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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Strategic review: Europol and Customs

Delegations will find attached a document drafted by Europol and detailing the latest developments regarding Europol's cooperation with Customs.

Strategic Review

Europol and Customs

1. Aim

This paper presents the latest developments regarding Europol's cooperation with Customs. It was discussed by the Europol Management Board at its meeting on 12-13 May 2015.

Executive summary

Regardless of whether Customs authorities have law enforcement powers (collection of intelligence, investigation, prosecution, etc.), they provide an invaluable insight into all goods-related crime areas: routes, devices, transport modes, concealments, nature and components of goods, taxes and duties linked to them and financial transaction flows.

Customs officers are often the first witness of other crimes, which do not necessarily fall into their direct remit, such as trafficking in human beings; so, in many instances Customs are the starting point of OC investigations.

The potential information/intelligence and expertise available in MS should not be underestimated. This concerns areas where Europol traditionally cooperates with Customs, such as MTIC, excise and counterfeiting, but also any areas where goods and financial flows are involved, e.g. health and safety frauds, illicit trafficking in cultural goods, trafficking in drugs, arms or nuclear substances, dual-use goods, cybercrime, environmental crime and all financial crime-related areas such as money laundering and terrorism financing.

Europol has access to only a fraction of the information and expertise available at national level as Europol is generally not the preferred channel of communication for Customs. Likewise, Europol cooperates with few Customs authorities compared to other national LEAs, especially taking into account that Customs authorities have some degree of LE capability in at least 21 MS.

The investigative and forensic tools used by Customs are also advanced. Joint Customs Operations (JCO), for instance, are in many ways precursors to Archimedes-style operations in their geographical and commodity scope. Customs have been including the financial component in investigations for many years; Customs controls are based on detailed risk analysis of potential value to the SOCTA and EMPACT processes; and they often have coercive powers, complementary to those of the police.

In line with EU recommendations, Europol could benefit from a more structured and systematic multi-agency engagement with Customs in three ways:

- 1) to receive **more intelligence/information** - both operational and strategic;
- 2) to generate **more investigative leads** and possibly more joint investigations;
- 3) to get **more visibility and relevance** as the central multi-disciplinary LE hub in the EU.

This paper proposes a pragmatic and incremental approach, conscious of the current resource limitations, through the implementation of some "quick wins" recommendations and, on a medium term basis, through the implementation of additional important recommendations. The comprehensive approach adopted also aims to build confidence and trust with what is after all a *sui generis* LE authority.

Europol's unique setting and responsibilities provide an ideal opportunity to engage in a more comprehensive, multi-agency approach and provide services to MS through the entire range of their competent national authorities.

The recommendations provided below have been listed and clustered according to the resources and time needed to implement them. They aim at:

- Accessing more information held by Customs and improving information flows in order to better support Member States;
- Improving relations with Customs by building trust in external *fora* (e.g. CCWP, WCO) but also in Europol's direct relations with Customs administrations;
- Improving internally, at Europol, awareness and recognition of Customs role and expertise.

2. Background

Europol promotes a **multi-agency approach** to tackle serious and organised crime, where emphasis is put on facilitating exchange of information through, for instance, interoperability of systems, common intelligence analysis centres, the creation of multi-disciplinary and multi-agency investigation teams and comprehensive cross-cutting initiatives like EMPACT. This multi-agency approach, whereby Europol serves a broad law enforcement community of which Customs is an integral part is clearly one of the assets and comparative advantages of the organization, which should be maintained and further developed.

The question of enhancing cooperation with specific competent authorities such as Customs is not new on the agenda of the Management Board. In September 2008, Europol prepared a document on cooperation with Customs which was subsequently tabled at the Article 36 Committee (CATS). Europol and Member States (MS) were encouraged to enhance cooperation with Customs authorities in a number of concrete areas¹.

It should also be noted that Europol conducts and/or supports a number of projects involving Customs administrations. For instance:

- A number of Focal Points (FP) have established successful working relations with Customs which in turn provide Europol with valuable contributions in those specific fields (*e.g.* FP Smoke, FP MTIC, FP Copy);
- SIENA is being deployed to Police and Customs Cooperation Centres (PCCCs). Among 46 existing multinational cooperation centres involving MS, 25 include Customs representatives from one or more of the MS present in those centres². Although deployment of SIENA has so far only been finalised in 3 of the 46 PCCCs, the objective is to have all PCCC connected to SIENA within a few years;
- Within the EMPACT process, some national Customs representatives regularly attend meetings and actively participate in the implementation of many OAPs. Europol has promoted inter-agency coordination and participation in EMPACT actions;
- Customs authorities can register to EPEs, some of which relate explicitly to areas of interest for Customs (*e.g.* PCCC EPE);
- Europol has followed very closely for a number of years (and is continuing to do so) the work of external stakeholders, such as the Customs Cooperation Working Party (CCWP) in the Council, where this multi-agency approach is promoted;
- When relevant, Europol is using staff members' Customs' expertise in its operational and strategic daily activities.

