



Council of the
European Union

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ENFOCUSTOM 256

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 14 November 2017
To: Customs Cooperation Working Party
Subject: Summary of discussions

1. Adoption of the agenda

The agenda as set out in CM 4748/2/17 was adopted.

2. Information from the Presidency

The CCWP took note of the information provided by the Presidency on documents and past and upcoming meetings relevant to the work of the CCWP, as set out in WK 13026/17.

3. State of play on the 9th Action Plan

The Presidency presented a new draft for the 9th Action Plan set out in document 13926/1/17. NL suggested making a distinction in the text between those actions aimed at mitigating risks and those aimed at sharing best practices. For NL, the purpose was to deal with them in an appropriate way as regards the mandate, the reporting, etc. BE, which is leader for Action 9.3 "Customs against Internet crime", said it could agree with the suggestion made by NL, but made some comments on the timing.

NL expressed its support for Action 9.7 "Integration of customs in EU SOCTA". NL raised the issue of how to deliver operational input to several OAPs and announced that it would submit a note on this to one of the forthcoming CCWP meetings. ES also emphasised the need to focus more on the organisation and enhancement of the coordination between 9th Action Plan activities and relevant OAPs.

The Commission suggested updating the note on synergies between the EU Policy Cycle activities and the 9th Action Plan.

The Presidency invited delegations to send their comments on document 13926/1/17 by 24 November 2017.

4. Council conclusions on stepping up the fight against illegally traded tobacco products in the EU

The Presidency presented a revised version of the draft Council Conclusions as set out in document 11767/3/17 and one last minute suggestion concerning the ratification by Member States of the FCTC Protocol.

DK, supported by NL, IE, EL, rejected the insertion of the word "swiftly" in the text concerning the ratification by Member States of the FCTC Protocol on page 5. FI and the Commission were in favour of keeping this word in the text. In the end, the Presidency proposed to delete the word "swiftly".

FI asked to insert the words "in this connection" in the fourth paragraph in page 3 after the word "specially".

Concerning the paragraph on the track and trace system, HU said it could not agree with the text of the conclusions as the Presidency had not included its latest alternative wording. HU reiterated its concerns over the impact of the future system on family owned-companies in Hungary and argued that the new systems would not help to solve the problems created by the illegal tobacco trade. As stated at the previous CCWP meeting, the Council Legal Service explained again that it was not legally possible to take the HU suggestion on board because it would amount to a circumvention of the mandate given by both co-legislators to the Commission in the Tobacco Products Directive (Article 15, point 11). EL said that it could accept the current wording but recalled the broad support given by delegations to the HU position at the last meeting of the HLWP of Directors General for Customs under the Maltese Presidency. PL indicated that although it could understand the HU position, it could accept the text and pressed for the adoption of the conclusions at the Competitiveness Council on 30 November. The Presidency stated that the text on the track and trace system had been added just because of the support received by HU at the above-mentioned HLWP meeting. The Presidency said that the current version went even beyond what had been asked at that meeting. For legal reasons, the current text represented the maximum of what could be done in the conclusions by the Presidency to respond to concerns expressed by delegations.

The Presidency concluded this point by inviting delegations to state whether they could accept the text of the draft Council conclusions which figured in document 11761/17/3. Only HU stated that it could not accept the text as it had not changed its position regarding the track and trace system.

5. EPPO developments

The Commission gave an oral presentation of the next steps regarding the setting up of the European Public Prosecutor's Office (EPPO). The Council adopted the EPPO Regulation on 12 October 2017 and it was published in the Official Journal on 31 October 2017. The Commission indicated that the EPPO would start its operations at the earliest by 20 November 2020.

NL inquired how Member States not participating in EPPO would be affected. The Commission replied that the OLAF Regulation would continue to apply as it would not be affected by the EPPO Regulation.

6. Cooperation with non-EU countries

- OLAF liaison officers work in non-EU countries

The Commission provided information on the four main tools for cooperation with third countries:

1) mutual assistance agreements, 2) the use of political committees with third countries, 3) administrative arrangements and 4) liaison officers. The Commission indicated that OLAF had currently deployed liaison officers in Kiev, Abu Dhabi and Beijing. According to the Commission, the main tasks of OLAF liaison officers consisted in handling European and national cases, exchanging alerts and operational information locally as well as information on containers and vessel tracing and, last but not least, maintaining good relations with local authorities.

NL asked for a list of the mutual assistance agreements concluded by the Commission. NL inquired about the legal basis which allowed the Commission to exchange information regarding investigations on behalf of Member States in third countries. For NL, the CCWP should hold detailed discussions on this matter.

The Commission replied to NL that it would share the requested list of agreements with third countries. These agreements took different forms, for example provisions on Association Agreements, Free Trade Agreements or customs cooperation agreements such as the one with China. The Commission referred to the Mutual Assistance Committee where Member States were informed and which took place every six months.

- US Customs (Trade Transparency Program, HSI)

A representative of the US Homeland Security Investigations gave a presentation on the main elements of the so-called "Trade Transparency Program" initiated by the US in 2004. This Program was aimed at gathering data to fight the trade-based money laundering. Through the DARTIS system (Data Analysis and Research for Trade Transparency System), the US and third countries shared their import and export data to uncover trade anomalies. ES said that the idea was interesting but that it was not possible to conclude a bilateral agreement as trade was an exclusive competence of the Union. This was confirmed by the Commission representative.

- Regional Intelligence Liaison Offices (RILO) sharing information and best practices

A representative of the RILO Network in Western and Eastern Europe gave a presentation on the activities of this Network which supports WCO administrations. The main activities consisted in providing operational support and, by designing and implementing target-oriented intelligence analysis, facilitating mutual administrative assistance and promoting regional cooperation with other law enforcement agencies and organizations.

7. Funding opportunities

The Commission gave a comprehensive presentation on the funding possibilities for customs administrations under the Internal Security Fund and European Neighbourhood Policy financial instruments. Detailed information was available for delegations in document 11808/17.

8. Eurosur Fusion Services appliance to cross -border crime

A representative of Frontex gave a presentation on the Eurosur Fusion Services which could contribute to the work of customs administrations in the fight against cross- border crime. Customs administrations should make a request via the National Coordination Centre established on the basis of Article 5 of the Eurosur Regulation.

9. Any other business

No item was raised under AOB.
