



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: Presidency
To: Customs Cooperation Working Party
Subject: Paper on a permanent structure for JCOs - Response of CCWP to discussion initiated by OLAF

1. Background

At the CCWP Plenary meeting of 14 November 2012, OLAF presented a discussion paper to stimulate debate on the development of a permanent structure to run Joint Customs Operations (JCOs).¹ This presentation was similar to one given on 25 September 2012 at the meeting of the Committee on Mutual Assistance (R515/97) on Policy matters.

The Presidency believes that this is an issue deserving of detailed consideration and wishes to table a proposal in that regard.

¹ OLAF Ref Ares (2012) 1085001 – 19/09/12

2. OLAF discussion paper

The discussion paper focused on the possible establishment of an Operational Centre (OC), which could have responsibility for addressing ongoing practical issues in the management of JCOs, such as:

- the necessary coordination of objectives, risks and timelines within the law enforcement community, both within the EU and internationally;
- funding of operations and completion of financial procedures in respect of JCOs within EU exclusive competence;
- in respect of shared competence, the OC could prepare applications and assist Member States in fulfilling the obligations and requirements of the financial procedure; possibly having its own budget or direct access to budget lines for matters of both exclusive and shared EU competencies;
- managing the organisational/administrative life cycle of the JCO and be the centre of expertise on a 24/7 basis, i.e. drafting business cases, operational planning, reporting and analysis of the results, preparing final reports and conclusions and updating the monitoring file; and
- providing an analytical function whereby results of operations could be integrated into new threat assessments. To ensure a coherent EU approach, specialist services in the Commission and other EU bodies and Member States might also contribute, as required.

In respect of these practical issues, OLAF suggested that the administrative structure could be headed by the Commission, with the Member States remaining responsible through seconded staff. This might consist of four seconded national experts (SNE) from Customs administrations, selected on the basis of the Presidency cycle. Member States, through the national experts, and OLAF would be directly in charge of operations of shared and exclusive competence respectively. In addition, there could also be scope in the OC for regional operations where national experts from the participating Member States could be assigned temporarily to the OC. Similarly, appropriate temporary assignments could occur where input was required for specific tasks from international organisations or other EU bodies.

3. Progressing the Discussion

The Presidency recognises that the intent of the discussion paper was to stimulate debate both among and within Member States and appreciates the OLAF position that the ideas therein were presented with that purpose in mind rather than as a concrete proposal.

However, although mindful that it remains a matter for the Member States to form their own views in respect of the overall proposal, the Presidency has noted the concerns expressed regarding the original forum chosen for discussion, i.e. the Commission's Mutual Assistance Committee.

The Presidency takes the view that the content of any formal proposal will dictate the relevant forum for eventual discussion but that, in the interim, it is appropriate that the CCWP engage constructively in the discussion process.

4. Proposal

As the focus of the discussion paper centres on operational aspects of JCOs, the Presidency is of the view that initial assessment of the practical merits of this proposal is appropriate to the Experts Group.

In order to contribute to the assessment process, the Expert Group will be asked to take into account the outcome of the Report by the Project Group in the 4th Action Plan "To review the concept of JCOs"² and consider the capacity of the proposed structure to address the issues identified therein.

² doc. 9947/4/11 REV 4 ENFOCUSTOM 38

This report specified a range of issues identified as impacting on effective planning, execution and follow up to JCOs. The areas of concern included:

- an overlap of operations;
- the lack of a proper funding mechanism;
- difficulties encountered in managing the JCOs;
- the number and coverage of JCOs;
- lack of effective follow-up; and
- limited use of the special forms of cooperation available under Naples II.

In order to establish the potential value of a permanent structure from an operational perspective, the Presidency invites the Expert Group to perform such an assessment.

Given the need for early progress, the Presidency believes that the Experts should conclude their deliberations no later than May 2013.

The Presidency will facilitate any necessary strategic discussion by placing the matter on the agenda for the CCWP Plenary meeting of June 2013.