Finally, it should be noted that, although no working arrangement has yet been finalised with **OLAF**, Europol is continuing its efforts to achieving a satisfactory level of cooperation with the Anti-Fraud Office.

However, **Europol also recognises that improvements could be made.** According to the research and analysis undertaken to draft this Strategic Review (the Review), some issues can be identified as key operational and strategic challenges for Europol:

- Customs Administrations hold a wealth of information and expertise, much of which does not reach Europol;
- With a few exceptions, Customs Administrations do not wish to rely on Europol to represent its interests as they see the organisation as a police driven agency. This has consequences in operational, strategic and organisational terms.

¹ Customs Cooperation at Europol, File no. 2622-04r3, also published as Council doc. 11216/1/08 REV 1 from General Secretariat to Article 36 Committee, EDOC # 325603. Within this frame, and although not continued recently, MB and HENUs have, for instance, discussed in the past the question of an "ideal composition of Liaison Bureaux".

² Those Cooperation Centres include 2 or 3 Member States and sometimes third countries to the EU, depending on their border location.

In order to engage all stakeholders from the outset and draft a pragmatic and operationally-oriented focused Review, **a series of internal consultations were carried out. Two open-ended meetings were held with Customs representatives of Europol liaison bureaux (LBx) and staff with Customs expertise. A questionnaire covering representation of Customs Administrations in LBx/ENU and access to SIENA by Customs was sent out to all LBx³.** Other stakeholders were also consulted in the framework of EMPACT and the Customs Cooperation Working Party (CCWP).

The recommendations below aim at providing a renewed perspective on cooperation between Member States' Customs authorities and Europol.

Key figures

- In EU MS, at least **21 Customs administrations** have some type of investigative competences.
- **26 out of 28 MS** that replied to the questionnaire indicated that Customs are considered **competent authorities**.
- **12 MS have a Customs official in their LB. The number of Customs Liaison Officers in the LB has not changed since 2008.** Such experts are of high operational value to Europol.
- **Only 8 MS out of 28 have indicated that Customs have access to SIENA in their MS** (at central or regional level or only; or for two MS through the ENU) and **4 MS** have indicated that SIENA is currently being deployed to Customs or that a possible deployment is being explored;
- **Other information channels than SIENA:** 19 MS in which SIENA is not connected to Customs confirmed that **some type of communication means with Customs authorities existed for relevant cases:** one MS mentioned hard copies and emails, while others organise regular visits of Customs officers to the ENUs.

3. Recommendations

With a view to further enhancing Europol and Customs cooperation with the Customs community, Europol has elaborated three sets of recommendations:

- Recommendations which can only be implemented through national agreement(s)/decision(s) **(3.1)**;
- "Quick win" recommendations drawing on structures, events, outputs, strategies and activities that Europol already provides, supports or participates in and/or which do not require significant extra resources from Europol and could therefore be implemented quite rapidly **(3.2)**;
- Recommendations which deserve more detailed planning for their implementation and for which it has been agreed that an Action Plan will be established **(3.3)**.

The nature of the recommendations follow the below colour codes:

- Operational, Information flow, and investigative leads ■
- Strategic ■
- Internal communication and human resource management ■

³ The main results of this questionnaire are included in the Key figures box.

