



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 February 2013

6456/13

ENFOCUSTOM 22

OUTCOME OF PROCEEDINGS

of:	Customs Cooperation Working Party (Plenary meeting)
on:	11 February 2013
Subject:	Summary of discussions

1. Adoption of the Agenda

The agenda was adopted as outlined in doc. CM 1409/1/13 REV 1.

The DE delegation requested the Commission to provide some information about JCO Dragon and in particular about the legal issues arising from it. This will be addressed at the upcoming CCWP experts meeting.

2. Information from the Presidency

The Presidency informed the group that the next meeting of the Plenary would tentatively be scheduled on 18 April as the March meeting would be an experts group meeting.

The Presidency informed the group that the proposal from the NL delegation on coordination of MS positions within the CCWP (DS 1017/13) had been withdrawn.

The Presidency also drew MS' attention to the two mandates issued to the experts group with regard to items discussed at the January meeting, namely the possible development of a permanent structure to run JCOs (DS 1101/13) and the initiative by the Presidency on identification of learning points arising from operations outside the direct auspices of the CCWP (1100/13).

With regard to the mandate on the development of a permanent structure for JCOs, the SE delegation expressed the view that the experts should base their work on the document produced under the DK Presidency rather than on the document produced by OLAF, as it did not seem appropriate to take as a basis for the discussion a document prepared by an organisation that had no power nor mandate on the themes being discussed, namely law enforcement customs cooperation. The Presidency pointed out that the document produced by OLAF had simply triggered the discussion and would not be subject in itself to the evaluation by the experts.

The Presidency gave an overview of the main issues of interest for the CCWP as referred to in document DS 1087/13.

A representative of Europol drew MS' attention to the EU drugs market report published jointly by Europol and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) at the end of January. The report was available both on Europol and EMCDDA website.

BE referred to the Commission Communication on "Strengthening law enforcement cooperation in the EU: the European Information Exchange Model (EIXM)", to be presented in the CCWP meeting in April, and requested the Commission to address in its presentation the issue of how to harmonise this proposal with other existing proposals, and in particular the question of how to harmonise the many points of contact created by MS under various initiatives.

3. Presentation by TAXUD Risk Management and Security Unit - The Priority Control Area model (PCA) - Open Forum and discussion

The Commission made a presentation about Priority Control Areas (PCA).

The Presidency underlined the similarities of the process and activities carried out under the PCA framework with the JCOs organised by the CCWP. While the organisation of JCOs had become increasingly difficult, the PCA appeared to be a successful and interesting model to put in place activities that would easily overlap with CCWP area of interests, also in view of the fact that the legislative framework and in particular the definition of risk were quite broad. The Presidency suggested the CCWP could further reflect on these developments and on the possible lessons arising from them. The SE delegation, while recognising that PCA operations were well planned and successful, called for improved cooperation within Commission services in order to avoid possible overlaps with JCOs. The expertise summarised in the JCO Guide could also be useful for PCA.

4. The Fifth Action Plan (July 2011 – December 2012) to implement the Council Resolution of 23 October 2009 on a reinforced strategy for customs cooperation – update on actions doc. DS 1010/1/13 REV 1

With regard to action 5.1, the LT delegation confirmed that the report would be provided by the end of May.

With regard to action 5.8, the PL delegation announced that a questionnaire would soon be sent out to the MS.

On Action 5.9, the PL delegation recalled that a meeting would take place 27-28 February in Rome.

With regard to action 5.10, the DE delegation was still evaluating the information received and would provide further details on the handling at the next meeting.

Actions 5.3 and 5.7 were closed off. Action 5.3 would be transferred to the Sixth Action Plan as a new Action 6.5.

5. Initiative by the Presidency on selection of recommendations for the Monitoring File

The Presidency made a presentation on the selection of recommendations for the monitoring file as outlined in doc. 5945/13 ENFOCUSTOM 16. This initiative aimed at making sure that the recommendations included in the monitoring file are clear, feasible, and deliverable in line with the SMART principle (specific, measurable, attainable, relevant and timely). The recommendations needed to be assessed critically by each project group on the basis of a progression map and then accepted by the CCWP Plenary, and all outstanding reports of actions of the 5th Action Plan needed to comply with these principles (5.2 and 5.6 in retrospect, and upcoming draft reports for 5.1, 5.8, 5.9 and 5.10).

The CCWP endorsed this approach.

6. Revision of the strategic objectives for JCOs

The Presidency referred to its proposal outlined in doc. 5946/13 ENFOCUSTOM 17 and pointed out that the experts had looked at the strategic objectives and had not identified any pressing reasons to amend them. However, as the assessment of the strategic objectives was a matter to be dealt with in the Plenary, it was now up to this group to provide guidance to the experts so that they could continue their work on the tactical objectives. The Presidency requested delegations to submit written comments, with suggestions for substantial amendments, by 17 March. Comments would be discussed at the next plenary meeting in April; in case no amendments were proposed, the Presidency would inform the experts group accordingly.

