

12634/98

SEMDOC

Statewatch European Documentation &
Monitoring Centre on justice and home
affairs in the European Union

PO Box 1516, London N16 0EW, UK
tel: 0181 802 1882 (00 44 181 802 1882)
fax: 0181 880 1727 (00 44 181 880 1727)

LIMITE

ENFOCUSTOM 59
PI 61
CRIMORG 171

NOTE

from: French delegation

to : Customs Cooperation Working Party

No. prev. doc.: 11632/98 CRIMORG 149; 6519/2/98 ENFOCUSTOM 16 PI 11
CRIMORG 32 REV 2

Subject: Draft action plan to tackle Internet fraud

In the fight against fraud, the expansion of electronic communications and of major computerised networks such as the Internet presents a new challenge to law enforcement agencies – particularly customs services – on account of the accompanying increase in criminal opportunities.

The Internet facilitates crimes against national laws. For example, the network enables people to obtain counterfeit goods, tobacco and certain narcotic substances by mail order. It may also be a vehicle for many other illegal activities that the customs services are responsible for preventing, from payments made without discharge of tax and duty to money laundering schemes.

Three main categories of fraud may be committed via the Internet:

1. dissemination of illegal messages or images on the Internet (child pornography, libel, material inciting racial, social or other forms of hatred);

2. crimes against computer systems and networks (piracy, computer crime);
3. traditional types of fraud facilitated by use of the Internet (electronic commerce in products infringing intellectual property rights, sales of illegal products, incitement to purchase such products, etc.).

In view of their task, customs services are mainly concerned with this last category of potential crimes.

In order to supplement and enhance the various approaches and actions adopted in European and world fora (European Union, a summary of whose discussions is contained in MDG CRIMORG 149 of 2 October 1998, OECD, G8, etc.) it is suggested that, within the framework of an action plan, the Customs Cooperation Working Party should undertake:

1. to examine the relationship between the Internet and customs fraud and consider what action could be taken against Internet-generated fraud;
2. in the longer term to envisage joint action to control deliveries of goods arising from electronic commerce.

I. Recognition of the risk of fraud

The extremely innovatory technological aspects of electronic communications networks, the resulting upheaval of traditional legal frameworks, the associated development of a new form of commerce and the new risks of fraud engendered more than justify a joint study of these factors and the search for appropriate and effective solutions to combat fraud.

Proposals	Study framework
I. Exchanges of information on national experience	seminar ⁽¹⁾
II. Customs fraud and the Internet 1. Identification of the risks and trends in customs fraud linked to the Internet 2. Study of national legal frameworks	seminar ⁽¹⁾
III. General and specialised Internet training for officers Preparation of a training manual	Working Party I
IV. Searching for and collecting information on the Internet 1. Study of methods and technical means 2. Organisation of Internet surveillance services 3. Use of information collected on the Internet: - to enhance risk analysis (strategic aspects); - to direct or launch an investigation (operational aspects)	seminar ⁽¹⁾
V. Operational cooperation (proposal for permanent national contact points) and legal framework for action	Working Party II
VI. Development of partnerships with access providers	Working Party III
VII. Tackling fraud 1. Legal options for intervention 2. Consideration of adjustments to the rules on administrative cooperation 3. Study of possible means of intervention for tackling Internet fraud.	<i>Depending on the Internet fraud risks identified</i>

(¹) The various subjects could be tackled in a single seminar.

II. Organisation of joint control operations

The development of electronic commerce makes it more difficult to trace commercial transactions and thus contributes to an increased risk of international trade in illegal or banned products.

In consequence, European customs services should enhance their coordination of checks on probable means of delivery of such products, in particular express courier and freight services.

For this reason, it is suggested that, in the longer term, consideration should be given to organising joint control operations for this means of delivery within the framework of the annual programme of operations decided on by the Customs Cooperation Working Party.