3.1 Recommendations requiring national decision(s) to be implemented

3.1.1	<p><u>Composition of ENUs and LBx</u>: operational added value of having Customs represented physically as much as possible in ENUs and LB⁴ and encourage a smooth information flow between ENUs and Customs authorities.</p> <p><u>Objectives</u>:</p> <ul style="list-style-type: none"> • Increase number of contributions from Customs • Ensure more sustained assistance to all competent authorities.
3.1.2	<p><u>SIENA connectivity with Customs⁵</u> in all MS, even with customs administrations which do not have criminal investigative powers should be developed. The use of the EIS should also be promoted.</p> <p><u>Objectives</u>:</p> <ul style="list-style-type: none"> • Enable customs authorities to use the Europol channel. • Ensure better flow of information.
3.1.3	<p><u>Sharing of specific Customs products with Europol</u>: enquire about possibility of sharing Customs national risk profiling or at least the impending risks identified by Customs with Europol.</p> <p><u>Objectives</u>:</p> <ul style="list-style-type: none"> • Europol to be informed about imminent but already identified threats. • Europol to take this information into account in its trend and threat analyses.
3.1.4	<p>SOCTA: 1) stress importance that Member States ensure that SOCTA questionnaire reaches relevant Customs authorities and 2) enquire about the possibility for Member States to inform Europol when replies sent back include Customs input.</p> <p><u>Objectives</u>:</p> <ul style="list-style-type: none"> • Ensure full operational multi-agency approach to crime priorities by providing the possibility for all competent authorities, each of them having different expertise, to participate in the process of identification of crime priorities, and in operational and strategic actions against the EU crime priorities. • Participate in strengthening the SOCTA by ensuring that Customs contributions are also included.
3.1.5	<p>Suggest the assessment of technical interoperability of systems between those used by Customs and SIENA</p> <p><u>Objective</u>:</p> <ul style="list-style-type: none"> • Facilitate contributions from Customs authorities to Europol and promote a smoother and secure information flow.

⁴ This recommendation was already highlighted in 2008 (see reference below, EDOC #325603). Similarly to 2008, Customs authorities are only represented today in 12 LBx at Europol.

⁵ Please note that 2 other recommendations refer to other deployments of SIENA or insertion of new features in the system: 3.3.1 and 3.3.2 below.

3.1.6	<u>Access to customs related databases:</u> inform the MB about the added value for Europol to access certain targeted Customs databases ⁶
3.1.7	<p><u>Road shows:</u> suggestion to have, as a prerequisite, a number of participants from Customs (when Customs can send information to Europol according to national rules) amongst participants in Europol road shows in the MS.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> • Raise awareness amongst Customs administrations of Europol's added value.

3.2 "Quick wins" requiring follow up by Europol

3.2.1	<p>Encourage dissemination to Customs administrations via all LB (<i>i.e.</i> not only those having a Customs LO) of risk analyses already produced by relevant FPs and early warning notifications from the SOC Strategic Analysis team involving goods, means of transport-concealments/routes, financial flows/crimes.</p> <ul style="list-style-type: none"> • <u>Short term objective:</u> increase visibility of Europol's products while not adding more strain on resources • <u>Medium and long term objective:</u> develop Europol's European information hub role also for Customs administrations.
3.2.2	Encourage in CCWP the use of the Europol channel in addition to channels traditionally used by Customs (such as Naples II) and promote future Europol reports to the CCWP.
3.2.3	Use CCWP expertise in coordinating and gathering information on JCO in the EMPACT process ⁷ .
3.2.4	<p>EMPACT⁸</p> <ul style="list-style-type: none"> ○ Promote further participation of Customs to joint action days. ○ Continue and deepen Europol's cooperation with CCWP beyond EMPACT priorities. <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Ensuring complementarities and avoiding overlaps in actions between EMPACT and CCWP Action Plans • In the medium and long term, CCWP to become a privileged partner of Europol in customs related matters contributing to reaching out to Customs administrations. <ul style="list-style-type: none"> ○ On the basis of the already existing identification of administrations of origin of participants to EMPACT meetings, clarify/analyse the level of participation of

⁶ See also recommendation 3.3.3 below.

⁷ This recommendation is linked also to recommendations 3.2.10 and 3.3.4 below.

⁸ This recommendation is also linked to, in particular, recommendations 3.1.4, 3.2.6 and 3.2.10.

	<p>Customs authorities.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Strategically: use statistics of participation with key partners eg CCWP, WCO, while taking into account the fact that Customs administrations are organised differently in all MS • Operationally: facilitate meetings between Customs LOs and EMPACT Customs participants in the margins of EMPACT meetings for operational and awareness purposes.
3.2.5	<p>Reach out – through a letter from the Director – to Customs by inviting Customs Directors to attend the next EPCC meeting and include one Customs related topic in the margins of the event.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> • Ensuring that competent authorities are effectively involved. Consideration could be given to invite systematically to the EPCC other relevant parties such as the Director of the WCO and the Chair of the CCWP.
3.2.6	<p>Europol to support actively in COSI its multi-agency approach, in particular in the Policy Cycle, but also beyond.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Building trust with Customs; • Raising awareness amongst national COSI delegates on the need to coordinate actions of agencies at national level in the policy cycle.
3.2.7	<p><u>Cooperation between Europol and WCO:</u> once agreed on between both parties, adopt an Action table with specific cooperation activities under the existing Strategic Agreement signed by both parties, in the form of an exchange of letters between both Directorates.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> • Revitalise the existing Strategic Agreement and share expertise.
3.2.8	<p>Strengthen ties with the relevant Customs organisations which are members of the RILO WE⁹ on the occasion of their visit to Europol first half of 2015.</p>
3.2.9	<p>FP Managers to raise awareness among National Contact Points on the importance of engaging with Customs administrations whenever possible, in priority areas: excise, MTIC, drugs, counterfeit goods, terrorism, arms trafficking.</p>
3.2.10	<p>From an operational point of view, information on Joint Customs</p>

