



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 October 2012

14434/12

ENFOCUSTOM 98

OUTCOME OF PROCEEDINGS

of:	Customs Cooperation Working Party (Experts and Plenary meeting)
on:	12 and 13 September 2012
Subject:	Summary of discussions

CCWP/Experts meeting 12 September 2012

1. Adoption of the agenda

The meeting adopted the agenda as set out in doc. CM 3998/1/12 REV 1 with the addition of information points by the CY delegation under AOB.

2. Information from the Presidency

The CCWP was updated about some recent events of relevance to customs authorities enumerated in doc. DS 1484/12. Special attention was paid to the outcome of the latest meetings of LEWP, CUG, HDG and Dapix - Data Protection.

3. Update of the multiannual overview of JCOs

The CCWP updated the document related to the overview of JCOs (doc. 6985/2/12 REV 2 EU RESTRICTED).

4. JCOs and other customs operations

DK gave an update and organisational information about the implementation of JCO Athena 3. It would provide further details in the coming weeks.

PL provided an overview of operation GOAL, carried out in the framework of the 2012 European Football Championship. The operation was carried out jointly by Polish, Ukrainian and German authorities, with the participation of the WCO. It aimed at the detection of illicit products (drugs, drugs precursors, and tobacco) through coordinated control actions by the authorities involved. Answering questions from other delegations, PL stated that the concept of a permanent central headquarter was one of the main conclusions of the operations. The idea would need further discussion. Seizure of drugs had been slightly higher than average, due probably to a bigger market and also to the increased activity of the customs authorities.

A representative of the WCO presented two operations currently under preparation.

5. Draft final report on JCO Colosseum

IT presented the draft final report of JCO Colosseum (doc. 10515/1/12 REV 1 + ADD 1). A first version of the report had already been presented in June, and comments by other delegations had been included in this new draft, notably on how recommendations had to be presented. CZ and SE delegations suggested to move one recommendation under the conceptual recommendations of the Guide for the JCOs, and to delete another recommendation. The CCWP agreed on these change and endorsed the report.

6. Update of the Joint Customs Operation (JCO) "Recommendation Monitoring File"

DK explained the changes introduced in the document "Recommendation Monitoring File" (doc. 6975/2/12 REV 2) and the procedure followed. The group said that the document included now a reasonable set of recommendations to work on. The document was endorsed.

7. Annual revision of the tactical objectives for the JCOs

The CCWP examined document 12736/12 and added some wording to bring it in line with the Guide for JCOs as well as a new risk. One delegation raised the question whether it would be appropriate to increase the number of risk areas while concrete action was still lagging behind. The document was endorsed with the agreed changes.

8. Update of the Guide for the JCOs

The CCWP endorsed document 10837/1/12 REV 1 with some minor changes. A recommendation from JCO Colosseum was added to the annex on conceptual recommendations.

9. OLAF Annual Report 2011

OLAF presented its annual report 2011.

10. Presentation of the Europol Platform for experts

A representative of Europol presented the Europol Platform for Experts (EPE), a secure web-platform for specialists in different law enforcement areas. He provided the basic information regarding access and functioning and gave practical examples of how the platform could be useful for law enforcement practitioners. On a question by a delegation, he specified that there were no limits in the number of officials per Member State who could request access.

11. AOB

CY provided some information on operation SIDECAR, which was ongoing. 23 MS had joined the operation, together with Switzerland, Europol, Frontex and Tispol. The aim was to combat international crime related to vehicles, to share knowledge on tools used to combat this crime and to promote cooperation among authorities of the MS.

CCWP Plenary meeting 13 September 2012

1. Adoption of the agenda

The meeting adopted the agenda as set out in doc. CM 3998/1/12 REV 1 with the addition of information points by the Presidency, Europol, the CY delegation, the GSC, and DE delegation under AOB.

2. Information from the Presidency

The CCWP was updated about some recent events of relevance to customs authorities enumerated in doc. DS 1484/12. Special attention was paid to the outcome of the latest meetings of LEWP, CUG, HDG and Dapix - Data Protection.

3. Follow-up of the Council Resolution on the future of custom law enforcement cooperation

The PL delegation presented the draft Strategy that was the outcome of the consultations carried out by the drafting group (doc. 12712/12). The aim was to have it adopted in December 2012, preferably by the JHA Council.

