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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	13708/2/18 REV 2
Subject:	Draft Updated Strategy for the future customs law enforcement co-operation – Endorsement

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1. On 12 December 2011, the Council adopted Resolution 2012/C 5/01 on the future of customs law enforcement cooperation. In line with the Resolution, the Customs Cooperation Working Party (CCWP) agreed on a Strategy for the future customs law enforcement co-operation which was endorsed by the Council on 6–7 December 2012.
2. In 2018, the Austrian Presidency of the CCWP initiated an update of the Strategy. A drafting group set up within the CCWP presented the draft Updated Strategy at the CCWP, which was discussed in several meetings. The CCWP agreed on the draft Updated Strategy at its meeting on 5 March 2019.
3. Based on the above, COREPER is requested to invite the Council to endorse the draft Updated Strategy for the future customs law enforcement co-operation contained in annex.

## **Updated Strategy for the future customs law enforcement co-operation**

### **Introduction and purpose**

The initial *Strategy for the future customs law enforcement co-operation*<sup>1</sup> was developed following the adoption of Council Resolution 2012/C 5/01 on the future of customs law enforcement cooperation<sup>2</sup> on 13 December 2011.

It represents a continued effort to strengthen customs law enforcement co-operation. There has been much progress in implementing the strategy. However, there is still work to be done in a rapidly evolving environment for customs authorities.

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.

Against this background the *Updated Strategy for the future customs law enforcement co-operation* is intended to be a living document that serves as the basis for work planning and will be revised if necessary.

### **A changing environment requires a more prominent role for customs authorities in law enforcement**

Customs authorities nowadays have to perform a wide range of tasks at borders: fighting illegal trade; facilitating legitimate trade; protecting the EU's and the Member States' financial interests and prosperity by collecting duties; and ensuring the security and safety of the Union and its residents, and the protection of the environment. It is recognised that customs is effectively the lead authority for the control of goods at the EU's external borders.

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<sup>1</sup> 17778/12, endorsed by the Council on 6 and 7 December 2012.

<sup>2</sup> OJ C 5, 7.1.2012, p. 1.

This was also underlined in the Presidency note on Enhancing customs contribution to internal security (7705/2/18 REV 2), which was endorsed by COSI in May 2018. The document identifies a number of measures, aiming at enhancing the contribution of customs to a high level of internal security in the EU. The measures are grouped in three categories, which are consistent with the priorities of the updated strategy: institutional cooperation, operational cooperation, and exchange of information and interoperability. The specific measures identified in that document are therefore relevant and should be taken into account in the implementation of the Strategy.

In a globalised world where borders between countries are becoming less rigid every day, digital trade speeds up the flow of goods, new threats and fraud patterns force customs to think outside the box. Poly-criminal activities increasingly affect customs' daily work and remit. As gatekeeper of EU borders for the flow of goods, customs authorities have assumed a valuable role in the fight against terrorism and organised crime.

In this context, the reform of the customs advance cargo information system (ICS) provides fundamental contribution to further strengthening of the capacity of customs in the area of security and safety risk management and external border controls. Integral to this reform is the enhancement of operational cooperation instruments in the field of risk management and controls between the customs authorities. Such closer ways of cooperation will bring new opportunities for collaboration in future with other law enforcement authorities.<sup>3</sup>

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<sup>3</sup> Implementing the EU Strategy and Action Plan for Customs Risk Management:

- Communication from the Commission of 21 August 2014 on the EU Strategy and Action Plan for customs risk management: Tackling risks, strengthening supply chain security and facilitating trade (12644/14 + ADD 1)
- Council Conclusions of 4 December 2014 on the EU Strategy and Action Plan for customs risk management: Tackling risks, strengthening supply chain security and facilitating trade (15403/14)
- Report from the Commission to the Council and the European Parliament: Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management (11415/16 + ADD 1)
- Council Conclusions on the Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management (14894/16)
- Report from the Commission of 20 July 2018 to the Council and the European Parliament: Second Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management (COM(2018) 549 final)
- Council Conclusions on the Second Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management (OJ C 24, 19.1.2019, p. 13)

Strategies deriving from other policy areas have a major impact on customs and influence its role and traditional way of working. Whereas the role of customs authorities in the protection of internal security is increasing, they still have to manage the increasing flow of goods through the EU's external borders.

### **A need for action to tackle the challenges**

Implementation of Council Resolution 2012/C 5/01 has progressed, but is not complete. However, much has been achieved: in particular cooperation with the Standing Committee on Operational Cooperation on Internal Security (COSI) and JHA Agencies as well as activities under the EMPACT Operational Action Plans (OAPs) were streamlined and enhanced. Challenges remain to speed up the further improvement of institutional co-operation with other law enforcement authorities and among the customs themselves, while further enhancement of operational co-operation is necessary and information management needs to become more effective. Therefore adequate resource allocation and sufficient human capacity have to be provided to enhance the coordination at EU level of law enforcement activities among EU customs administrations and to support more effective customs law enforcement activities including controls at the external borders where appropriate.

Various strategic documents<sup>4</sup> describe current and future challenges for customs including the intensification of mutual multi-agency cooperation and the development of synergies between customs and other law enforcement authorities. This implies coherent and streamlined actions based on a common approach to risk management, supply chain security, data exchange, operational cooperation, use of modern and state-of-the art technologies and improved targeting. The Member States' customs authorities, acting within the scope of their differing competences, together with the other law enforcement authorities and the competent EU institutions, agencies and bodies seek to manage these challenges through the updated strategy. It intends to empower addressees to work in a multidisciplinary way, together with relevant stakeholders engaged in the fight against organised cross-border crime at national and EU levels.

