

11736/97

LIMITE

CORDROGUE 71

NOTE

from : Presidency

to : Horizontal Drugs group

Subject : **Implementation of Joint Action on the approximation of the laws and practices of police, customs services and judicial authorities in the fight against drug addiction and illegal drug trafficking**

I. INTRODUCTION

Article 11 of aforementioned joint action adopted on 17 December 1996 provides that the presidency shall report to the Council each year on its implementation.

A draft provisional version of this document was forwarded to the Horizontal drugs group at its meeting of 10 November 1997.

In drawing up the report the Presidency has made a distinction between actions on national, regional and European levels.

The report to the European Council on drugs that was asked for in conclusions of the meeting of the European Council of Dublin (13/14 December 1996) and Amsterdam (16/17 June 1997) makes a reference to the present report (see doc. 12254/97 CORDROGUE 74 part B III pages 11-12).

In order to emphasize efforts undertaken since the adoption of the joint action on 17 December 1996 parts of contributions in the annex that refer to developments in 1997 are in italics.

II. SUMMARY

The replies to the implementation of the joint action that are in annex can be briefly summarized as follows :

General observations

Measures of a general nature have been taken by Sweden (adoption of action plan) and the United Kingdom (appointment of Anti-drugs Coordinator).

A. Implementation on national level

Article 1 : approximation of legislation and cooperation

i) Approximation of legislation

Since December 1996 important legislation has been presented or adopted in Ireland (Council of Europe Convention on mutual assistance in criminal matters, Council of Europe Convention on laundering, search, seizure and confiscation), Italy (Law on dataprotection) and Spain (Laws on confiscation of assets and chemical precursors, draft laws on undercover agents and ratification of Convention 141 of Council of Europe of 1990).

ii) Cooperation among Member States

It can be emphasized that in general, cooperation with other Member States is satisfactory. The efforts of the Netherlands delegation in developing cooperation, especially with France, deserve a special mention.

The Swedish and Austrian delegations highlighted activities in the framework of Schengen, whereas the Italian delegation pointed at cooperation in the framework of Western Mediterranean Committee (ES, F, P, Morocco, Tunisia and Algeria) and bilateral cooperation with France in Modena and Ventimiglia.

Article 2 : Closer cooperation of police, customs and judicial authorities.

On national level measures for more efficient cooperation were recently taken in many Member States (e.g. Finland, Netherlands, Greece, UK, Spain) or are being envisaged. In regard to cooperation between Member States of police, customs and judicial authorities, the importance of EDU/Europol and exchanges of officials and training visits were emphasized. In this context contacts in the framework of Benelux are worthy of mention.

Article 3 : *Illicit movements of narcotic drugs and psychotropic drugs including drug tourism*

On national level combatting illicit movements of drugs are a high priority in Member States. In 1997 important measures were adopted in Sweden and Finland. Cooperation among Member States got a boost by operational cooperation of Netherlands, Belgian and French authorities in the framework of the Hazeldonk formula (15 March, 14 and 21 November). This formula is likely to be extended to Luxembourg. Cooperation between French/Spanish and Spanish/Portuguese authorities is also fruitful.

Article 4 : *Penalties for serious drug trafficking.*

In 1997 Ireland has introduced legislation qualifying any person convicted of a drug trafficking offence from even holding a license for certain economic activities. A new Criminal Justice Bill provides for minimum 10 years sentences for drug trafficking offences.

Article 5 : *Synthetic drugs*

In various Member States legislation has been adopted or amended in order to fight more effectively traffic and use of synthetic drugs. Preparations are under way in Member States for the full implementation of the joint action on synthetic drugs.

Article 6 : *Increase in operational cooperation between police, customs services and judicial authorities in combatting drug addiction and preventing and combatting illegal drug trafficking.*

New or better adapted structures of operational cooperation have been created in Sweden (precursors), Finland (controlled deliveries), Netherlands (synthetic drugs), Greece (treatment), France (new cooperation protocol on police, customs and gendarmerie), United Kingdom (new operational protocol between H.M. Customs and Excise and police regional crime squads). Special mention is to be made of new structures set up in Ireland (Cabinet Subcommittee on Drugs and Social Inclusion, National Drugs Strategy Teams, Local Drugs Task Forces).

Article 7 : *Respect of international UN Conventions of 1961, 1971 and 1988.* Austria having completed internal parliamentary procedure in 1997, the three Conventions are now in force in all Member States.

Article 8 : Illicit cultivation of plants.

In the Netherlands measures have been taken and are studied in order to combat illicit cultivation of plants containing active ingredients with narcotic properties. In most countries cultivation of plants for illicit purposes is forbidden. In Greece an extensive program is being carried out covering training, equipment and information gathering.

Article 9 : Incite or induce persons to commit offences of illicit use on production of narcotic drugs (e.g. through Internet).

Generally speaking to incite or induce persons to use or produce drugs is an offence in Member States. The problem created by Internet is being studied in many Member States.

B. Regional Cooperation

In general regional cooperation is developing. Examples of bilateral cooperation have been listed in contributions on specific articles (especially art. 1, 2, 3).

In contributions of delegations three forms of regional cooperation were highlighted : Nordic cooperation, cooperation in the Baltic Sea region (Visby) and Hazeldonk formula.

In the Nordic Union a special committee on drug questions exists, which holds regular meetings in order to exchange information and implement certain projects. In the framework of the Nordic Union, amphetamine, chemical and ecstasy projects are carried out.

A special task force on organized crime in the Baltic Sea region was created in May 1996, consisting of personal representatives of Member States. An important part of the task force's work is to prevent illegal production and trafficking in drugs. The amphetamine project has already entered the operational stage and is conducted by Poland and Sweden jointly.

C. Cooperation at the level of the European Union

State of cooperation at the level of the European Union is in the matrix in the drugs report to the European Union. This matrix shows that main progress has been made in the Customs group and in regard to action against synthetic drugs (Joint Action).

III. SUGGESTIONS BY MEMBER STATES

In their contributions Member States made following suggestions :

1. On general level

Suggestions by the Italian delegation :

Competent Union working parties should carry out a study with the following dual aim :

- a) to clarify all aspects of legislation that are already homogeneous
- b) to identify the other sectors where an approximation of legislation would be desirable.

For these purposes

- Member States will have to meet at bilateral and/or multilateral level to eliminate differences as far as possible.
- law enforcement officers, who are responsible for combatting illegal activities relating to drugs, have to be trained.

2. Approximation of legislation (art. 1)

Suggestion by the Greek delegation :

Drawing up of reports at EU level on the creation of a single judicial area and the approximation of laws.

3. Cooperation with other Member States (art. 2)

Suggestions by the Italian delegation :

- concluded agreements have to be examined in view of bringing them into line with new requirements
- new agreements have to be concluded providing also for border controls by joint patrols or with joint police action
- drawing up a European training program.

4. Greater compatibility of practices (art. 3)

Suggestion by the Italian delegation :

Further approximation of the laws of the Member States particularly with regard to the basic criteria for obtaining elements of proof and for issuing orders restricting personal freedom on criminal grounds.

5. **Penalties imposed for serious drug trafficking (art. 4)**

Suggestion by the French delegation :

- proposition complémentaire du groupe à haut niveau d'harmonisation des normes ainsi que des sanctions sur la base d'un plafond minima.

Suggestion by the Greek delegation :

- study on the approximation of laws and the imposition of severe penalties for drug trafficking, scaled according to the gravity of the offence and the character of the perpetration.

There will also have to be harmonization of alternatives to punishment.

- comparison of laws of Member States
- solution similar to article 8 of Greek Penal Code which states that regardless of the law of the place of commission of a drug offence, Greek criminal law is always applicable to Greeks and aliens for certain offences committed by them abroad including illicit trafficking.

Suggestion by the Austrian delegation :

Bewertung und Vergleichung von abstrakten Strafdrohungen von Gerichten, Verhängte Strafen und tatsächliche Dauer der Verbüßung der Strafen.

6. **Renforcement de la coopération opérationnelle entre services policiers, douaniers et judiciaires (art. 6)**

Suggestions by French delegation :

- organisation d'un exercice grandeur nature de livraisons surveillées suivi d'un séminaire de bilan
- développement des exercices de surveillance douanière opérationnelle
- évaluation des difficultés rencontrées en matière de coopération judiciaire
- reconnaissance mutuelle des résultats d'analyse des produits stupéfiants
- faciliter des procédures transfrontalières de confiscation des avoirs liés au trafic de drogue

Proposals of Greek delegation :

Joint program for exchange and training of staff of services involved in combatting drugs.

7. **Application des Conventions de 1961/1971/1988 (art. 7)**

Suggestion of French delegation :

Donner mandat au groupe horizontal drogue et faire entériner par les Etats Membres le rapport annuel de l'OICS et l'ECOSOC.

Suggestion of Austrian delegation :

Respect of obligations for cooperation and coordination that are in article 36 par. 1 and article 38 of the Convention of 1961 (practical measures in the field of prevention, treatment, etc.)

8. **Combatting of illicit cultivation of plants containing active ingredients with narcotic properties (art. 8)**

Suggestions of French delegation :

- mesures portant sur les semences
- interdiction
 - * de la culture : plusieurs mesures spécifiques
 - * de la publicité destinée au grand public relative aux graines et semences de cannabis et mettant en place un document d'accompagnement communautaire
- mise au point d'un règlement communautaire interdisant la circulation des graines et semences de cannabis et mettant en place un document d'accompagnement communautaire
- étude générale sur la culture illicite des stupéfiants en Europe.