The PL delegation underlined that the Member States and the Commission would be responsible for the implementation of the strategy; in particular the Commission should play a key role. With regard to a possible action plan, this would have to be determined at a later stage on the basis of the strategy.

Delegations expressed positive general comments on the first draft and entered scrutiny reservations. The Presidency invited delegations to submit written comments by 28 September at the latest. A new draft would be prepared ahead of the next plenary meeting.

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

Delegations provided an update on various actions under the Fifth Action Plan (doc. DS 1139/5/12 REV 5).

As regards Action 5.1, the LT delegation explained that they were analysing the replies to the questionnaire disseminated in April 2012. They would then prepare a draft final report.

As regards Action 5.2, the CZ delegation informed that the last meeting of the project group would be held on 3 October 2012 in Budapest and would focus on the exchange of information.

As regards Action 5.5, the FR delegation presented the draft final report (see separate point on the agenda).

As regards Action 5.6, the HU delegation informed that they had prepared a questionnaire which was circulated in June. The deadline for answers was 17 September 2012.

As regards Action 5.8, the PL delegation pointed out that it would be dealt with as a separate point in the agenda.

As regards Action 5.9, the PL delegation announced that the next meeting would be held mid-October 2012. The invitation was sent out in July.

As regards Action 5.10, the DE delegation informed that they were looking into a suitable date to organise a meeting.

5. Draft final report on Action 5.4 "To examine the further use of existing secure channels for information exchange between customs authorities and with other law enforcement authorities in relation to mutual assistance in the area of freedom, security and justice"

The group reverted to the question whether MAB mail could be used for law enforcement purposes. The Council Legal Service said that there were already legal instruments in the EU that provided systems with particular rules for data protection and none of these instruments would prevent the use of different systems. The use of MAB would be a choice, and a responsibility, of the Member States. However, as long as the EU had already established secured systems subject to certain rules aimed at ensuring personal data protection, the use of other systems for the same purpose established in the relevant Union legal acts could be perceived as driven by the intention to avoid those data protection rules.

OLAF said that the MAB system was not new and it respected all data protection rules. The CLS pointed out that MAB was a system designed by the Commission for its use by the Commission; it had not been ascertained, at the EU level, to what extent it would be also appropriate for exchanges of information among Member States. In this context, it would be advisable first to explore the legal grounds about data protection, the purpose for which the system was created and other conditions that apply to the use of the MAB system before encouraging Member States to make use of it.

The Presidency concluded that the discussion on the issue would continue at the next meeting in October.

6. Draft Final Report on Action 5.5 "To identify and share best practices of controls in a road free flow traffic context"

The FR delegation presented the draft Final Report on Action 5.5 as issued in doc. 12713/12. It outlined the procedure and the methodology, and its main conclusions. The CCWP endorsed the report.

7. Draft Mandate for Action 5.8: "The role of customs in managing crisis situations"

The PL delegation presented the draft mandate as outlined in doc. 12900/12. It informed the CCWP that it would prepare a questionnaire, and organise a meeting if necessary. It aimed to complete the process by the end of the year. The goal was to get a better understanding of the role of customs in crisis situations and to identify best practices. Some delegations had already expressed the intention to participate. The draft mandate set a deadline on 28 September for other delegations to volunteer.

A number of delegations highlighted that some clarifications were necessary in the draft mandate. In particular, the underlying concept of "crisis" needed to be clarified. It would be necessary to specify whether the mandate aimed to deal with the way customs would react if they were affected by a crisis, or with the way they would contribute to address a crisis situation affecting all authorities.

The PL delegation invited MS to submit written comments by 28 September. It would then prepare a new version of the draft mandate on the basis of the comments received.

8. Coordination of Member States' actions within CCWP

The NL delegation presented the paper on the coordination of Member States' action within the CCWP (doc. DS 1542/12). The paper aimed to address the question whether customs operations taking place outside of the EU had to be coordinated among participating Member States within the CCWP, similarly to what was done for JCOs. Such coordination would be without prejudice to each Member State's right to decide upon the participation itself.

Delegations expressed general support for the concept. The idea of coordination was good, provided participation to customs operations remained on a voluntary basis. Delegations also highlighted the need to address some further questions such as who would do the coordination and how this would work in practice, the financing of possible meetings, the relations with other international players. The Commission also expressed interest for the idea and its possible link to the permanent structure for JCOs, on which OLAF will present a paper.

