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As no substantial comments were received by the Presidency and General Secretariat of the Council until 20 April 2023, the attached Draft Strategy for customs cooperation in the area of law enforcement and its contribution to the internal security of the EU is considered agreed by the Law Enforcement Working Party - Customs. The strategy will be presented at the COSI meeting on 16 May 2023 and subsequently submitted to CRP/Council for endorsement.

## **Draft Strategy for customs cooperation in the area of law enforcement and its contribution to the internal security of the EU**

### **Introduction**

This Strategy builds on the successes of previous strategies. It retains the positive aspects identified during their implementation and seeks a further improvement of the overall approach.

Customs is the leading authority for monitoring and controlling the movement of goods at the external border of the EU. Based on the competences and powers entrusted to them in national law, customs authorities contribute to the internal security of the EU by preventing, detecting, investigating or contributing to the investigation of crime. Customs activities in detecting and addressing risks before goods arrive in, or depart from the EU, and checking goods upon entry and exit from the EU are crucial in the fight against cross-border crime.

Customs law enforcement cooperation and its contribution to the internal security of the EU has evolved over the years. Today customs authorities are key partners in this context. Cooperation with the European Union Agency for Law Enforcement Cooperation (Europol), the European Border and Coast Guard Agency (Frontex), the European Union Agency for Law Enforcement Training (CEPOL), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the European Union Office Intellectual Property Office (EUIPO) has intensified. Cooperation between customs authorities and the European Public Prosecutor's Office (EPPO) is developing. Cooperation with, and support of the European Anti-Fraud Office (OLAF) is well established. To better support the Member States in the fight against financial and economic crimes, including customs-related crimes, Europol established the European Financial and Economic Crime Centre (EFECC) in 2020. Customs authorities are continuously becoming more involved in the European Multidisciplinary Platform Against Criminal Threats (EMPACT), and work has been carried out to further increase synergies and avoid duplication of work or uncoordinated and parallel initiatives. The added value of customs participation in EMPACT can be clearly observed in the results of EMPACT's operational activities<sup>1</sup>. In addition, the outcomes of the Law Enforcement Working Party - Customs (LEWP-C) action plans provide useful contributions and insights to safeguard the internal security of the EU. Cooperation with Frontex is developing through, for instance, joint control operations and EMPACT Joint Action Days.

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<sup>1</sup> <https://www.consilium.europa.eu/en/policies/eu-fight-against-crime/>

Recent major events such as Russia's unprovoked and unjustified war of aggression against Ukraine, the COVID-19 pandemic and the United Kingdom's withdrawal from the European Union (Brexit) have had a clear impact on the global flow of goods, and the resulting risks have increased. The new customs advance cargo information system should strengthen the capacity of customs in risk management. It will also bring new opportunities for improved cooperation between customs and other law enforcement authorities. In this regard the possible interoperability between the relevant customs and Justice and Home Affairs (JHA) information systems should be considered.

## **Law enforcement cooperation in a rapidly-changing world**

Organised crime continues to diversify and has acquired a multi-faceted identity covering several types of criminal activities.

Criminal groups react flexibly to any global and regional changes, are highly skilled and know how to use modern technologies to their advantage. It is essential to ensure the adaptability of customs authorities to the rapidly changing political, economic, and technological environment and consequently to evolving and emerging new threats.

As the leading authority for the monitoring and control of goods, including cash, and in their role as gatekeepers at the EU's external borders, customs authorities must perform a growing number of tasks, while simultaneously facilitating trade. In addition, many traditional threats and risks of customs-related crime remain relevant. Customs authorities must continue to develop skills, high-end capabilities and methods to contribute effectively and efficiently to the EU's internal security.

Law enforcement cooperation between the Member States' customs authorities and between these authorities and relevant JHA agencies, as well as with other law enforcement authorities at both national and EU level, must be continually developed and intensified. Cooperation with customs and other relevant law enforcement authorities in third countries and, where appropriate, international organisations, should also be developed further. The overall aim of this strategy is to strengthen customs cooperation in the area of law enforcement, in particular by addressing security-related incidents, threats, risks and crises, as well as providing effective responses to cross-border crimes.

To better reflect the developments in the internal security of the EU that have taken place in recent years and the role of customs authorities in the area of law, the strategy is designed to deliver on the objectives of the Resolution [Resolution 2023/XX/XX on customs cooperation in the area of law enforcement and its contribution to the internal security of the EU].

