll-out phases risk to come to a halt or be significantly delayed and the legal deadlines to establish the ICG system impossible to meet.

In addition to the risks identified above, the COVID-19 public health crisis is affecting to some extent the team's capacity to deliver and especially the project activities and meetings with the Expert Group and the Project Group with the Member States. In particular, one meeting of the Expert Group was cancelled, which had a direct impact on the progress of the work of the Project Group, and the next session of the latter can only be held remotely and for a third only of the time initially scheduled. Moreover, the public health crisis forced a rescheduling of priorities within Member States, thus limiting their capacity to provide input and feedback to the file. Such impact will depend on the duration of the public health crisis.

Mitigation actions

The risks have been documented within DG TAXUD. A post for an Administrator (AD) has been allocated on a temporary basis (2 years).

6. CONCLUSIONS

This very first progress report of the Commission regarding the development of a centralised electronic system for the import of cultural goods (ICG) records the actions undertaken so far, namely,

(a) the ongoing preparation for adopting the necessary implementing provisions,
(b) the consultation with the Member States via the Expert Group for customs issues related to cultural goods and the specifically established for this purpose Project Group for the import of cultural goods.

As potential risks for delay of delivering the ICG system within the set deadline of 28 June 2025 the Commission has so far identified the uncertainty surrounding the staff allocated to the project, as this depends on current budget availabilities, overall customs IT development priorities[12] and the future allocation in the next MFF.

[12] Such as the Union Customs Code (UCC) digitalisation exercise.

ANNEX I: MULTI ANNUAL STRATEGIC PLANNING

The MASP-C ensures an effective and coherent management of IT projects by setting out both a strategic framework and milestones. It is ultimately endorsed by the Member States in the Customs Policy Group (CPG) based on expert advice provided by the Electronic Customs Coordination Group (ECCG) and consultations with trade at the Trade Contact Group (TCG).

The planning for the electronic system has been discussed and approved by the Member States and is described in detail in Fiche 1.18 of the MASP-C rev. 2019.

Table 1 below provides an excerpt of the planning of the project on the import of cultural goods from MASP-C rev. 2019 Fiche 1.18.

Table 1 - Excerpt of MASP-C rev. 2019 Fiche 1.18

	Milestones	*Estimated completion date*
1	**Business Analysis and Business Modelling**	
	- Business Case Document	Q4 2020
	- Level 3 (User Requirements BPM)	Q1 2022
	- Level 4 (Functional Requirement detailed BPM)	Q1 2022
2	**Legal Provisions**	
	- Current provisions adopted*	Q2 2019
	- Future provisions adopted**	Q2 2021
3	**Project Initiation Phase**	
	- Vision Document	Q2 2021
	- GO decision	Q2 2021
4	**IT Project**	
	- Application & Service Specifications	Q2 2023
	- Technical System Specifications	Q2 2023
	Construction Phase	
	- Central services implementation	Q3 2024
	- Service integration in National Systems	N/A
	- National implementation	N/A
	Transition Phase	
	- Deploy and rollout	Q4 2024
	- Conformance tests	Q2 2025
5	**Operation**	
	- Commission, Member States administrations and Traders	Q2 2025
	- Non-EU Countries and non-EU traders (in case required)	N/A
6	**Implementation support (training and communication)**	
	- Centrally developed training and communication	Q4 2024
	- National training and communication	Q4 2024

*Current provisions refer to Regulation (EU) 2019/880
**Future provisions refer to the implementing provisions to be adopted according to Regulation (EU) 2019/880

Table 2 provides an excerpt of the EU CSW-CERTEX project, with a focus on Component 2 of the EU-CSW CERTEX project, interconnecting the ICG system.

Table 2 - Excerpt of MASP-C rev. 2019 Fiche 1.13 – Component 2 "EU CSW- CERTEX"		
	Milestones	*Estimated completion date*
1	**Business Analysis and Business Modelling**	
	- Business Case Document	Q1 2017
	- Business Case Annex	Q2 2023
	- Level 3 (User Requirements BPM)	Q1 2024
	- Level 4 (Functional Requirement detailed BPM)	Q1 2024
2	**Legal Provisions**	
	- Current provisions adopted*	In force
	- Future provisions adopted**	2021
3	**Project Initiation Phase**	
	- Vision Document	Q3 2017
	- Vision Document Annex	Q3 2023
	- GO decision	Q3 2023
4	**IT Project**	
	- Application & Service Specifications	Q2 2024
	- Technical System Specifications	Q2 2024
	Construction Phase	
	- Central services implementation	Q3 2024
	- Service integration in National Systems	From Q4 2024 onwards
	- National implementation	From Q4 2024 onwards
	Transition Phase	
	- Deploy and rollout	Q4 2024
	- Conformance tests	From Q1 2025 onwards
5	**Operation**	
	- Commission, Member States administrations and Traders (NB: This is the Operations date for the Commission, MS will conformance test from Q2 2020)	Q2 2025
	- Non-EU Countries and non-EU traders (in case required)	N/A
6	**Implementation support (training and communication)**	
	- Centrally developed training and communication	N/A
	- National training and communication	N/A

*Current provisions refer to Regulation (EU) 2019/880
**Future provisions refer to the implementing provisions to be adopted according to Regulation (EU) 2019/880

ANNEX II: MAIN PROJECT PHASES AND CRITICAL MILESTONES TIMELINE

