

## I

(Resolutions, recommendations and opinions)

## RESOLUTIONS

## COUNCIL

## COUNCIL RESOLUTION

of 13 December 2011

on the future of customs law enforcement cooperation

(2012/C 5/01)

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING:

1. that Articles 67(3) and 87 of the Treaty on the Functioning of the European Union provide for closer cooperation between law enforcement services, including the customs authorities of Member States, in order to contribute to safeguarding an area of freedom, security and justice for the Union's citizens;
2. that Article 71 provides for a standing committee within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union (COSI);
3. the Stockholm Programme<sup>(1)</sup>, adopted by the European Council in December 2009, which contains the main political priorities of the European Union in the area of freedom, security and justice, including protecting the lives and safety of citizens of the Union and tackling organised crime, terrorism and other threats, and which defines strategic guidelines for legislative and operational planning within the area of freedom, security and justice in the period 2010-2014, in accordance with Article 68 of the Treaty on the Functioning of the European Union;
4. the Commission Communication 'Delivering an area of freedom, security and justice for Europe's citizens — Action Plan Implementing the Stockholm Programme'<sup>(2)</sup>, and the Council conclusions on that communication<sup>(3)</sup>;
5. the Internal Security Strategy for the European Union: 'Towards a European Security Model'<sup>(4)</sup>;

6. the Council Conclusions on the contribution of the customs authorities to the implementation of the Stockholm Programme in the fight against serious and organised cross-border crime<sup>(5)</sup>;
7. the Council Resolution of 23 October 2009 on a reinforced strategy for customs cooperation<sup>(6)</sup> and action plans adopted by the Customs Cooperation Working Party to implement this strategy;
8. the Council conclusions of 14 May 2008 on the Strategy for the Evolution of the Customs Union<sup>(7)</sup>;
9. 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 of 18 December 1997;
10. Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes<sup>(8)</sup>;
11. Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union<sup>(9)</sup>;

RECOGNISING:

1. that multi-national organised crime and terrorist groups use, to the greatest possible extent, each and every opportunity resulting from the free movement of goods and people within the Union as well as exploiting differences in the legal systems of the Member States;

<sup>(1)</sup> OJ C 115, 4.5.2010, p. 1.

<sup>(2)</sup> 8895/10 JAI 335.

<sup>(3)</sup> 10118/10 JAI 461.

<sup>(4)</sup> 7120/10 CO EUR-PREP 8 JAI 182, adopted by the Council at its meeting on 25 and 26 February 2010 and endorsed by the European Council on 25 and 26 March 2010.

<sup>(5)</sup> 8096/11 JAI 183 ENFOCUSTOM 18.

<sup>(6)</sup> OJ C 260, 30.10.2009, p. 1.

<sup>(7)</sup> 8762/08 UD 71 ECOFIN 151.

<sup>(8)</sup> OJ L 323, 10.12.2009, p. 20.

<sup>(9)</sup> OJ L 386, 29.12.2006, p. 89.