⁹ RILO WE is based in the ZKA in Germany and composed of customs officers from DE, FR, IT and CH. It was created in 1998 in the frame of the worldwide network of RILOs under the patronage of the WCO. It aims to facilitate information/intelligence exchange between customs administrations and to implement the police of the WCO in various fields of fraud. It collects analysis and disseminates information on trends, MOs, routes and significant cases of fraud. This information is in particular disseminated through the CEN database.

Operations in which Europol participates could be more widely disseminated within O as they have already carried out smaller "Archimedes" types operations for years and could provide some useful insight in large-scale operations.

3.3 Important medium term recommendations to Europol

3.3.1	<p>Include in SIENA a similar drop down menu as the one that exists for EIS identifying the administration of origin of the information.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> Facilitate the production of statistics both for MS and for Europol Identify gaps in contributions and reach out potentially more specifically to certain national agencies.
3.3.2	<p>Establish a secure line with the WCO and with OLAF in order to be able to fully use the existing features in SIENA.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> Increase operational and/or strategic exchanges
3.3.3	<p>Assess the possibility of accessing the following databases: CIGINFO¹⁰, MAB, CIS and to be given an increased number and an increased quality access to the CEN.</p>
3.3.4	<p>Europol to more actively participate in JCOs, whether coordinated by OLAF, WCO, MS or any other relevant partner.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> Better support MS by providing in particular more investigative leads Gather more expertise in terms of trends Complete expertise in terms of organisation of EU-wide operations (Archimedes style)
3.3.5	<p>Organise a high level meeting at Europol for all Directors of Customs administrations and deputy Directors responsible for Law Enforcement and Risk Management.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> Discuss cooperation between Customs and other LE agencies Raise awareness of Europol's multi-agency approach Raise awareness of Europol's products and services.
3.3.6	<p>Produce a leaflet targeting Customs administrations promoting the support that Europol can provide, based on the catalogue of products and services. To be handed out at the meeting of Directors of Customs administrations at Europol.</p>
3.3.7	<p>Strengthen ties between Europol and Naples II contact points.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> Develop the use of the Europol channel for Customs.

¹⁰ The CIGINFO is the main database for cigarette seizures in the EU. The Mutual Assistance Broker System (MAB) is a single business interface enabling users to have access to nominative data exchanged by customs. Europol should already have access to the Customs Information System (CIS) but some technical difficulties currently prevent its use.

3.3.8	<p>Targeted FPs to provide a 6- monthly or annual update to Customs administrations on what has been done by Europol to assist them. Knowledge products prepared by these FPs during that period of time could also be listed in the same document.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> • Give more visibility to Europol products.
3.3.9	<p>Information sessions to staff about the organisation and activities of the different Customs administrations present at Europol (e.g. in the form of a training session, an exhibition) could be supported by Europol.</p> <p><u>Objective:</u></p> <ul style="list-style-type: none"> • Raise awareness internally on the added value of multi-agency approach.
3.3.10	<p>HR to maintain, in consultation with the DPO, a list of staff members (whether on a restricted post or not) indicating their administration of origin.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Have clear figures at hand to support the organisation's multi-agency approach • Identify more easily the expertise available in-house.
3.3.11	<p>Europol to better recognise the added value of Customs administrations in the recruitment processes.</p> <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Achieve a balanced recruitment in administrations of origin at managerial level (no Customs officer so far at all) • Attract valuable applications from Customs administrations. • Make it visible to Customs administrations that Europol implements its multi-agency approach at an organisational level.
3.3.12	<p>Europs to display additional information on Customs representation at Europol (for instance under "Liaison Bureaux support"/"Documentation") and possibly on the different customs administrations. This would enable colleagues to find more easily relevant national information/ contacts.</p>

4. Conclusion

Although cooperation between Europol and Customs authorities is on-going positively in a number of areas, this Strategic Review highlights the need to improve the situation and suggests recommendations to achieving this goal.

Reference

Customs Cooperation at Europol, Europol File no. 2622-04r3 (EDOC #325603), also published as Council doc. 11216/1/08 REV 1, EUROPOL 63, 2 September 2008.