



Brussels, 3 November 2022
(OR. en)

13944/22

LIMITE

ENFOCUSTOM 155
JAI 1408

NOTE

From:	Presidency
To:	Delegations
Subject:	Strategic Trade Investigations Identified Challenges & Solutions

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (16.12.2022)

Introduction

Illegal trade in strategic goods¹ could involve criminal activities of sophisticated and resilient proliferation networks operating across the globe to deliver sensitive goods to a dangerous end user – either a terrorist network, a rogue state, an insurgent fraction or a criminal organization.

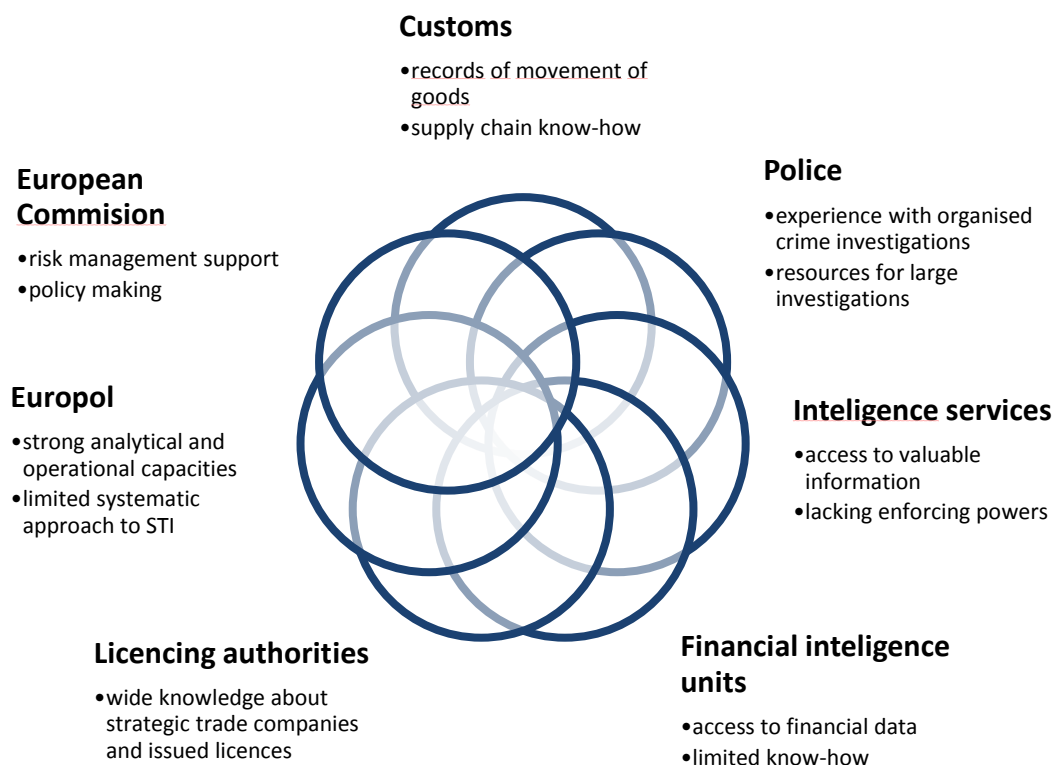
Customs is the first line of defence against illegal trade in strategic goods. The powers of customs authorities differ across the EU. While some of the customs authorities do have investigation powers and tools other do have them only in limited form or not at all. The key prerequisite for successful dismantling of serious organised crime group is close cooperation and information exchange with other stakeholders both on national and EU level. If customs work is limited to the interception of goods, the proliferation networks will remain unaffected, continuing to misuse free movement of goods and persons.

¹ [Definition](#) of strategic goods by World Customs Organization: “Strategic goods encompass weapons of mass destruction (WMD), conventional weapons, and related items involved in the development, production or use of such weapons and their delivery systems.”

Consequences of strategic trade violations may seem unclear, but they directly support violations of human rights, spread of civil wars, disturbance of regional peace, threats to national security, violations of international law, and they facilitate terrorism, armament of rouge states or cause supply chain disturbances.

Selected actors involved in Strategic Trade Control Enforcement (STCE) and Strategic Trade Investigations (STI)

The area of strategic trade control involves many different stakeholders, where everyone plays its own role different from others and all of them should cooperate as tightly and seamlessly as possible. Considering the international dimension of the phenomenon, esp. exploiting free movement of goods, capital and persons, it is highly desirable to encourage this cooperation in all MS.



Investigation complements customs risk management

Across the EU MS the national risk analysis is often very well developed. Also, the EU level risk analysis provided by Customs Risk Management System 2 (CRMS 2) is flexible and very well administered by the Commission. However, it can reach its limits when it comes to complex STI. For the effective EU wide investigations, it is necessary to identify the biggest problems which prevent necessary development in the area of STI and address them.

Global mandate, global responsibility

United Nations Security Council Resolution 1540 stating that “all states shall develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering" of strategic goods. It has given customs a global mandate to enforce strategic trade control, but also a global responsibility to fulfil it. There is the reason why these goods are called strategic, because they influence global security.

STI means to go beyond border controls, seizures and interception of goods. It means to combat illicit trafficking by investigating perpetrators and their associates in order to deny their activity. It means to fight proliferation networks and to dismantle them.

Now more than ever

EU is facing an unprecedented wakeup call after the invasion of the Russian army to Ukraine. Its effort in effective export control enforcement may need to improve to face the current increased demand for sensitive technologies and production means.

Survey findings

The mandate for action 11.8 Strategic Trade Investigation (5089/22) of the LEWP-Customs (LEWP-C) Action Plan 2022-2023 is specifically designed to address the above challenges. One of the steps of this project was to run a survey to identify challenges and solutions in the area of investigating illegal trade in strategic goods.

The survey had been processed and 12 MS answered. The answers were summarized, evaluated and subsequently discussed during the first project group meeting. The major findings and conclusions are set out in the annex of this discussion paper.

The survey finding and conclusions, included in the Annex, are open for comments. Furthermore, the Presidency would invite LEWP-customs delegation to share their opinions on the topics listed below . Possible solution at the end of every point is only a proposal by Presidency and is meant as a starting point for further exchange of views.

DELETED

DELETED

PUBLIC

DELETED

PUBLIC

DELETED

PUBLIC

Discussion questions

Member States are invited to discuss following questions during the LEWP-C meeting to be held on 8th November 2022 in Brussels.

Questions for agenda point 3.1

- 1) Do you agree with the proposed solutions and suggested way forward?
- 2) Do you have other proposals or challenges that should be addressed?

Questions for agenda point 3.3

- 1) Do you find the project Shield Europe Partnership interesting and useful?
 - 2) If so, would you consider joining this CZ initiative and run similar project in your MS?
-

DELETED FROM THIS POINT UNTIL THE END OF THE DOCUMENT (page 26)

PUBLIC