9. **Lutte contre l'incitation à l'usage et à la production illicite des produits stupéfiants notamment par l'intermédiaire d'Internet (art. 9)**

Suggestion of French delegation :

- Etude sur les moyens techniques et normatifs permettant de prévenir et de sanctionner
 - * l'incitation à la production et l'usage de drogue
 - * l'utilisation d'Internet à d'autres fins illicites liées à la drogue

10. Yearly report on implementation of measures (art. 11)

Suggestion by the Austrian delegation :

- pursuant to article 7 special attention has to be given to treatment, demand reduction measures
- Member States should give detailed information on actions taken on national level (art.10)
- competent Council working groups should deal with identification of problems.

The UK delegation suggests that consideration should now be given to the post 1999 EU drugs strategy and the areas that are to be addressed.

IV. CONCLUSIONS

The present report shows that on all three levels serious efforts have been made in regard to implementation of the joint action. In this context especially the Joint Action on synthetic drugs, cooperation between France, Netherlands, Belgium (Hazeldonk) and work of the customs group deserve a special mention.

In other fields work is less advanced.

For this purpose it is recommended that attention be given to

- suggestions forwarded by delegations especially in the field of

Implementation on national level
Preliminary observations

AUSTRIA

Die in den einzelnen Artikeln der Gemeinsamen Maßnahme angesprochenen "Verpflichtungen" der Mitgliedstaaten wiederholen einerseits größtenteils bestehende Verpflichtungen, andererseits handelt es sich nicht um konkrete Bestimmungen (wie sie in einer gemeinsamen Maßnahme zu erwarten wären), sondern um politische Absichtserklärungen, wobei etwa im Hinblick auf Harmonisierungsbestrebungen völlig offen bleibt, welcher Mitgliedstaat welche Vorschriften bzw. Maßnahmen an wen eigentlich angleichen soll. Wie Österreich bereits bei der Vorbereitung der Gemeinsamen Maßnahme immer wieder betont hat, sind die einzelnen Bestimmungen der Gemeinsamen Maßnahme einer konkreten innerstaatlichen Umsetzung nur bedingt zugänglich.

IRELAND

Ireland made drugs one of its two main priorities during its tenure as European President in 1996. Ireland's total commitment to combating this problem at European Union and international level is grounded in a wide range of national legislative, administrative, organisational and financial measures designed to tackle the country - specific issues and problems they face. These measures are complemented by renewed Government efforts to maximise the co-ordination that is required between all the State Agencies and developing partnerships and providing funding to local communities most affected by the problem.

ITALY

The problem of the differing ways in which the obligations deriving from International Conventions have been incorporated into the legal systems of individual Member States and the resultant differences in the application of those obligations in judicial and police practice has also been felt in Italy.

The major obstacle is the different approach which each State has had to the above obligations in responding both to the need to adapt them to the nature and extent of the problem in its own territory and to the choices of criminal policy adopted in accordance with national constitutional principles.

It has rightly been acknowledged that the all-out fight against drug trafficking and related crime cannot be pursued with satisfactory results if there is not a binding agreement between States to overcome the discrepancies observed.

Such is the objective of the Joint Action set out in ENFOPOL 213.

Although time is needed for the implementation of that Joint Action, it is nevertheless necessary to put in hand all those initiatives required to establish a process which should be regarded as irreversible.

It is necessary in the first place for each Member State to re-examine its own legislation to establish whether International Conventions have been fully incorporated in all their aspects and, secondly, whether implementing measures accord with the spirit not only of national laws but also of those Conventions.

It is proposed that the competent Union working parties should carry out a study with the following dual aim:

- (a) to clarify all those aspects of legislation which are already homogenous;
- (b) to identify the other sectors where an approximation of legislation would be desirable.

Therefore, for the purposes of such approximation the Member States will have to meet at bilateral and/or multilateral level to eliminate remaining differences as far as possible.

Another task connected with such an undertaking is that of the training of law enforcement agencies responsible for combating illegal activities relating to drugs, which also serves the purpose of approximating implementing measures, at least in the national framework.

The French initiative, which is incorporated in the Joint Action and has been endorsed through its implementation by the Netherlands Presidency, is therefore to be encouraged even though we are aware that all that can be submitted to the European Council is a report on the initial stages of implementation of that initiative.

SWEDEN

The Swedish Cabinet Office and Ministries have embarked on work aimed at increasing the efforts of government and society in the drugs field. An action plan is being drawn up for the Swedish Government's work on drugs at national and international level. This plan will be supplemented by a strategy for dealing with drug problems in the next two years. The idea behind a drugs strategy is inter alia that it should serve as a basis for action on drugs at local and regional level by municipalities, county councils, public authorities and organizations.

UNITED KINGDOM

Tackling drug misuse is a priority for the UK Government. The Prime Minister has appointed the President of the Council to serve as Chair of a high-powered Cabinet Committee to oversee the development of the Government's drug strategy. A UK Anti-Drugs Coordinator has also been appointed. He will act as an expert adviser to the Government and will review all current Government action against drugs. He will report directly to the President of the Council as Chair of the Cabinet Sub-Committee on Drugs Misuse. One of his first tasks will be to urgently review the existing drugs strategy and put forward proposals for tackling the problem with renewed vigour.

Article 1

Member States shall undertake to cooperate fully in the fight against drug addiction and shall endeavour to approximate their laws to make them mutually compatible to the extent necessary to prevent and combat illegal drug trafficking in the Union.

a) National legislation

BELGIUM

La législation belge est conforme aux dispositions des conventions des Nations-Unies (1961, 1971 et 1988) et à la convention d'application de l'Accord de Schengen.

Les principales incriminations sont :

1. La fabrication, la détention, la vente, l'offre en vente, la délivrance ou l'acquisition, à titre onéreux ou gratuit, de substances soporifiques, stupéfiantes et psychotropes (que nous désignerons par ssp), sans autorisation et hors le cas de l'acquisition et de la détention en vertu d'une prescription médicale.
2. L'usage en groupe des substances.
3. La facilitation de l'usage, à titre onéreux ou titre gratuit, soit en procurant un local, soit par tout autre moyen.
4. L'incitation à l'usage.
5. Le fait de s'être procuré ou d'avoir tenté de se procurer des ssp au moyen d'une fausse ordonnance, une fausse demande, une fausse signature ou par quelque autre moyen frauduleux.
6. Le fait, pour les praticiens de l'art de guérir, de l'art vétérinaire ou d'une profession paramédicale, d'avoir abusivement prescrit, administré des médicaments tenant des ssp de nature à créer, entretenir ou aggraver une dépendance.

7. Le fait de s'être refusé ou opposé aux visites, inspections ou prises d'échantillons.

GREECE

In order to comply with the international conventions which it has ratified, Greece is taking the measures necessary to improve, simplify and speed up cooperation in all areas of judicial cooperation, extradition and transfer of sentenced persons.

IRELAND

Ireland has ratified the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 and the Convention came into effect on the 3 December 1996. As a party to this convention, Ireland now plays a full part in international co-operation against drug trafficking, ranging from practical co-operation on drug trafficking at sea to judicial co-operation in obtaining evidence and in confiscating the proceeds of drug trafficking.

Ireland has also ratified the Council of Europe Convention on Mutual Assistance in Criminal Matters (and the additional Protocol to that Convention) which came into effect in February 1997; and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime which came into effect as regards Ireland on 1 March 1997.

The Department of Justice has been designated the Central Authority for Mutual Assistance in Criminal Matters in this jurisdiction for the purposes of International Co-operation under the Convention and is fully operational dealing with both incoming and outgoing requests for assistance in relation to drug trafficking and other criminal offences.

These Conventions require Convention States to afford each other extensive criminal law co-operation, as well as to put in place certain domestic criminal law provisions. Irelands role in the field of international co-operation has significantly improved and expanded since signing up to the conventions.

ITALY

L'Italia si è allineata alle legislazioni degli altri Paesi emanando una specifica normativa sulla protezione dei dati personali (Legge n. 675 del 31 dicembre 1996), uno dei requisiti richiesti per l'entrata nel sistema Schengen. Inoltre, ha costituito un Comitato interministeriale con il compito di adottare tutte le iniziative volte a dare esecuzione alla Risoluzione dell'Unione Europea, approvata dal Consiglio Europeo di Dublino in data 29 novembre 1996, sulla cooperazione tra forze di polizia e dogana, nonché un altro gruppo di lavoro sul tema della coltivazione della canapa sativa da fibra per l'attuazione del Regolamento CEE n. 1164/89 relativo alla coltivazione della Cannabis.

Con D.L. VO del 12 aprile 1996 n. 253 sono state recepite le Direttive CEE n. 92/109/CEE e 93/46/CEE, relative alla fabbricazione e all'immissione in commercio di talune sostanze impiegate nella fabbricazione illecita di stupefacenti o di sostanze psicotrope.

LUXEMBOURG

La législation luxembourgeoise est conforme aux dispositions des Conventions des Nations-Unies (1961, 1971 et 1988) et à la Convention d'application de l'Accord de Schengen.