The use of detection technology and control equipment, together with the mandatory data submission (Entry Summary declarations) and the EU AEO programme, are important elements of the overall customs control and supervision process. Detection technologies have since long played an important role in customs border controls by assisting in the detection of dutiable, prohibited and controlled goods and materials. The Member States should take advantage of emerging technologies to enhance security in global supply chains. Non-intrusive and smart technologies or control equipment are needed to inspect high-risk cargo quickly without disrupting the flow of legitimate trade.

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<sup>4</sup> The strategic documents include:

- Council Conclusions of 4-5 December 2014 (15670/14) and the Council Conclusions of 16 June 2015 (9798/15)
- The European Agenda on Security COM(2015) 185 final
- Draft Council Conclusions on the Renewed European Union Internal Security Strategy 2015-2020 (9798/15)
- Developing the EU Customs Union and Its Governance COM(2016) 813 final
- Renewed European Union Internal Security Strategy and Counter Terrorism Implementation paper second half 2016 (11001/1/16 REV 1)
- Draft Council Conclusions on Developing the EU Customs Union and its Governance (7585/1/17 REV 1)
- Draft Council Conclusions on the mid-term review of the Renewed EU Internal Security Strategy 2015-2020 (11901/3/17 REV 3)
- Commission comprehensive assessment of EU security policy COM (2017) 417 final
- First Biennial Report on Progress in Developing the EU Customs Union and its Governance COM(2018) 524 final

## Goals

### Strategic Objectives

1. Improve institutional co-operation with other law enforcement authorities, agencies and (non-EU) international organisations
2. Enhance operational co-operation among customs and between customs and other law enforcement authorities, including authorities in third countries that deal with customs issues
3. Ensure effective information management and interoperability for the purposes of law enforcement whilst taking account of the legal requirements of the Union Customs Code (UCC), in particular concerning customs risk management.

### Specific Objectives

1. Institutional co-operation
  - a) Support the implementation of the Renewed EU Internal Security Strategy with an emphasis on the customs role in the fight against organised cross-border crime and terrorism and in ensuring the security of supply chains, together with relevant stakeholders such as the Commission, Europol, Frontex, Eurojust and the European Public Prosecutor's Office (EPPO).
  - b) Contribute to the multi-disciplinary fight against crime by strengthening synergies with priorities and activities in other fora, including in particular COSI and within the area of risk management in the context of the customs union.
  - c) Contribute to and support the update and development of legislative law enforcement instruments in order to make them beneficial to all customs authorities.
  - d) Contribute to the determination of training needs [, including a competence framework in the field of customs law enforcement.] and to the development of CEPOL's working programme with a particular emphasis on relevant information, operational co-operation and investigation topics.

## 2. Operational co-operation

- a) Continue to contribute to the implementation of the EU policy cycle, including the enhanced coordination, where appropriate, between the Operational Action Plans and the actions of the Customs Cooperation Working Party (CCWP) action plans.
- b) Improve operational cooperation by better coordination supported by appropriate resources, using inter alia the pilot projects tool to identify new models for joint actions and sharing of best practices.
- c) Deploy advanced detection and automated technologies, and share the relevant technologies, related knowledge and best practices in this area with the law enforcement authorities.
- d) Participate actively as end users in the Law Enforcement Agencies oriented projects such as the Horizon 2020 Security Research programme.
- e) Further enhance the use of the Convention on Mutual Assistance and Cooperation between Customs Administrations (Naples II Convention of 1997) in particular regarding the special forms of co-operation for which it provides, and the roles played by other law enforcement and judicial authorities.
- f) Explore ways of strengthening operational cooperation with non-EU countries, including the use of EU delegations in third countries to facilitate communication and the exchange of expertise and best practices exchange with the customs administrations or authorities in non-EU countries that deal with customs issues.

## 3. Information management and interoperability

- a) With a view to further developing and complementing existing risk analysis and threat assessments [from a customs perspective]:

- i. Support, contribute to, streamline/coordinate and update (existing) threat and risk analysis by including relevant information, where appropriate in close cooperation with other law enforcement authorities, and benefit as much as possible from the outcome.
  - ii. Continue creating synergies with risk analysis completed under the Commission<sup>5</sup> competences for law enforcement and risk management purposes.
- b) Ensure effective use of existing systems for the exchange of information between customs authorities and customs with other relevant authorities. The work on interoperability of information systems in the JHA area, where appropriate based on identified needs, with customs information systems should be supported, seeking mutual benefits.
  - c) Ensure efficient information exchange by identifying the scope for integrating systems used by the customs authorities in line with the one seizure – one report approach and in accordance with the legal obligation deriving from the UCC on risk management.

### **Implementation of the strategy**

Member States' customs authorities, while acting within the scope of their differing competences, together with the other law enforcement authorities and the competent EU institutions, agencies and bodies, are invited to undertake the appropriate measures and contribute to the smooth implementation of the strategy.

The CCWP will continue to establish an action plan to implement this strategy, which should include actions with quantifiable results aimed at meeting the strategic and specific objectives.

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<sup>5</sup> EU Strategy and Action Plan for Customs Risk Management and other relevant instruments.



The action plan should in particular address practical aspects of customs law enforcement co-operation and, where feasible, the actions should be aligned with the EMPACT operational action plans (OAPs). The CCWP, in cooperation with the Presidency and the leaders and co-leaders of the actions, will supervise and coordinate the action plan in order to avoid duplication and seek synergies with the EU Policy Cycle work in the fight against organised and serious international crime.

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.

All EU Member States are invited to invest their customs authorities with the powers to implement the recommendations to the greatest extent possible in order to ensure the strategy's success.

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