



**Brussels, 22 September 2016
(OR. en)**

12159/16

**JAI 739
ENFOCUSTOM 126**

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 12 September 2016
To: Delegations

Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 6581/1/16 REV 1.

2. Information from the Presidency

The Presidency briefed the delegates along the following lines:

- **documents that could be of interest for customs delegates:** OECD report “Illicit Trade - Converging Criminal Networks” (issued in April 2016), the Report from the Commission to the European Parliament and the Council based on Article 10 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (11549/16), the Renewed European Union Internal Security and Counter-Terrorism Implementation paper: second half of 2016 (11001/16), the Explanatory note on the EMPACT mini-call for proposals to be launched under the Delegation Agreement and future funding of the Policy Cycle (12023/16), the Preliminary evaluation of the Joint Action Days 2016 and strategic discussion on the planning of the Joint Action Days 2017 (12027/16). The Presidency also mentioned briefly the 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 to be dealt with extensively under item 8 of the agenda;
- **past meetings:** the meeting of the Horizontal Working Party on Drugs (7 September) and of the CUWP (8 September);
- **forthcoming meetings:** COSI SG (12 September), TWP and DAPIX (13 September), second meeting of customs DG (Europol, 14 September), joint meeting of the EMPACT Drivers, Co-Drivers and action leaders of the 8th Action Plan (21 September, Europol), PCCC conference (Europol, 11-12 October), 9th meeting of the Heads of Central Coordination Units (Bratislava, 24-25 November).

3. **8th Action Plan (2016-2017) of the Customs Cooperation Working Party**

The Presidency briefly reminded delegates about the fact that all action mandates are adopted and that actions are currently under way.

Germany presented an update on Action 8.2: its mandate (7448/2/16 REV 2) provides a clear scope for the action, which is the exchange of knowledge. In practice, the members of the project-group will aim at identifying information in the area of Internet crime which could be supplied on request and at setting-up exchanges with international partners. This ensures a clear delimitation with Action 8.1 which aims mainly at organising an intelligence driven JCO in the area of illegal trade via Internet/small consignments. Two meetings of Action 8.2 project-group have been organised: one in May 2016 in Munich and one in July 2016 at Europol (The Hague). The next meeting is scheduled for November 2016.

4. Revised Guide for Joint Customs Operation

Item postponed for the CCWP Plenary on 17 October 2016.

5. Administrative Cooperation Arrangements concluded by OLAF

OLAF briefly explained the nature of Administrative Cooperation Arrangements (ACAs) and of Protocols on Mutual Administrative Assistance (MAA). The ACAs are arrangements enshrined in the OLAF Regulation (883/2013), aiming to facilitate cooperation between OLAF and other investigative authorities from Member States, third countries or international organisations. Such authorities include customs, law enforcement, prosecution, audit, etc. The ACAs are not legally binding and are not a prerequisite for an investigation. They are drafted in very general terms and contain soft provisions on training, seminars etc. and an annex on data protection. The most recent ACA was signed with Belarus in July 2016.

The Protocols on MAA are binding international agreements, negotiated and signed under a different procedure, which involves Member States.

The presentation was followed by a questions from the delegates, especially with respect to the data exchange regime allowed under ACAs and under the Protocols on MAA.

6. Update of the existing study on the powers of Member States customs officials

The Netherlands informed delegates that not all Member States sent their contribution so it was not possible to present a first draft of the updated document. Reminders were to be sent to the Member States in question.

7. EU Passenger Name Record (PNR) - involvement of customs, drafting of a manual of best practices: introductory discussion

The Council Secretariat gave a general presentation about the PNR system as set out in Directive 2016/681 (11998/16) and DG TAXUD made a few remarks regarding the involvement of customs in PIUs and the way the risk based customs controls, done on the basis of analysis of electronic data, articulate with PNR. The key challenge will be finding the best way to integrate the expertise in operational requirements of customs into PIUs in a logic of cooperation. In this sense, it will be crucial to understand the starting point as there are no common standards in the Member States in this area and the scope of customs involvement varies greatly. The CCWP will undertake the task of drafting a handbook of best practices regarding the setting-up of PIUs and the role of customs therein.

8. Progress report on the implementation of the EU Strategy and Action Plan for customs risk management

DG TAXUD presented the Progress report on the implementation of the EU Strategy and Action Plan for customs risk management (11415/16 + ADD 1). The speakers detailed each of the objectives as follows:

- **improving data quality and filling arrangements:** legal framework in place, IT solutions delayed;
- **ensuring availability of supply chain data and sharing of information and control results:** delay in the formal elaboration phase for ICS 2.0 (Import Control System), but work is underway to solve outstanding questions; a pragmatic step-by-step approach (using "building blocks") should be followed;
- **assess in advance – control where required:** there is progress in the area of prohibitions and restrictions and of an enhanced cooperation with other authorities; guidelines are being prepared on how to take into account customs involvement including customs risk management;

- **improve the Common Risk Management Framework:** a need for an improved IT system to share risk information (next generation of the CRMS - Customs Risk Management System) has been identified, common risk criteria have been evaluated at national and EU level, work has started on definitions for the various financial risks and steps were taken in view of a harmonised implementation of risk criteria;
- **interagency cooperation and sharing of information:** there is an improvement in inter-agency cooperation although cooperation with law enforcement authorities remains challenging; the contribution to other EU security initiatives (like the development of specific risk rules for air cargo security) needs to be underlined;
- **cooperation with trade** has been improved through the strengthening of the Authorised Economic Operator (AEO) concept; there is however a need to improve knowledge of supply chain and to further discuss the re-use of data;
- **international cooperation:** the aim is to promote EU standards at international level and to enhance cooperation with customs and trade authorities at global level; a number of activities have been launched and are ongoing in order to achieve this objective.

The Presidency gave a succinct presentation of the main ideas included in the draft Council Conclusions on the Progress report on the implementation of the EU Strategy and Action Plan for customs risk management (12164/16 issued after the CCWP Plenary). Delegates were requested to send a first set of written comments on the draft text by 30 September. An in-depth discussion will take place during the CCWP Plenary on 17 October.

9. Frontex (the future Border and Coast Guard Agency) – operational overview, the new Regulation and the opportunities for enhanced inter-agency cooperation

Coordinated border management

Frontex gave a presentations on its new mandate as set out in new European Border and Coast Guard Regulation. The opportunities for enhanced inter-agency cooperation were emphasised and discussed.

WCO gave a presentation articulated around the concept of integrated border management and its different initiatives aiming, among others, at contributing to an improved security environment, such as the advanced PNR guidelines, the relations with the Eastern partnership, the trade facilitation agreement etc.

10. AOB

The Presidency informed the delegates with respect to the following aspects:

- the Chair of the CCWP will participate in the EU IPO meeting on 28-29 September 2016 where it will present the relevant actions under the Seventh and the Eighth Action Plans;
- a high level seminar on IPR will take place in Krakow.

Delegates were also reminded that the leaders of Actions 8.6.1 and 8.6.2 should send interim reports on time for the second meeting of Directors General of customs (to be organised at the end of October 2016).