Les principales incriminations sont les suivantes :

1. La culture, production, fabrication, extraction, préparation, importation, exportation, vente ou offre en vente ou de quelque autre façon offre ou mise en circulation illicites de substances soporifiques, stupéfiantes et psychotropes.
2. Le transport, expédition, détention ou acquisition de ces substances de manière illicite et en vue de l'usage par autrui, ainsi que le courtage et la médiation, même occasionnels, en vue de l'acquisition de ces substances.
3. L'usage en groupe ou devant des tiers de ces substances.

4. La facilitation à autrui de l'usage, à titre onéreux ou gratuit, soit en procurant un local, soit par tout autre moyen.
5. La propagande ou la publicité en faveur de ces substances ou la provocation à l'usage, même si elle n'a pas été suivie d'effet.
6. Le fait de s'être procuré de telles substances au moyen d'une fausse ordonnance, d'une ordonnance de complaisance, d'une fausse signature ou encore de tout autre moyen frauduleux et le fait d'avoir délivré l'une ou l'autre de ces substances en connaissance du caractère fictif, frauduleux ou de complaisance de l'ordonnance ou de la demande.
7. Le fait pour des médecins, médecins-dentistes de prescrire ou d'administrer sans nécessité l'une ou l'autre de ces substances, de façon à créer, à entretenir ou à aggraver la toxicomanie.
8. Le fait pour un médecin, médecin-dentiste, pharmacien ou autre dépositaire légalement autorisé à détenir de ces substances d'en faire usage pour lui-même, de manière illicite.
9. La fabrication, le transport, la distribution ou la détention des équipements, matériels ou substances visées ci-dessus, sachant qu'ils doivent être ou sont utilisés dans ou pour la culture, la production ou la fabrication illicite de ces substances.
10. Le fait de s'être refusé ou opposé aux visites, inspections, fouilles, prélèvements d'échantillons, mise sous séquestre ou à la saisie...

PORTUGAL

Portuguese legislation on trafficking in and consumption of narcotic drugs and psychotropic substances is consistent with the provisions of the 1961, 1971 and 1988 United Nations Conventions. Decree-Law No 15/93 of 22 January 1993, containing the basic provisions on trafficking in and consumption of narcotic drugs and psychotropic substances, lays down the legal rules governing trafficking in and consumption of narcotic drugs and psychotropic substances, which it makes a criminal offence. The following are also made criminal offences:

- unlawful manufacture of and trade in **precursors**;
- **laundering of assets and proceeds** obtained from the criminal offences of trafficking in narcotic drugs and psychotropic substances and unlawful manufacture of and trade in precursors;
- **conspiracy to commit crime** in the fields of trafficking and laundering;
- **professional malpractice** by doctors or chemists issuing prescriptions or selling substances for non-medical purposes;
- **leaving behind syringes** and thereby endangering public health.

Precursors, listed in Tables V and VI annexed to that Decree-Law, are subject to controls, as required by the 1988 United Nations Convention, in accordance with the provisions of Regulatory Decree No 61/94 and the Community rules in force.

SPAIN

El ordenamiento jurídico español ha incorporado a su elenco las Convenciones de Naciones Unidas en Materia de drogas de 1961, 1971 y 1988, así como la convención de Aplicación del Acuerdo de Schengen y los Reglamentos y Directivas comunitarias en dicha materia.

A nivel legislativo, los principales cambios introducidos recientemente en nuestra legislación son:

- *El Real Decreto 864/1997, de 6 de junio, por el que se aprueba el Reglamento del Fondo procedente de los bienes decomisados por tráfico de drogas y otros delitos relacionados. Este Reglamento desarrolla la Ley 36/1995 y guarda estrecha relación con el artículo 5.5 a) de la Convención de Viena de 1988.*
- *El Real Decreto 865/1997, de 6 de junio, por el que se aprueba el Reglamento de desarrollo de la Ley 3/1996, sobre medidas de control de sustancias químicas catalogadas susceptibles de desvío para la fabricación ilícita de drogas. Esta Ley transpone al ordenamiento español la Directiva 92/109 del Consejo de la Comunidad Económica Europea.*

A su vez, se están tramitando los siguientes proyectos normativos:

- *Modificación de la Ley de Enjuiciamiento Criminal con objeto de regular las figuras del "agente encubierto" y de las entregas vigiladas de dinero y de precursores.*
- *Ratificación del Convenio n° 141 del Consejo de Europa de 1990.*

Finalmente, se han iniciado estudios sobre las investigaciones patrimoniales (con objeto de reflexionar sobre la posibilidad de introducir la figura de la inversión de la carga de la prueba en determinados casos) y sobre mecanismos de prevención de la producción, el tráfico y el consumo de drogas de síntesis.

Tanto las disposiciones ya en vigor como los proyectos y los estudios que se están tramitando, tienen por objetivo cumplir el artículo 1 de la acción común: luchar contra la toxicomanía y aproximar nuestra legislación a la del resto de la comunidad internacional y, en concreto, a la de los demás miembros de la Unión Europea.

UNITED KINGDOM / FINLAND / SWEDEN

The United Kingdom and Finland delegations emphasized their willingness to consider approximation of laws against drug misuse with those of other Member States, to the extent compatible with their wider international obligations, where it can be demonstrated that this will help to achieve that end.

As regards the United Kingdom:

A number of UK HMCE regional areas (Collections) have Memoranda of Understanding (MOUs) or agreements with their counterparts in other Member States; i.e. Dutch Customs in Rotterdam; Swedish Customs in Gothenberg; French Customs in the French channel ports. These involve exchange visits, intelligence sharing, regular joint exercises and information exchanges. A Euro Tunnel MOU is at present being negotiated by HMCE Dover with their French counterparts and this is likely to be signed shortly.

DENMARK

1. *Indsatsen mod narkotika på gadeplan*

Som omtalt i den tidligere note blev indsatsen på dette område skærpet i Danmark ved to lovændringer i december 1996. Baggrunden for stramningerne var en voksende gadehandel med (små mængder) narkotika i de større danske byer.

Da gadepusherne - som for en stor dels vedkommende var udlændinge - altid sørgede for kun at bære ganske små mængder stof på sig, slap de med relativt korte straffe, når de blev taget af politiet, hvorefter de kunne vende tilbage og genoptage deres virksomhed.

Derfor vedtog Folketinget på regeringens initiativ en markant skærpelse af straffen for gentagne tilfælde af handel med (små mængder) hårde stoffer. Rundt regnet var der tale om en tredobling af det hidtige strafniveau for sådanne forseelser.

Herudover blev der gennemført en ændring af udlændingeloven, der indebærer, at udlændinge, der idømmes ubetinget frihedsstraf for narkohandel, kan udvises uanset hvor længe de pågældende har opholdt sig her i landet.

Resultaterne af disse stramninger har nu vist sig.

Allerede i begyndelsen af 1997 blev de første udenlandske gadepushere udvist, og idag kan politiet konstatere, at situationen i de hårdest belastede områder er forbedret betydeligt.

2. Nye regler for omvendt bevisbyrde ved konfiskation samt "hemmelig ransagning".

Ved en række lovændringer, som Folketinget vedtog den 28. maj 1997 er der i Danmark nu gennemført regler for omvendt bevisbyrde ved konfiskation i grove narkosager samt etableret adgang til såkaldt hemmelig ransagning.

Lovændringerne har til formål at styrke politiets muligheder for at efterforske alvorlig kriminalitet, herunder ikke mindst organiseret kriminalitet.

Ud over reglerne om konfiskation og ransagning er der vedtaget ændrede regler om telefonaflytning, tilfældighedsfund, øget vidnebeskyttelse og strengere straffe for ulovlig våbenbesiddelse m.v.

De nye regler om omvendt bevisbyrde ved konfiskation indebærer, at der under visse betingelser kan ske konfiskation hos en person dømt for grov narkotikakriminalitet, hvis den pågældende ikke selv kan sandsynliggøre, at formuegoderne er erhvervet på lovlig vis. Det samme gælder, hvis formuegoderne er overdraget til den pågældendes ægtefælle eller til et selskab, som han kontrollerer.

Reglerne kan bringes i anvendelse på formuegoder, som tilhører en person, der findes skyldig i en strafbar handling, når:

- 1. handlingen er af en sådan karakter, at den kan give betydeligt udbytte, og*

2. *den efter loven kan straffes med fængsel i 6 år eller derover eller falder ind under straffelovens bestemmelse om særlig groft tyveri.*

Hvis konfiskation skal ske hos ægtefælle, eller samlever kræves det herudover,

1. *at formuegodet er erhvervet mindre end 5 år før den strafbare handling, og*
2. *at ægteskabet/samlivet bestod på tidspunktet for erhvervelsen.*

På samme måde forudsætter konfiskation hos en juridisk person, som den pågældende eller dennes ægtefælle kontrollerer, at formuegodet ikke må være overdraget til den juridiske person mere end 5 år før den strafbare handling.

Er disse betingelser opfyldt, vil der kunne ske konfiskation af større pengebeløb, dyre biler, lystfartøjer og lignende, som den pågældende ikke kan sandsynliggøre, at han har erhvervet på lovlig vis.