NL clarified that it had no intention to establish a new mechanism. CCWP would not be called to decide upon individual MS participation to any customs operation organised by international players; if such an operation were to be organised, the group should be able to coordinate among participating MS the general approach to the operation. NL announced it would provide further clarifications in a revised version of the paper.

The Presidency invited delegations to submit written comments by 28 September. The issue would be further discussed at the next meeting.

9. Containers smuggling

FR made a presentation about the EU policy cycle priority "Disrupt the trafficking to the EU of illicit commodities, including cocaine, heroin, cannabis, counterfeit goods and cigarettes" on containers shipments, led by FR and NL. Strategic goals had been established by MS and EU agencies in 2011, on the basis of which the operational action plans were developed. Implementation of the action plans was ongoing.

NL raised the issue of the financing of actions under the policy cycle. Several delegations agreed that the CCWP should have a mechanism to ensure appropriate funding and that it would be essential to that CCWP's views are taken into account in the negotiations about the new funding instrument. The Presidency said that it would reflect how to pursue this matter.

10. Europol's general and current activities related to the Customs Cooperation

A representative of Europol gave an overview of Europol's activities in the field of customs cooperation. Europol supported customs authorities with its frequent participation in JCOs; customs authorities could also benefit from Europol's strategic reports such as OCTA and SOCTA as well as any product of the focal points. Europol stressed the major contribution of customs authorities to the dossiers for analysis on smuggling and counterfeiting, and their added value in the fight against crime.

On a question by a delegation, Europol stated that it would be willing to have more customs officers at the higher levels in the Europol organisational structure. It was up to Member States to provide suitable, high level candidates.

11. Study on enhancing the work of Eurojust in drug trafficking cases

A representative of Eurojust presented the agency's strategic project "Eurojust in drug trafficking cases". The aim of the project was to identify the main challenges and related solutions in coordination meetings on drug trafficking cases; the project was carried out through the analysis of 50 drug trafficking cases over a two years' period (September 2008 - August 2010) with a coordination meeting organised in the same time. The final report included a number of assessments on the exchange of information, the role of Eurojust, and identified eight areas for improvement.

12. AOB

The Presidency informed the CCWP that it had received a letter from the supervising authority of CIS and that the CCWP should discuss the use of CIS. The Presidency was looking into having this discussion at the November meeting, with the participation of OLAF.

On a question by BE, the Presidency informed that the proposal on the new legal basis for CEPOL might not be published this year. BE stated that it would be good to enlarge the access to CEPOL training programs to customs officials and that CCWP should have a voice in the negotiations and be associated to the work carried out in the Law Enforcement Working party.

The representative of Europol informed the group that Europol had published a knowledge product on the Italian criminal organisation "Ndrangheta" which would also be very relevant for the work of customs authorities. The report had been finalised in July and would be available through national authorities.

CY provided information about its project on transiting passengers. A questionnaire had been circulated with a deadline for replies on 7 September, so far 19 Member States had replied. CY invited delegations to send their replies as soon as possible.

The Council Secretariat recalled the email sent in July in order to ask delegations to provide information related to the FIDE Handbook, notably the information on the state of play of the implementation of Article 33 of the CIS decision and the list of serious contraventions in national law. Several Member States had already provided the requested information within the deadline of 12 September. The Council Secretariat invited those delegations that had not yet reacted to provide the information as soon as possible.

The DE delegation presented several ideas on how the visibility of CCWP's work could be improved, in particular vis-à-vis the other EU institutions, bodies and formations. They underlined the need to specifically address the CCWP's role and remit within the Council structure, to provide regular information on key issues and to maintain regular contacts with and present the CCWP's views or opinions to its relevant counterparts.

A number of delegations intervened on the matter, welcoming in general the topic and putting new suggestions for improvement of the CCWP's work visibility, *inter alia*, easier access to the information relating to CCWP on the Council website, preparation of annual reports, use of the social media, etc. The Presidency wrapped up the discussion concluding that many different ideas were made and they required careful consideration in respect of the resources they would entail to be put in practice. However, the preparation of a good Strategy for customs cooperation might be an appropriate first step in addressing the visibility issue.