## Objectives

To support the implementation of the EU Security Union, and relevant EU strategies and Action Plans, and with an emphasis on the role of customs in protecting Europeans from terrorism and organised crime, together with other relevant national authorities, EU institutions, bodies and agencies, as appropriate, the following objectives have been set:

- 1) *to strengthen the capacity of customs authorities to prevent, detect and investigate, or contribute to the investigation of cross-border crimes, and to deal with security-related incidents, threats, risks and crises:*
  - i) contribute to enhancing customs authorities' knowledge of the threat of cross-border crime and of ways to prevent and detect specific types of crimes, and of the law enforcement cooperation tools available to fight such crimes;
  - ii) contribute to and support the updating and development of legislative law enforcement instruments from a customs perspective;
  - iii) contribute to the close involvement of customs in the preparation of the EU Strategic Training Needs Assessment (EU-STNA) and the prioritisation of customs training needs identified in the EU STNA, with a particular emphasis on information exchange, intelligence and risk analysis, operational cooperation, prevention, detection, and investigations;
  - iv) contribute to the identification of customs needs with regard to the development of modern technologies, especially for detection, surveillance, investigation and information management, as well as the procurement and deployment of such technologies;

- v) promote the use of Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment, as well as Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund, the Horizon Europe and the EU Anti-Fraud Programme.
- 2) *to improve, facilitate and increase the effectiveness of the cooperation and exchange of information between customs authorities and between these authorities and other law enforcement authorities, relevant EU institutions, bodies and agencies and, where appropriate, with third countries and international organisations:*
- i) ensure the effective use of existing systems for the exchange of information between customs authorities and between these authorities and other relevant authorities, including with third countries and international organisations, where appropriate;
  - ii) further develop efficient information exchange by identifying the scope for integrating systems used by customs authorities in line with the one seizure – one report approach;
  - iii) explore the possibilities for creating synergies between risk management in the area of customs law enforcement and risk analyses completed under the common risk management framework (CRMF);
  - iv) ensure customs authorities' access to and use of SIENA;
  - v) develop and complement existing risk analyses and threat assessments, in particular Customs Threat Assessment (EU CTA), in close cooperation with other law enforcement authorities and agencies, where appropriate;
  - vi) contribute to the closer involvement of customs authorities in the preparation of the European Union Serious and Organised Crime Threat Assessment (EU SOCTA), to the enhancement of the SOCTA methodology and the improvement of data quality as part of SOCTA data collection;

- vii) promote synergies with regard to issues related to customs law enforcement when developing future EU CTA, EU SOCTAs and other reports and initiatives.
- 3) *to enhance cross-border cooperation, including joint operations, between customs authorities and between these authorities and other law enforcement authorities and relevant EU institutions, bodies and agencies or competent authorities in third countries, in order to prevent, detect and investigate, or contribute to the investigation of cross-border crime:*
- i) promote and facilitate the use of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (Naples II Convention), in particular regarding the special forms of cooperation for which it provides, and the roles played by other law enforcement and judicial authorities;
  - ii) reinforce the multi-disciplinary and multi-agency approach in order to better prevent and fight criminality, including the circumvention of EU restrictive measures, by strengthening cooperation (including joint operations) and synergies among customs authorities and between these authorities and other law enforcement authorities and the competent EU bodies and agencies;
  - iii) explore ways of strengthening operational cooperation and mutual assistance with third countries, by facilitating communication and the exchange of expertise and best practices;
  - iv) continue to contribute to the implementation of EMPACT, including by promoting the active involvement of customs authorities in EMPACT Operational Action Plans (OAPs) and Joint Action Days and also enhanced coordination between the LEWP – C action plans and the OAPs;
  - v) promote joint operational activities between customs and border guards, especially in relation to common intensified controls at the EU external borders, where feasible, thus contributing to integrated border management.

- 4) *to enhance intelligence and risk analysis using data from other law enforcement agencies, and promote interoperability between relevant customs and JHA information systems, where appropriate:*
- i) enhance intelligence and risk analysis carried out by customs authorities using information and data provided by other law enforcement agencies;
  - ii) provide, as appropriate, analytical and intelligence data from customs authorities to other law enforcement authorities;
  - iii) consider the work on the interoperability of large-scale IT systems in the JHA area with information systems in the customs area on the basis of identified needs and with a view to delivering mutual benefits.

## **Implementation of the strategy**

The successful implementation of this strategy will address the challenges facing customs authorities and threats to the internal security of the EU. Customs authorities, in cooperation with other law enforcement authorities and the competent EU institutions, agencies, and bodies, are invited to undertake the appropriate measures and contribute to the effective implementation of this strategy.

The measures undertaken to this end should address the practical aspects of customs law enforcement co-operation and should, where feasible and appropriate, be aligned to EMPACT and other EU law enforcement initiatives, while avoiding duplication.

The LEWP-C will monitor and coordinate the implementation of this strategy, in particular through action plans or the use of expert groups/networks.

The Presidencies, when preparing their agendas, should take into account the objectives of this strategy in order to contribute to its implementation.

The Commission is invited to contribute, where appropriate and within its competence, to the implementation of this strategy and future actions, with the aim, amongst others, of finding synergies.

## **Follow-up and evaluation of the strategy, including presentation of results**

This strategy should be subject to regular review by the LEWP-C, when deemed appropriate or at least every 18 months (corresponding to a trio Presidency). An evaluation mechanism should be introduced by the LEWP-C in order to facilitate the review and ensure that the strategy continues to develop in a relevant manner. The results of the implementation of the strategy should be presented to the relevant stakeholders within the Council structure.

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