Det er domstolene, der afgør, hvilke krav der konkret skal stilles til sandsynliggørelsen, men det er klart, at der som udgangspunkt vil skulle være et sådant misforhold mellem den pågældende officielle indtægtsforhold og de fundne værdier, at det sammen med den forbrydelse han er dømt for skaber en klar formodning om, at værdierne er skaffet ved f. eks. narkohandel.

Andre momenter vil også kunne indgå i bedømmelsen, herunder om kontantbeløb er fundet under mistænkelige omstændigheder, f. eks. nedgravet eller gemt på loftet.

Endelig så forudsættes mindre værdier, der i nutidens prisleje ikke overstiger ca. 50.000 kr., ikke at være omfattet.

Vedrørende reglerne om såkaldt hemmelig ransagning så adskiller disse sig fra andre ransagninger ved, at de kan ske uden tilkaldelse af vidner og uden umiddelbar underretning af den, som indgrebet vedrører. Herved sikres det, at nødvendige ransagninger kan gennemføres, uden at en igangværende efterforskning - f. eks. i forbindelse med en kontrolleret leverance af narkotika - afsløres i utide.

Bortset fra hemmeligholdelsen skal de almindelige ransagningsbetingelser fortsat være opfyldt, ligesom visse skærpede betingelser er opstillet for netop denne type ransagninger.

De skærpede krav indebærer blandt andet, at det skal være af afgørende betydning for efterforskningen, at ransagningen foretages hemmeligt, at retsmidlet kun kan anvendes i grove narkosager, drabssager og forbrydelser mod statens sikkerhed, at der ved den retslige godkendelse af indgrebet altid skal beskikkes advokat for den pågældende, og at vedkommende skal underrettes, så snart det kan ske uden skade for efterforskningen.

På grund af de krav, der stilles for anvendelsen af begge retsmidler, forventes de begge fortrinsvis anvendt i forbindelse med de grove narkoforbrydelser.

Der henvises i øvrigt til det i noten af 18. marts 1997 oplyste.

Section 191 of the Criminal Code supplements the law on narcotics and lays down that any person who in contravention of the legislation supplies such drugs to a considerable number of persons or in return for a large payment or in any other particularly aggravating circumstances shall be liable to imprisonment for up to six years. Where the supply relates to a considerable quantity of a particularly dangerous or harmful drug, or where the transfer of such a drug has otherwise been of a particularly dangerous nature, the penalty may be increased to 10 years. Similar punishment applies to any person who imports, exports, buys, distributes, receives, produces, manufactures or possesses such drugs with the intention of supplying them. In particularly aggravating circumstances the penalty may be increased by up to half the maximum penalty (Section 88 (1) of the Criminal Code).

Within the legislative framework described, including the legal amendment to stiffen penalties for repeated trafficking in hard drugs, police controls are concentrated both on persons and organizations which - at national and international levels - are behind drugs trafficking and on street-level drugs dealing.

The aim of the most recent amendments is precisely to strengthen police action against persons selling drugs as such persons are often only in possession of small quantities of drugs when arrested. As the punishment for possession of drugs with a view to dealing is fixed inter alia in relation to the amount of drugs involved there were previously often grounds only for a shorter period of imprisonment and in certain cases only for a fine. The amendment involving stricter penalties means that there will as a rule be grounds for sentencing someone to imprisonment for trafficking in hard drugs and that the requirements for remanding someone in custody under Denmark's Administration of Justice Act will therefore be met in a considerably greater number of cases than before. In addition, the amendment tightening up deportation rules contribute towards action against aliens who are sentenced for drugs offences during their stay in Denmark.

GERMANY

Neben der Repression sind die Prävention und die Therapie die maßgeblichen Säulen der Rauschgiftbekämpfung in der Bundesrepublik Deutschland. Bei der Bekämpfung der Drogenabhängigkeit steht nicht nur eine ständige Verbesserung der therapeutischen Angebote in der Bereichen Prävention und Therapie im Vordergrund, sondern auch eine Intensivierung der internationale Zusammenarbeit. In vielen Pilotprojekten und Studien zusammen mit anderen Mitgliedstaaten der Europäischen Union wurden umfangreiche Vergleichsstudien erstellt, die auch Eingang in die Diskussion und Fortentwicklung der nationalen Maßnahmen gefunden haben.

Die Bundesrepublik Deutschland ist grundsätzlich bereit, im Rahmen der Zusammenarbeit mit anderen Mitgliedstaaten auch die Frage der Anpassung von nationalen Rechtsvorschriften zu diskutieren, soweit dies zur Verbesserung der Bekämpfung und Verhütung des illegalen Drogenhandels in der Union erforderlich ist.

- b) *Following Member States emphasized their efforts in the field of cooperation with other Member States*

NETHERLANDS

Op het terrein van de volksgezondheid worden met verschillende lidstaten bilaterale contacten onderhouden. In het kader van deze contacten werd in maart 1997 een gezamenlijke studiebijeenkomst van Nederland en Frankrijk inzake de drugproblematiek georganiseerd. Aan deze bijeenkomst namen Franse en Nederlandse deskundigen op het terrein van de verslavingszorg deel. De bijeenkomst resulteerde in een aantal samenwerkingsprojecten. Een tweede studiebijeenkomst zal eind 1998 in Nederland plaatsvinden.

In de grensregio's zijn samenwerkingsprojecten, onder andere op het terrein van de verslavingszorg (waaronder laagdrempelige verslavingszorg en reclassering), opgezet met zowel België als Duitsland.

Tussen Frankrijk en Nederland is een MOU ondertekend dat voorziet in de intensivering van de samenwerking tussen douanediensden door middel van gemengd samengestelde controleteams, geïntensiveerde gegevensuitwisseling, stageprogramma's en overleg. De besprekingen over het sluiten van een MOU tussen het VK en NL betreffende praktische samenwerking op douanegebied verkeren in het laatste stadium. Met Duitsland zijn dergelijke besprekingen ook gaande.

Met de Belgische autoriteiten vindt periodiek overleg plaats inzake het versterken van de praktische samenwerking tussen de douanediensden.

Er wordt tussen politie- en justitievertegenwoordigers structureel bilateraal overleg gevoerd met het VK, Frankrijk en Duitsland waardoor de samenwerking bij de bestrijding van drugcriminaliteit verbetert.

Zes Nederlandse politieregio's hebben met de Franse politie overeenkomsten gesloten over informatie-uitwisseling met betrekking tot drugstoerism. Een concept-tekst voor een verdrag tussen Nederland en Frankrijk ter zake van de versnelling van de overdracht van strafvervolgning is gereed. In de tussenliggende tijd zijn concrete afspraken gemaakt hoe de overdracht reeds nu al in de praktijk kan worden versneld op basis van de bestaande verdragen.

Réflexion belgo-néerlandaise sur la recherche de normes communes en matière de présentation de commissions rogatoires internationales.

AUSTRIA

Die Zusammenarbeit zwischen den Mitgliedstaaten der EU bei der Verhütung und Bekämpfung des illegalen Drogenhandels erfolgt aufgrund des Europäischen Übereinkommens über die Rechtshilfe in Strafsachen vom 20.4.1959, des Zusatzprotokolls zu diesem Übereinkommen vom 17.3.1978 sowie aufgrund bilateraler Zusatzübereinkommen zu diesem Übereinkommen mit Deutschland, Frankreich und Italien. Mit den Schengen-Staaten wird zusätzlich das Schengener Durchführungsübereinkommen (SDÜ) mit dem Wirksamwerden für Österreich weitere Möblichkeit der Zusammenarbeit bieten. Im Rahmen der Ratsarbeitsgruppe "Rechtshilfe in Strafsachen" wird derzeit an einer Erweiterung der MÖglichkeit der Zusammenarbeit gearbeitet. Hinsichtlich des Geldwäsche-Übereinkommens des Europarates ist das parlamentarische Ratifikationsverfahren abgeschlossen; die Hinterlegung der entsprechenden Erklärungen wird demnächst vorgenommen werden.

Soweit Ermittlungen zur Bekämpfung des illegalen Drogenhandels im polizeilichen Bereich geführt werden, ist das diesbezügliche Verfahren derart flexibel gestaltet, daß eine enge Zusammenarbeit auf europäischer Ebene friktionsfrei möglich ist.

Alle im innerstaatlichen Bereich mit diesen Agenden befaßten Behörden und Dienststellen berichten, daß die Praxis der Zusammenarbeit zwischen den Mitgliedstaaten der EU zufriedenstellend funktioniert.

ITALY

If national legislation is to respect fully not only the letter but also the spirit of International Conventions, it is necessary, with a view to more effective cooperation, to develop bilateral and/or multilateral agreements with the other partners not only within the European Union but also with the countries on our external borders.

In the case of the first group, such an approach would be desirable in order to identify a common means for combating the problems underlying drug addiction on the same terms, to adopt the same legal and technical instruments and to establish training for law enforcement officers which is based on the same aims.

The appropriate contacts with certain members of the European Union have already taken place.

As for the second group it would be advisable to resuscitate agreements already established by bringing them into line with new requirements, to establish other agreements providing also for border controls by joint patrols or with joint police action and to establish training on the basis of a common programme agreed at European level.

The first projects with the Mediterranean countries have already been implemented either under the aegis of the European Commission or on the basis of agreements reached between Italy, France and Spain.

Italy has in addition made available its own "centres of excellence" not only to the States of the Union but also to third countries.

