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NOTE

From: General Secretariat

To: Delegations

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Subject: Strategy for the future customs law enforcement co-operation

Delegations will find attached the Strategy for the future customs law enforcement co-operation as endorsed by the Council on 6-7 December 2012.

Strategy for the future customs law enforcement co-operation

I. Introduction

Law enforcement co-operation is based on national legislation and on Articles 67(3) and 87 of the Treaty on the Functioning of the European Union (TFEU), which provide closer co-operation between law enforcement services, including customs authorities of the Member States.

On 13 December 2011 the Council adopted Resolution 2012/C 5/01¹ on the future of customs law enforcement co-operation.

Accordingly, the Member States and the Commission undertook the commitment, within their own competences, to further facilitate and strengthen customs law enforcement co-operation in the area of freedom, security and justice.

The Council Resolution defines a specific structure to help Member States' customs authorities, within the scope of their competences, to provide effective protection of society and the economy from various illegal activities, including organised cross-border crime within the European Union (EU) and at its external borders.

The Council Resolution underlines the need to define a comprehensive strategy for the identification of the requisite measures to contribute to the future customs law enforcement co-operation and co-operation with other law enforcement authorities. In addition, it recognises the need to strengthen the key role of customs authorities in protecting the EU area of freedom, security, justice and citizens from illicit goods.

¹ OJ C 5, 7. 1. 2012, p. 1.

It can be noted that actions initiated in accordance with Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and the Commission to ensure the correct application of the law on customs and agricultural matters, provides for fruitful co-operation between customs authorities that can be useful for the purpose of customs law enforcement co-operation in combating cross-border crime.

It can also be noted that risk management in the area of customs law enforcement can have synergies with risk management for other purposes¹.

II. Position of the customs authorities in the law enforcement area

Customs is the lead authority for control of and the fight against illegal trade in goods crossing the external borders of the EU and contributes within its competencies to the fight against the illegal trade in goods within the EU customs territory. In so doing, customs must ensure both the facilitation of legitimate trade and the protection of citizens life and health and the EU economy from smuggling, fraud and other related threats by criminals and organised crime.

Member States and the Commission will continue to ensure and strengthen this role of customs as a lead agency, each within their respective areas of competence. The role of customs as a lead agency is a precondition for effective customs law enforcement.

Taking into account the above interests, customs should continue to promote best practices and, where appropriate, develop and implement common control and enforcement methods to prevent, detect and investigate criminal offences.

¹ Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

III. Scope of the strategy

This strategy will provide a dynamic EU instrument based on best practices, taking into account past and current experience in the area of customs law enforcement cooperation.

Building on the experience¹ of the previous strategy on customs co-operation (Council Resolution of 23 October 2009), this strategy calls for an integrated approach to effective co-operation by all customs authorities in combating crime. The strategy identifies the main strategic and operational objectives for customs law enforcement cooperation and for further or deeper co-operation between the customs authorities in Member States and between customs and other law enforcement authorities, agencies and relevant non-EU counterparts.

Notwithstanding that some differences exist in terms of competences and powers entrusted to the customs authorities in the various Member States, this strategy serves as an instrument to help set overall objectives for the customs law enforcement purposes.

Taking into account current and future challenges as described in the European² and Internal³ Security Strategies, the customs authorities of the MS as well as the relevant EU bodies shall implement this strategy. As part of the broader law enforcement community, customs authorities are charged, amongst others, to improve all aspects of co-operation, including operational co-operation, with other relevant agencies, with a view to effectively combat organised crime.

IV. Aims of the strategy

To support customs law enforcement co-operation, the customs authorities of MS in co-operation with relevant Council preparatory bodies, will pursue the following strategic objectives:

¹ Five actions plans with a raft of actions have been carried out since 2004.

² *A secure Europe in a better world*, 12, December 2003,
<http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

³ *Five steps towards a more secure Europe*, COM(2010) 673 final, 22 November 2010,
http://ec.europa.eu/commission_2010-2014/malmstrom/archive/internal_security_strategy_in_action_en.pdf

1. Improve institutional co-operation with other law enforcement authorities, agencies and (non-EU) international organisations.
2. Enhance operational co-operation between customs authorities, including authorities in third countries that deal with customs issues.
3. Ensure effective information management for the purposes of law enforcement.

Customs authorities of the Member States in cooperation with relevant Council preparatory bodies will implement these strategic objectives by striving to achieve the following operational objectives:

1. Institutional co-operation
 - a. Taking account the European Training Scheme for Law Enforcement, explore the potential synergies that might be derived from joint training possibilities for customs authorities and other law enforcement authorities, with a particular emphasis on investigation and operational co-operation;
 - b. Develop, in co-operation with relevant stakeholders such as the Commission, Eurojust and Europol, a cohesive, transparent and effective approach at EU level to assist customs authorities in the fight against crime;
 - c. Contribute to relevant areas of law enforcement co-operation, including those areas where customs is not the leading authority, with a special emphasis on the work carried out by the Standing Committee on Operational Cooperation on Internal Security (COSI);
2. Operational co-operation
 - a. Continue to promote a consolidated best practice approach to combating customs related cross-border and organised crime;
 - b. Contribute to the implementation of the EU policy cycle where customs are concerned;
 - c. Further explore the possibilities of and development of pilot projects for new models for joint actions;
 - d. Further enhance the use of the Convention on Mutual Assistance between Customs Administrations (Naples II Convention of 1997), in particular regarding the special forms of co-operation that it provides, and the roles played by other law enforcement and judicial authorities.

3. Information management and exchange

- a. With a view to further develop and complement existing risk analysis and threat assessments:
 - (i) Prepare customs threat assessments and update existing threat assessments in co-operation, as appropriate, with other relevant organisations and agencies;
 - (ii) Establish a Risk Analysis Coordination Mechanism in co-operation with other law enforcement authorities; and
 - (iii) Explore possibilities for finding synergies with risk analysis completed under the Commission competences for law enforcement and risk management purposes¹.
- b. Ensure an effective use of existing systems for exchange of information between customs authorities and establish links with other relevant systems, where appropriate;
- c. Examine models for the exchange of intelligence used in the fight against organised crime in order to intensify co-operation among all relevant authorities and agencies;

V. Implementation of the strategy

Member States' customs authorities, together with the other law enforcement authorities and the competent EU institutions, agencies and bodies are invited to undertake the necessary measures and contribute to the smooth implementation of the strategy.

The CCWP, where appropriate with a continuation of the practical support provided by the Commission acting under its competences, will play a crucial role in the coordination, the implementation and evaluation of the strategy.

The CCWP shall establish an Action Plan to implement this strategy, which should include actions aimed at meeting the strategic and operational objectives. The CCWP shall monitor and evaluate the implementation of the Action Plan.

¹ Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

The Action Plan should in particular address practical aspects of customs law enforcement co-operation and should be as much as possible in line with the EU policy cycle against organised crime. The evaluation of the Action plan shall explicitly take into account how the action has contributed to achieving the objectives of the strategy, and on which levels follow-up is required.

The Commission is invited to contribute, where appropriate and within its competence, to the implementation of this strategy and the future Action Plans, with the aim, amongst others, of finding synergies. It is invited in particular to continue, to the greatest possible extent, to provide financial, technical and logistical support.

The Member States are invited to invest their customs authorities with the powers to execute to the maximum the recommendations in order to ensure the strategy's success.