7. Adoption of Draft Final Report on Action 5.6 “To explore in greater detail the legal and operational possibilities of coordinated activities involving customs for detection, prevention and investigation of crime at the external borders”

The HU delegation presented the changes introduced in the revised text of the final report (doc. 15423/2/12 REV 2 ENFOCUSTOM 109 ENFOPOL 409 FRONT 176) following comments submitted by two delegations. The CCWP adopted the final report. The Presidency invited the HU delegation to provide the progression map for the selection of recommendations for the monitoring file as proposed under item 5 of the agenda.

8. Study by the Presidency on Advanced Passenger Information and Passenger Name Records - experience of the Customs enforcement agencies

The Presidency presented its proposal for a study on advanced passenger information and Passenger Name Record as outlined in doc. 5947/13 ENFOCUSTOM 18 GENVAL 7, and referred in particular to the annexed questionnaire. This study could help the project group led by CY on the threat assessment on air transit passengers. The Presidency requested delegations to submit comments by 17 March with a view to having a preliminary analysis of results at the meeting in April.

The DE delegation suggested to include in the questionnaire a reference to Article 5 of the Directive on the use of PNR data.

9. The 6th Action Plan (January 2013 – June 2014) to implement the new strategy for the future of customs law enforcement cooperation of 7 December 2012 based on Council Resolution of 13 December 2011

(i) Belgium document on a new approach to the Action Plan

The BE delegation presented its proposal (doc. 5948/13 ENFOCUSTOM 19) as a complementary initiative to the work being carried out by the Presidency, highlighting as matters for reflection the alignment with the policy cycle and the link to the 2011 Resolution and the strategy adopted in December 2012. On the first point, BE suggested that the customs cooperation action plan should not be completely aligned with the policy cycle, also on its subject matters, and should revert to its original 18 months' length corresponding to the timing of the Presidency trio. On the second point, the sixth Action Plan in its actual form was not at the same level of ambition as the Resolution and the Strategy. BE proposed a wider action plan with a longer perspective than 12 months, actions grouped under three types (operational, policy and legal) and specification of their financing, that had to be considered at an early stage taking into account the widest range of possible resources including logistical support (translation, publication) through the GSC.

Several delegations acknowledged the merits of the BE approach, especially with regard to the possible structuring of a new action plan and as food for thought for further work. Some delegations pointed out that the strategy and the action plan had been endorsed only a few weeks earlier, and there was no scope to revise that decision now. The decision about the 12 months' alignment to the policy cycle referred only to the 2013 action plan, and nothing precluded to revert to the 18 months' - trio setting as of the next year. Hence delegations preferred to stick to the agreed 'interim' 12 months' action plan. BE proposal was welcome in the light of the timely preparation of the 7th Action Plan.

The Council Legal Service noted that with regard to the financing of the Action Plan, the general rule for financing from EU budget was that there needed to be a specific legal basis and a specific legal instrument creating the framework for financing, setting out the objectives and describing specific actions and initiatives that would qualify for support. At this stage, possible sources of financing could not be outlined, as the types of actions were not defined yet. The CLS has mentioned in particular the new instrument under discussion (ISF), as it includes a reference to all legal bases of the JHA chapter in the Treaty that would be interesting for customs cooperation (Articles 78(2), 79(2), 79(4), 82(1), 82(4) and 87(2)). It will depend on its final drafting, which is still under negotiations, whether and to what extent it will allow for financing of CCWP actions. On the issue of financing, the CLS drew the attention of the delegations also to the opinion of the Legal Service addressed to the HDG (doc. 17021/12). With regard to financing from the Council budget, the CLS explained that the relevant legal basis was Article 23(3) of the Council Rules of Procedure specifying the tasks of the GSC; hence actions going beyond those tasks could not qualify for such financing under that very specific legal basis.

The Presidency proposed to continue with the existing Action Plan while at the same time to start an early discussion about the length, structure and content of the future action plan. It asked for comments from MS on the BE proposal as well as for expression of interest to start working on the 7th Action Plan, within the deadline of 17 March 2013. The discussion could be continued at the April CCWP meeting.

(ii) Action Plan points 6.1 and Action 6.3 - update on expressions of interest

LT confirmed their interest to lead work on Action Plan point 6.1 and would develop draft mandate. DK, HU, and UK expressed interest to participate.

DE, ES and UK expressed interest to participate in the work on Action Plan Point 6.3. FR might join. The Presidency urged MS to come forward with proposals to lead.

5th Action Plan point 5.3 was transferred into the 6th Action Plan and adopted as point 6.5. The draft mandate would be developed by HU and BE. MS were invited to express interest to participate in the work.

(iii) Suggested template of structure for future Action Plan Project groups mandates

The template of the structure for future Action Plan project groups prepared by the Presidency (doc. DS 1103/13) was approved.

10. Evaluation of Customs engagement with the EU Policy Cycle – preliminary report by the Presidency on responses to the Questionnaire

The Presidency made a presentation on the preliminary results emerging from the responses to the questionnaire circulated under doc. 5114/13 ENFOCUSTOM 5. Bearing in mind that one objective for the customs authorities was to increase their visibility and relevance, the results of the questionnaire were not encouraging as far as involvement in the COSI work was concerned. The Presidency also recalled that ensuring appropriate involvement and visibility for customs was the responsibility of the MS, working at national level. The CCWP as such did not play a role in this matter but was just a forum for discussion. A full analysis of the questionnaire would be presented at the April meeting.

11. Any other business

There was no issue for discussion under this item.