Finally, regarding the operational aspect, it should be pointed out that there is perfect understanding with the other States involved, to such an extent that normally there have been no difficulties in developing the numerous controlled deliveries already carried out or under way.

Inoltre, Italia ha distaccato propri ufficiali di collegamento di polizia in Spagna, Francia e Regno Unito.

Ha stipulato Accordi bilaterali con i seguenti Paesi Membri dell'U.E.:

- Austria: accordo per la collaborazione nella lotta contro il terrorismo internazionale, la criminalità organizzata ed il traffico di stupefacenti, firmato il 12 novembre 1986;

- Francia: accordo concernente la costituzione di un comitato di cooperazione nella lotta contro il terrorismo, la criminalità organizzata ed il traffico di droga, firmato il 13 ottobre 1986; accordo per la cooperazione doganale sulla sorveglianza aerea del 1994;
- Germania: accordo di cooperazione nella lotta contro il terrorismo, la criminalità organizzata ed il traffico di droga, firmato il 22 ottobre 1994;
- Grecia: accordo di cooperazione nella lotta contro il terrorismo, la criminalità organizzata ed il traffico di droga, firmato il 23 settembre 1986;
- Regno Unito: accordo in materia di mutua assistenza relativa al traffico di sostanza stupefacenti e psicotrope e di sequestro e confisca dei proventi di reato, firmato il 16 maggio 1990; accordo di cooperazione nella lotta contro il terrorismo, la criminalità organizzata ed il traffico di droga, firmato l'11 gennaio 1989;
- Spagna: accordo di cooperazione sulla lotta contro la droga, firmato il 3 giugno 1986; accordo per la repressione del traffico illecito di droga in alto mare, firmato il 23 marzo 1990.

Inoltre, partecipa con Spagna, Francia, Portogallo, Marocco, Tunisia, Algeria al Comitato "Mediterraneo Occidentale", volto a realizzare un ravvicinamento delle legislazioni e delle prassi di polizia.

Per quanto attiene alla cooperazione transfrontaliera si rappresenta che è costituito in Ventimiglia un Commissariato misto italo-francese, nonché un funzionario di polizia è stato distaccato presso l'Ufficio di Polizia francese di Nizza. Sono, infine, in corso le procedure per la costituzione di un analogo Commissariato in MODANE (Francia).

L'Italia prenderà parte al progetto, a livello regionale, sulle rotte della droga organizzato da Schengen.

SWEDEN

Sweden has since 1 May 1996 been participating as an observer in Schengen cooperation. The Swedish Government is now preparing a proposal that Sweden should take part in the regulatory work resulting from that cooperation. In this connection, consideration is being given to the constitutional changes in the drugs field which may be necessary to enable Sweden fully to comply with its obligations as a Schengen country.

Article 2

Member States shall endeavour to make the practices of their police, customs services and judicial authorities more compatible with each other, thus making for closer European cooperation to prevent and combat illegal drug trafficking in the Union.

a) *Enhanced cooperation between police, customs and judicial authorities on national level*

BELGIUM

Sur le plan politique, un groupe de travail du Parlement s'est réuni du 25 janvier 1996 au 18 mai 1997. Il a auditionné 68 experts nationaux et internationaux. Il a, en outre, effectué des visites de travail en Belgique et à l'étranger.

Le groupe de travail a poursuivi les objectifs suivants :

- *la délimitation du phénomène de la toxicomanie et ses définitions ;*
- *la perception de son caractère multidimensionnel et l'inventaire des problèmes ;*
- *l'évaluation de l'approche du phénomène de la drogue dans une perspective nationale et internationale par une approche de l'offre et par des initiatives visant à réduire la demande.*

Le rapport du Parlement fait actuellement l'objet d'un examen attentif du Gouvernement fédéral qui a d'ores et déjà mis en oeuvre de nombreuses recommandations.

- *Un avant-projet de loi relatif aux techniques spéciales d'enquête est en cours d'élaboration.*

GREECE

In order to deal more effectively with the problem of drugs in the area of law enforcement, an inter-ministerial body has been brought into operation which represents all the services in Greece involved in the fight against drugs (police, customs, port police). The department is known as the "Central Anti-Drug Coordinative Body" and its role is to ensure improved exchange of information, the coordination of activities, the avoidance of duplication and the compatibility of the practices of all the services involved in combating illegal drug trafficking in Greece.

A **National Central Commission** has also been set up, bringing together representatives of the services responsible for the prosecution of financial sector-crime and representatives of the Ministries of Economic Affairs, Finance and Commerce in order to assess all information concerning suspect transactions and to instigate investigations and inquiries in relation to money-laundering.

FRANCE

Structures centrales nationales :

- Office Central pour la Répression du Trafic Illicite de Stupéfiants : coordination et centralisation de l'information et des activités opérationnelles ;
- Direction Nationale du Renseignement et des Enquêtes Douanières ;
- Bureau de la lutte contre la criminalité organisée, le trafic de stupéfiants et le blanchiment d'argent (Ministère de la Justice)

IRELAND

Irish police and customs authorities have signed a Memorandum of Understanding (MOU) to underpin cooperation between the two agencies which is working well. The Memorandum was signed on 12 January, 1996 and includes

- clarification of the precise roles of both organisations in relation to drugs enforcement

- full exchange of information and intelligence
 - A Joint Task Force comprising personnel from Police, Customs and the Naval Service was established in May, 1996. Operational Guidelines relating to this Joint Task Force were signed on 16 May, 1996.

- the implementation of a system for exchange of Liaison Officers between both organisations. Liaison officers have now been exchanged ensuring effective cooperation between both authorities and helping to minimise liaison/ communication difficulties.

Section 3 of the Europol Bill which is going through the Irish Parliament at present provides for the establishment of a Europol National Unit which will include representatives from both Police and Customs.

Two members of An Garda Siochana are in place as drugs liaison officers since 17th July, 1997 in Madrid and The Hague which will greatly assist in combating drug trafficking.

*A Multi-Disciplinary Group on Crime meets regularly at national level with representatives from the Department of Justice, Police, Revenue (Customs, Direct Taxes and Indirect Taxes) and the Director of Public Prosecutions. This group focuses primarily on the implementation of the **Action Plan to Combat Organised Crime** which was adopted by the Council on 28th April, 1997.*

ITALY

In Italy there are no set police practices in that by law the Criminal Investigation police must follow the directives issued by the judicial authorities when carrying out their investigations.

One problem arises from the investigating magistrates' autonomy in interpreting the law: the consequence is that it is impossible to have a single code of practice applicable throughout the whole national territory.

In addition to this there are also legal provisions establishing various forms of attenuating or aggravating circumstances designed to achieve greater fairness in sentencing and reflecting the various degrees of responsibility of those subject to criminal proceedings.

It should be pointed out, however, that such a method of proceeding is influential only for determining the extent of the actual penalty imposed, but does not have negative repercussions on international cooperation.

Finally, we should stress the need to achieve a further approximation of the laws of the Member States particularly with regard to the basic criteria for obtaining elements of proof and for issuing orders restricting personal freedom on criminal grounds.

LUXEMBOURG

Une commission spéciale du Parlement luxembourgeois, a procédé, en 1995/96, à de multiples auditions d'experts dans le domaine de la lutte contre le trafic de drogue et de la toxicomanie. A l'issue de ces auditions et du rapport de la Commission, la coordination entre les services de la police judiciaire et les services des douanes en matière de lutte contre le trafic de drogues a été intensifiée. Des réunions périodiques et des réunions ad hoc ont été convenues entre des responsables de ces services, sous l'égide du Ministère Public.

NETHERLANDS

Ter verbetering van de samenwerking tussen de verschillende controle- en opsporingsdiensten die betrokken zijn bij de bestrijding van de produktie van en de handel in synthetische drugs is begin 1997 de Unit Synthetische Drugs (USD) opgericht. Dit multidisciplinaire team staat onder leiding van een landelijk coördinerend Officier van Justitie. Door de USD wordt onder meer gewerkt aan de verbetering van de internationale rechtshulp en het coördineren van de informatiestromen. Deze aanpak begint haar vruchten af te werpen. Nauwe samenwerking tussen de USD en het VK en Duitsland is inmiddels ontstaan.

Door de douane en de politie op de luchthaven Schiphol wordt in het Schipholteam nauw samengewerkt. Hierdoor is men in staat de controle van de inkomende en uitgaande passagiers te optimaliseren. Door de aanschaf van de containerscanner te Rotterdam kan de douane vanaf begin 1998 in aansluiting op de reeds toegepaste risico-analyse een nog betere controle uitoefenen. Op de luchthaven Schiphol zal eveneens een containerscanner worden aangeschaft.

Door de oprichting van HARC (Hit And Run Container) - teams, een samenwerkingsverband tussen de FIOD, politie, douane en het openbaar ministerie, is de onderzoeks- en opsporingscapaciteit bij het aantreffen van drugs in zee- en luchthavens geïntensiveerd.

SPAIN

A nivel nacional, la coordinación de los servicios operativos en la lucha contra las drogas es ejercida por la Delegación del Gobierno para el Plan Nacional sobre Drogas (Real Decreto 1885/1996, de 2 de agosto). En base a este Real Decreto, la Delegación del Gobierno coordina la actuación entre Unidades de las Fuerzas y Cuerpos de Seguridad del Estado y de éstas con otros servicios cuya competencia pueda repercutir en la lucha contra el tráfico ilícito de drogas o el blanqueo de capitales.