2. that criminals and criminal organisations do not recognise any national borders, even virtual; that better coordinated and better linked actions to combat crime within the Union are therefore imperative, in combination with a preventive approach and the routine exchange of intelligence and information;
  3. that, within and to the extent of their national competences, the customs authorities of Member States make a vital contribution to the fight against cross-border crime through the prevention, detection, investigation and prosecution of activities involving irregular or illegal movements of goods, trafficking in prohibited goods and money laundering, as well as the protection of the financial, cultural and environmental interests of the Union and the health, safety and security of the Union's citizens;
  4. that within the framework of the free movement of goods, persons and capital, and bearing in mind the need to ensure an area of freedom, security and justice, including combating cross-border crime, the need to continuously enhance and increase the effectiveness of cooperation among customs authorities is critical;
  5. that effective customs cooperation in the fight against cross-border crime is imperative to allow for further developments in the area of trade facilitation;
  6. that all actions initiated in accordance with Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters provide for fruitful cooperation between customs authorities that can be very useful for the purpose of customs law enforcement cooperation in combating cross-border crime;
  7. that national customs authorities have competence in the monitoring and controlling of the movement of goods that cross the external borders of the Union and that it fulfils this role alongside the agencies that monitor and control the movement of persons. As a consequence, there is a real need for the equal and complementary involvement of customs in all discussion and decisions related to all cross-border traffic;
  8. that a coordinated approach towards combating cross-border crime, including contributing to the fight against terrorism, within the area of freedom, security and justice should involve close and efficient multilateral cooperation between customs and other law enforcement authorities including relevant EU bodies and agencies;
  9. that effective protection of the economy and security of the Union's citizens requires strengthened cooperation and partnership with the competent authorities of third countries, in particular those countries neighbouring the Union which are vulnerable in terms of criminal activity;
  10. that further economic growth in the Union is dependent on various factors including effective customs law enforcement cooperation;
- NOTES WITH SATISFACTION:
- the successes so far achieved within the context of customs cooperation, carried out with the support of the Commission, including:
- (a) cooperation based on the possibilities offered by and the provisions of the Convention on Mutual Assistance between Customs Administrations (Naples II of 1997);
  - (b) the routine exchange of information which the Customs Information System (CIS) and the customs files identification database (FIDE) allow; and
  - (c) the results of the numerous Joint Customs Operations (JCOs) carried out by customs authorities as well as between customs authorities and law enforcement authorities;
- HEREBY RESOLVES:
1. to define a strategy for future customs law enforcement cooperation, with the aim of determining the measures that need to be undertaken in order to further enhance customs cooperation and cooperation with other law enforcement authorities and strengthen the role of customs as the leading authority for controlling the movement of goods within the area of freedom, security and justice, with a view to achieving more effective protection of Union's citizens, their life and health, and to protecting the Union's economy against smuggling, fraud and other threats caused by the existence and activities of organised crime, based on the following aims:
    - (a) to further develop a specific approach to customs cooperation in the area of law enforcement which would enable the customs authorities of the EU to combat crime more effectively and take immediate action in response to new threats;
    - (b) to explore all the possibilities, whether legal, technical or operational, to consolidate the contribution customs can make in the fight against organised crime and to further develop existing measures, including through an examination of the need for more coordinated and effective joint actions, initiated and carried out by the customs authorities of the EU, in order to fight all aspects of cross-border and transnational criminal activity;
    - (c) to promote the greater use of systems for the exchange of information between customs authorities and to consider further developments which would lead to improving the effectiveness of the customs response in fighting cross-border organised crime;

- (d) to develop a common approach to training among customs authorities as well as between customs authorities and other law enforcement authorities in order, where necessary, and particularly in the area of investigation and operational cooperation, to enhance their effectiveness in fighting organised crime;
- (e) to develop a more comprehensive approach at EU level to assist the activities of customs in the fight against crime (as regards the relevant methods, equipment and technologies) and to propose legislation where appropriate;
- (f) to take practical steps to implement these new measures for cooperation, with the aim of improving operational cooperation and ensuring effective involvement at the external borders of the EU; and to consider further support for organising JCOs, drafting threat assessments or executing multi-annual initiatives;
- (g) to enhance the input of customs authorities to the work of the Standing Committee on Operational Cooperation on Internal Security (COSI) in order to maximise their contribution to the fight against organised crime and the protection of the health, safety and security of the Union's citizens;
- (h) to promote public confidence in customs by demonstrating tangible results obtained through customs cooperation and by increasing awareness of the importance of customs in relation to law enforcement;

- 2. to take the necessary steps to draft, update, monitor and evaluate, as necessary, a detailed action plan, so that the overall aims and objectives of the strategy are fulfilled;

## INVITES:

- 1. customs authorities and other authorities of the Member States responsible for the implementation of customs legislation to carry out this strategy and implement the action plan with particular attention being paid to developing common methods and further advancing the exchange of information;
- 2. customs authorities, other law enforcement authorities of the Member States and the competent EU bodies and agencies to do their utmost to strengthen cooperation with each other and with third countries in the area of prevention, investigation, detection and prosecution of cross-border criminal activities;
- 3. the Commission to actively contribute to the implementation of this strategy, fully exploiting its part of the shared competence, and to continue, to the greatest possible extent, to provide financial, technical and logistical support for the implementation of this strategy;
- 4. Europol to consider the customs law enforcement-related aspects when developing future SOCTAs and other initiatives.

This Resolution replaces the Resolution of 23 October 2009 on a reinforced strategy for customs cooperation.

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