Otra instancia coordinadora a nivel nacional es la Oficina Nacional Central (OCN) cuyo objetivo es el de mejorar la coordinación operativa entre las fuerzas de seguridad del Estado (Policía Nacional y Guardia Civil) y el Servicio de Vigilancia Aduanera. Para lograr este objetivo se han creado unos canales de comunicación e información entre los cuerpos antes citados.

FINLAND

The cooperation between the police, customs and border guard is being regulated by decree. A Government bill has been introduced. In practice these authorities have been cooperating for years within the framework of the Drugs Working Group in order to promote information exchange, to plan common activities such as training and exchange programmes for civil servants. *According to the proposal of the National Board of Customs the establishment of exchange program for civil servants between the National Board of Customs and the National Bureau of Investigation is under consideration. This exchange program would mainly have the focus on the exchange of the personnel between the centres of the information service. Furthermore joint investigation groups have been established in order to investigate major drug crimes.*

SWEDEN

The Swedish police, customs and the State Forensic Laboratory are cooperating in the Logo Project launched by the Europol Drugs Unit (EDU). The aim of the Project is initially to collect information on seizures of ecstasy pills and to make information accessible through a database and a catalogue.

UNITED KINGDOM

Six Regional Crime Squads tackle major traffickers, working in cooperation with Customs and drawing on intelligence provided by the National Criminal Intelligence Service (NCIS). NCIS has an important role in developing effective cooperation nationally and with overseas agencies. The National Investigation Service of Customs (NIS) is mainly concerned with the identification and targeting of large-scale drug smuggling, intelligence, cooperation with the police, and joint operations.

The Police Act, passed in Parliament in April of this year, contains provisions to place NCIS on an independent statutory footing and to establish a National Crime Squad. The National Crime Squad will be formed by amalgamating the existing Regional Crime Squads. The current timetable for implementing the Act is for the two services to be established on 1 April 1998. This will provide a more efficient and effective nationally coordinated investigative response to organised crime occurring at regional, national and international levels, while maintaining support to local police forces investigating serious crimes. It will also complement the HMCE NIS international role.

GERMANY

Eine stärkere Abstimmung der Verfahren zwischen der Polizei und den Zollbehörden wurde in der Bundesrepublik Deutschland bereits in den 70er Jahren mit der Gründung gemeinsamer Ermittlungsgruppen zwischen den Zollstellen und den Länderpolizeidienststellen begonnen. Darüber hinaus wurden Anfang der 90er Jahre gemeinsame Ermittlungsgruppen des Zollkriminalamtes und des Bundeskriminalamtes in den Bereichen Bekämpfung der Geldwäsche und Grundstoffkontrolle eingerichtet, die sehr erfolgreich arbeiten. Im Bereich der Geldwäsche besteht darüber hinaus eine Zusammenarbeit der Zoll- und Polizeibehörden der Länder Baden-Württemberg, Bayern, Niedersachsen, Sachsen und Schleswig-Holstein.

Die Zusammenarbeit zwischen Polizei und Zoll ist in einer Richtlinie zur Zusammenarbeit der Polizei und des Zolls bei der Bekämpfung der Rauschgiftkriminalität vom Oktober 1992 festgelegt. Neben dieser institutionellen Zusammenarbeit hat sich auch die Zusammenarbeit im Bereich von Projekten zu einzelnen Kriminalitätsbereichen gut bewährt und soll ausgebaut werden.

- b) *Enhanced cooperation with police, customs and judicial authorities of other Member States*

BELGIUM

Les services de police belges ont participé à des séminaires de formation (ex.: héroïne turque, formation Belgique, Allemagne et Pays-Bas).

LUXEMBOURG

Une concertation des Ministres de la Justice et de la Santé des Etats du BENELUX a eu lieu en 1997 en vue notamment d'examiner les possibilités de rapprochement des pratiques au niveau de la politique à l'égard de l'utilisateur de drogues.

Enfin, les services répressifs luxembourgeois participent régulièrement à des séminaires de formation organisés par des Etats voisins.

NETHERLANDS

Met een aantal landen, te weten Frankrijk, het Verenigd Koninkrijk en Duitsland, vinden met betrekking tot de verdovende middelenproblematiek en de georganiseerde criminaliteit in zijn algemeenheid bilaterale besprekingen plaats over het verbeteren van de samenwerking, het afstemmen van activiteiten en het signaleren van knelpunten in wetgeving en in de praktijk. Met verschillende landen worden wetshandhavingsambtenaren uitgewisseld ten behoeve van deelname aan elkaars opleidingsprogramma's en kennismaking met de praktijk in andere lidstaten.

Voor de met enkele landen afgesloten c. q. af te sluiten MOU's op het terrein van de douane wordt verwezen naar het hetgeen hierover is opgemerkt onder artikel 1.

Tussen Nederland en Duitsland is een grensovereenkomst gesloten. Deze overeenkomst voorziet in samenwerking tussen Nederlandse en Duitse politiediensten. Nederland, België en Luxemburg werken samen in het kader van het Benelux verdrag.

SPAIN

Los servicios aduaneros, policiales y judiciales españoles están cooperando con la Unidad de Drogas de Europol.

Asimismo, el Servicio de Vigilancia Aduanera coopera con los servicios aduaneros de los Estados miembros en la aplicación del Reglamento (CEE) 3677/90 por el que se establecen una serie de medidas con el fin de impedir el desvío de precursores para la fabricación ilícita de drogas fuera del territorio aduanero de la U.E.

Por su parte, el control de precursores está también garantizado por la Policía, quien colabora tanto con el Servicio de Vigilancia Aduanera como con el Plan Nacional sobre Drogas y, por supuesto, con otras policías de Estados miembros.

Esta cooperación en materia de precursores es evidente en el seno del Comité de Precursores de Drogas de la Comisión Europea (DG III y DG XXI).

Esta cooperación entre diferentes servicios operativos es también efectiva en el campo de la lucha contra el blanqueo de capitales y contra el tráfico ilícito de drogas.

UNITED KINGDOM

The United Kingdom supports initiatives designed to improve the compatibility of the working practices of the police, customs services, and judicial authorities, for instance through exchanges of personnel, provision of operational expertise, dissemination of best practice, development of mutual assistance, and joint exercises. It assigns particular importance to the initiatives being taken forward by the Europol Drugs Unit and Customs Co-operation Working Group.

FRANCE

- Cellule de coordination opérationnelle dans le département du Nord. (Coopération avec la Belgique et les Pays-Bas).

- Echange d'officiers de liaison et d'attachés douaniers :
 - Police : Allemagne, Belgique, Espagne, Italie, Pays-Bas, Royaume-Uni
 - Douane : Allemagne, Autriche, Benelux, Espagne-Portugal, Italie, Royaume-Uni
 - Gendarmerie : Italie, Espagne
 - Justice : Italie, Pays-Bas, Espagne (en cours de réalisation)
- Echange de fonctionnaires des douanes dans le cadre du programme MATTHEUS
- Echange franco-néerlandais de fonctionnaires de police et de douane (1996)
- Echange de fonctionnaires des douanes dans le cadre de l'accord de coopération douanière
- Franco-néerlandais (1997): poursuite des programmes d'échanges de douaniers français avec l'Allemagne et la Belgique
- Accords de coopération signés avec d'autres Etats européens :
 - Allemagne
 - Accords de coopération policière en zone frontalière (1977/1980/1992)
 - Commissariats communs franco-allemands (1995)
 - Accord de coopération douanière (1994)
 - Belgique
 - Protocole d'accord sur la répression de la grande criminalité, du trafic illicite de stupéfiants et du terrorisme (1991)
 - Echange de lettres sur la coopération policière transfrontalière (1995)
 - Espagne
 - Accord sur la lutte contre le terrorisme, le trafic de stupéfiants et la criminalité organisée (1987)
 - Arrangement sur la coopération transfrontalière et la création de commissariats communs (1996)
 - Convention d'assistance douanière (1982)
 - Italie
 - Comité de coopération pour la lutte contre le terrorisme, le trafic de stupéfiants et la criminalité organisée (1986)
 - Accord de coopération douanière en matière de surveillance aéronautique (1994)

Pays-Bas

Des contacts sont menés dans le cadre d'un groupe de travail traitant les aspects policiers, douaniers et judiciaires de la coopération bilatérale, débouchant notamment sur :

- *des échanges de fonctionnaires et magistrats de liaison,*
- *la signature d'un accord de coopération douanière en 1997.*

Royaume-Uni/Espagne

- Accord tripartite de coopération douanière opérationnelle pour la surveillance aéro-maritime (1990).

Enfin, la France a signé depuis 1958 avec tous ses voisins des accords BCNJ "Bureaux à contrôles nationaux juxtaposés".

Elle souhaite de la même façon mettre en place des centres bi-nationaux de coopération policière et douanière (CCPD).

- Mise en place dans le port du Havre d'un appareil de radiographie des conteneurs maritimes (1996).
- Accords informels en matière de facilitation des liaisons radio-électriques entre services répressifs avec l'Allemagne, la Belgique et le Luxembourg.
- L'utilisation de matériels nouveaux de détection et de contrôle fait l'objet de concertations formelles ou informelles entre les services de police, de gendarmerie et de douane français et leurs homologues européens.

GREECE

- Exchange of customs officers under the MATTHEUS programme
- Police cooperation agreements to combat drugs and other serious forms of crime with the following countries: Italy, Albania, Bulgaria, Romania, Hungary, Poland, Russia, Lithuania, China, Iran, Armenia, Israel, Cyprus, Tunisia and the USA.
- Agreements on mutual assistance in customs matters with: Albania, Bulgaria, Croatia, Slovenia, Poland and the USA.
- Bilateral judicial assistance agreements with Yugoslavia, Romania, Russia, Lebanon, Egypt, Syria, Australia, Morocco, Tunisia, Cyprus, China, Albania
- Bilateral extradition agreements with Belgium, Colonies, USA, Yugoslavia, Romania, USSR, Lebanon, Egypt, Syria, Australia, Tunisia, Albania

Article 3

Member States shall undertake to combat illicit movements of narcotic drugs and psychotropic substances within the Community including "drug tourism".

a) *National level*

GREECE

The phenomenon of "drug tourism" is not regarded as significant, although measures to deal with any cases of "drug tourism" are included within the framework of coordinated action at the external frontiers of Greece to control illicit movements of narcotic drugs and psychotropic substances.

NETHERLANDS

Personen die zich bezighouden met de verkoop van voor de export bestemde gebruikershoeveelheden soft drugs worden vervolgd voor het medeplegen van illegale grensoverschrijdende handel. Tevens zal al dan niet in samenwerking met buitenlandse autoriteiten, de controle op het uitvoeren van handelsvoorraden soft drugs door buitenlanders naar hun eigen land intensief worden voortgezet en zal deze vorm van uitvoer worden tegengegaan.

AUSTRIA

Da das Schengen Durchführungsübereinkommen (SDÜ) derzeit für Österreich noch nicht angewendet wird, werden im Rahmen der derzeit durchzuführenden Grenzkontrollen zu den anderen Mitgliedstaaten die erforderlichen Maßnahmen zur Aufdeckung der illegalen innergemeinschaftlichen Ströme von Suchstoffen und psychotropen Substanzen einschließlich des Drogentourismus ergriffen. Trotz - seit Bestehen des Binnenmarktes - nicht mehr durchgeführter regelmäßiger Zollkontrollen an den Binnengrenzen werden auf Grund der Bestimmung des Art. 2 des österreichischen Zollrechts-Durchführungsgesetzes mobile Zollkontrollen zur Bekämpfung der illegalen Innergemeinschaftlichen Verbringung von Suchstoffen durchgeführt.

PORTUGAL

Domestically, control of lawful trade in narcotic drugs and psychotropic substances comes under the National Pharmaceutical and Medicinal Institute (INFARMED), which shares enforcement in this respect with the Directorate-General of Customs and Excise. Checks on persons are a matter for the SIS and the police authorities.

FINLAND

The prevention of drug offences is an important part of the law enforcement and a strong attention is paid not only to supply reduction but also to demand reduction. Because the illicit use of narcotics is an offence under the Finnish legislation there are good possibilities for the Finnish police to deal with the reduction of demand.

According to the regulations issued by the Police Department of the Ministry of the Interior on 15 July 1997 national coordination and guidance of prevention of drug offences will be carried out by the National Bureau of Investigation. This regulation also obliges each police district to draw up an annual action plan, in which a special focus should be laid on the control of street sale drugs. Local police units are obliged to report all aggravated drug crimes and seizures related to these crimes within 24 hours of their occurrence to the National Bureau of Investigation.

The National Bureau of Investigation will draw up annually a report to the Ministry of the Interior concerning the results of the prevention of drug offences in Finland.

ITALY

Italian law makes a specific offence of the illicit export, import and carriage in transit of narcotic substances.

Those committing such an offence are liable to the same penalties as growers, producers, dealers and distributors of such substances without authorization.

As regards "drug tourism" it should be pointed out that at present that this phenomenon is not known in Italy: this does not mean that the problem is not closely followed through the monitoring of data.

SWEDEN

A law has been adopted on the powers of the Swedish Customs and Excise Department at Sweden's border with another Member State of the European Union. This law gives customs authorities the right, in the case of internal traffic within the Union, to carry out selective checks when drugs or other goods requiring import authorizations are involved. Prohibitions or restrictions on imports from another Member State are possible under Article 36 of the Treaty of Rome if, as is the case with drugs, they are justified on grounds of inter alia public security and the protection of health and life of humans. One of the chief aims pursuant to this law is to limit small-scale smuggling and drug tourism.

The Swedish Government has submitted a proposal to the Riksdag that the customs authorities should be given the possibility of setting up a record of intelligence and an occasional record of analyses relating to crimes in the customs field. The aim of the proposal is to improve the means available to the customs authorities of effectively combating organized crime, particularly in the drug field.

On the Swedish Government's instructions, a Committee has studied the problems involved in money laundering and made a number of proposals for measures to improve ways of combating money laundering, particularly in an international context. The Government is now preparing a proposal on the subject.

In view of the fact that drug crimes are often rooted in organized and international activities, a special Committee has been instructed by the Swedish Government to consider the extent to which it is necessary to use more unconventional working methods in criminal detection activities. The Committee will inter alia consider the possibility of extending the use of secret camera monitoring, secret telephone tapping and secret telephone surveillance.

The Swedish Government has also appointed a Committee which, in view of developments in economic and other serious forms of organized crime, particularly in the drugs field, has the task of finding out whether current forfeiture rules are sufficient effectively to counter crimes of this sort. The Committee's task also involves studying certain specific issues, such as the possibility of forfeiture of certain types of accessory used in drug consumption, especially pipes used for smoking hash.

In many Swedish towns, the police have recently built up particular skills in taking action against addiction to and trafficking in drugs, especially ecstasy, among young people. Above all, this task has been entrusted to young policemen. The Swedish police now also carry out centralized training of policemen from smaller towns so that they are fully informed throughout the country of drug crimes among young people and appropriate ways of combating them.

UNITED KINGDOM

Combating illicit movements of drugs is the highest priority for the United Kingdom's Customs Service (HMCE), and fighting drug-related crime is a key priority for its police service.

DENMARK

As part of the efforts to intensify action against the introduction and spread of drugs in Denmark, two legislative amendments were also implemented in the area of drugs in December 1996.

The first of these was the law amending law N° 1054 on narcotics of 11 December 1996, which entered into force on 12 December 1996. The law includes a new provision on sentencing whereby repeated cases of the sale of a particularly dangerous or harmful substances are regarded as a particularly aggravating circumstance. The aim of the provision is to considerably stiffen the penalty for repeated trafficking in small quantities of hard drugs, including at street level.

The second was an amendment to the law amending the Aliens Act, which entered into force on the same date. The law includes two new provisions involving a tightening of deportation rules to make it easier to deport aliens who have been sentenced for drugs offences. The principle is that an alien is to be deported where the person in question has been sentenced to unconditional imprisonment or has been given another criminal sentence involving imprisonment for infringement of drugs legislation, irrespective of whether or not the general deportation requirements have been met. In deciding on deportation, the considerations which as a rule result in a decision not to deport, including the consideration that the alien is a member of Danish society, will only in exceptional cases be given decisive importance.

It should be pointed out that deportation may obviously not take place where it conflicts with Denmark's international obligations.

It should moreover be pointed out that a Working Party under the Ministries of Justice and Taxation submitted a report in March 1995 on future cooperation between the police and the customs and taxation authorities. In this report the Working Party recommends that existing cooperation be further extended to include a number of areas, primarily with a view to strengthening joint action against drug smuggling and other forms of serious - frequently cross-border - crime, including economic crime.

b) *Action in cooperation with other Member States*

BELGIUM

Sur le plan politique, des concertations ont eu lieu entre les Ministres compétents belges et néerlandais.

Une concertation des Ministres de la Justice et de la Santé a également eu lieu à Luxembourg dans le cadre du Benelux.

Sur le plan opérationnel, des contacts ont lieu régulièrement entre les autorités judiciaires et policières de Belgique, de France et des Pays-Bas contre le tourisme de la drogue les 15 mars et 14 juin 1997.

Ces actions de grande envergure s'inscrivent dans la continuité des opérations "Hazeldonk" entreprises depuis 1994. Elles correspondent tant aux engagements pris dans ce domaine au sein du groupe de travail stupéfiants "Schengen", qu'aux propositions d'opérations dans le cadre de cette action commune.

Lors de ces actions, les services de police belges ont été assisté par la police des chemins de fer et la douane. Au total, près de 2.500 fonctionnaires ont pris part à l'action du 15 mars 1997 dans les trois pays (France 2.000, Belgique 200, Pays-Bas 250). Les magistrats du ministère public des trois pays étaient également associés à l'opération.

LUXEMBOURG

Au niveau des Etats du BENELUX des accords ont été élaborés qui visent à garantir une approche concertées de services de police et des services judiciaires dans la lutte contre le tourisme de la drogue.

Le Luxembourg entend en outre participer à l'avenir aux opérations dites d'"Hazeldonk".

NETHERLANDS

Het tegengaan van drugtoerisme heeft onverminderd prioriteit. In afwachting van een verdrag tussen Nederland en Frankrijk voor de versnelde overdracht van strafvervolgning is in 1997 op basis van bestaande regelgeving ervaring opgedaan met een verkorte procedure voor overdracht van strafvervolgning van Nederland aan Frankrijk. In het zogenaamde Hazeldonkoverleg bespreken politie- en justitie-autoriteiten van Nederland, België en Frankrijk de gezamenlijke aanpak van drugtoerisme en daarmee samenhangende drugsstromen tussen de drie landen. Dit overleg leidde inmiddels in 1997 tot enkele grootschalige internationale acties, waarbij vele duizenden personen en voertuigen werden gecontroleerd en drugs in beslag werden genomen. Behalve het resultaat van deze acties gaat van het grootschalig optreden een preventieve werking uit. Bij de gezamenlijke acties leren politie- en justitiemensen elkaar beter kennen, hetgeen tot een flinke verbetering in de dagelijkse samenwerking heeft geleid.

Aan het eind van 1997 zal de gezamenlijke aanpak worden uitgebreid door deelname van Luxemburg aan het overleg en de gezamenlijke aanpak van het drugtoerisme. Ook aan de Nederlands-Duitse grens worden regelmatig operationele acties gehouden om het drugtoerisme tegen te gaan. De dagelijkse samenwerking tussen politie en justitie in de grensstreek is goed. Door de hierboven genoemde internationale acties en de hoge prioriteit die de aanpak van druggerelateerde problematiek in Nederland heeft, wordt het drugtoerisme teruggedrongen.

SPAIN

Las Fuerzas y Cuerpos de Seguridad y el Servicio de Vigilancia Aduanera disponen de unidades especializadas en la lucha contra el tráfico ilícito de estupefacientes y sustancias psicotrópicas, dentro y fuera de la comunidad.

La colaboración con Francia y Portugal (países vecinos de la U.E.) en materia de drogas es excelente. Reuniones bilaterales entre autoridades y altos cargos tienen lugar periódicamente.

En 1987 entró en vigor el Acuerdo de Cooperación en la lucha contra el Terrorismo, el tráfico de Estupefacientes y la Criminalidad Organizada con Francia.

En 1988 entró en vigor el Acuerdo de Cooperación en materia de lucha contra la droga con Portugal.

Con los datos actuales, no puede decirse que España tenga un problema de "turismo de la droga" dentro de la comunidad.

FRANCE

- Opérations Hazeldonk associant les services policiers, douaniers et judiciaires belges, néerlandais et français, relancées en mars 1997.

Mise en place avec les Pays-Bas :

- d'un groupe d'orientation chargé d'examiner les problèmes liés au tourisme de la drogue ;
- d'une procédure de recueil et d'échange des informations liées au narco-tourisme ;
- d'un groupe de travail visant à améliorer la coopération judiciaire dans le domaine des infractions à la législation sur les stupéfiants :
 - * mise en place d'une procédure de dénonciation officielle accélérée,
 - * extension proposée à la Belgique (qui l'a acceptée), au Luxembourg et à l'Allemagne

GERMANY

Eine wesentliche Ursache des Rauschgiftmißbrauchs und seiner kommerziellen Konsequenzen ist der Rauschgifthandel. Ihn gilt es, mit allem Nachdruck entgegenzutreten. Hierzu bedarf es einer Konzentration aller Kräfte und Mittel. Ein wichtiger Ansatz zur Bekämpfung durch die Strafverfolgungsbehörden bildet das Rauschgift-Verteilernetz. Die hieran anknüpfenden Strategien sind ständig den wechselnden Praktiken des illegalen Rauschgifthandels anzupassen. In diesem Zusammenhang haben die Rauschgiftbekämpfungsbehörden in der Bundesrepublik Deutschland ihre Verfahren zur systematischen Erkenntnisgewinnung und zur Identifizierung von Händlerorganisationen verbessert. Daneben richten die Polizeibehörden ihr Augenmerk aber auch auf die Bekämpfung des gewerbsmäßigen Straßen- und Kleinhandels (insbesondere Drogentourismus) sowie die Erschwerung des Erwerbs von Rauschgiften zum Eigenverbrauch. Diese dürfen nicht vernachlässigt werden, weil auch sie Mitursache des Rauschgiftproblems und der damit einhergehenden Beschaffungskriminalität und -prostitution sowie der Folge- und Begleitkriminalität sind.

Article 4

Member States shall ensure that under their legal systems the penalties imposed for serious drug trafficking are among the most severe penalties available for crimes of comparable gravity.

BELGIUM

- a) Les peines applicables pour les infractions mentionnées à l'article 1 sont les suivantes :
- emprisonnement de 3 mois à 5 ans et/ou une amende de 1.000 à 100.000 BEF (x 200).
- b) Certaines circonstances aggravantes sont prévues : elles transforment les délits en crimes.

La sévérité de ces peines varie :

1. en fonction de l'âge de la "victime" :
 - mineur de 16 ans : réclusion;
 - mineur de plus
 - mineur de plus de 12 ans et de moins de 16 ans : travaux forcés de 10 à 15 ans;
 - mineur de moins de 12 ans : travaux forcés de 15 à 20 ans.
2. en fonction des conséquences de l'infraction : si l'usage de la drogue, fait à la suite d'une infraction, a causé à une victime :
 - une maladie paraissant incurable, une incapacité permanente de travail, la perte absolue de l'usage d'un organe ou une mutilation grave : réclusion.
 - la mort : travaux forcés de 10 à 15 ans.
3. en fonction de l'implication dans le trafic :
 - si l'infraction constitue un acte de participation à l'activité principale ou accessoire d'une association : travaux forcés de 10 à 15 ans.

- s'il s'agit d'un acte de participation en qualité de dirigeant à l'activité principale ou accessoire d'une association : travaux forcés de 15 à 20 ans.

4. Peines accessoires : un large éventail de peines accessoires est prévu :

4.1 interdiction et fermetures : le juge peut :

- interdire temporairement ou définitivement l'exercice de l'art de guérir, de l'art vétérinaire ou d'une profession para-médicale;
- ordonner la fermeture et/ou interdire l'exploitation d'un établissement où les infractions ont été commises.

4.2 confiscations : par dérogation au droit commun, le juge peut confisquer les choses qui ont servi ou ont été destinées à commettre l'infraction, même si elles n'appartiennent pas au condamné.

GREECE

Greek legislation makes provision for a wide range of penalties, according to the gravity of the offence and the character of the perpetrator. In the case of drug trafficking, the penalty may be the maximum one, namely life imprisonment.

Special legislation has also been passed introducing penalties for the illegal importation of, trade in and export of precursors. It should also be noted that under Greek criminal law, drug trafficking is regarded as an international crime and is punishable in Greece regardless of where it was committed and regardless of the legislation of the country where it was committed.

FRANCE

La législation française est conforme aux dispositions de cet article.

IRELAND

Ireland's main piece of legislation on drugs dates back to 1977 and provides for the severest penalty available in Irish law for drug trafficking, viz. life imprisonment. This has been supplemented by the following legislative sanctions to respond to the increased sophistication of drug trafficking networks and related money laundering activities:

The Proceeds of Crime Act, 1996 provides a powerful new mechanism for the freezing and forfeiture of the proceeds of crime. It enables Irish courts to freeze property worth more than £10,000 where satisfied, on the balance of probabilities, that the property represents the proceeds of crime. Any person claiming legitimate ownership of the property can, of course, apply to the courts at any time for the un-freezing of the property, by the onus is on any such person to satisfy the courts, again on the balance of probabilities, that the property is not the proceeds of crime or that the freezing order is causing some other injustice.

This Act complements the confiscation provisions of the Criminal Justice Act, 1994, under which a person who is convicted of an offence on indictment is liable to have confiscated, any property which the court believes, on the balance of probabilities, represents the proceeds of that offence.

The Criminal Justice (Drug Trafficking) Act, 1996 provides for detention of up to 7 days for drug trafficking offences, allow for Customs Officers to be present at, and to participate in, the questioning of persons held by the Gardai for a suspected drug trafficking offence. Inferences may be drawn by a Court from the failure of an accused to mention particular facts which the person subsequently seeks to rely on in his or her defence.

The Licensing (Combating Drugs Abuse) Act, 1997 which is now in force, disqualifies any person convicted of a drug trafficking offence from ever holding a licence for the sale of intoxicating liquor, the holding of a public dance or the holding of a musical or singing entertainment. Any person holding such a licence who is subsequently convicted of a drug trafficking offence will lose the licence and be disqualified for life from again holding such a licence. The premises to which the licence attached will also be ineligible to ever again have such a licence attached to it.

Criminal Justice Bill, 1997

In September 1997, the Government announced that it would be introducing a Criminal Justice Bill which will provide for minimum 10 years sentences in relation to serious drug trafficking offences as well as providing for the initiation by the courts of inquiries into the assets of persons convicted of drug trafficking and other serious offences.

ITALY

For drug trafficking, Italian law imposes very severe penalties, which are greater than those for other very serious crimes: a comparative table is given in the Annex to this chapter.

LUXEMBOURG

Les peines pénales concernant les infractions de trafic de drogue sont sévères. Sans circonstances aggravante, la peine d'emprisonnement prévue est de un à cinq ans. Lorsque des circonstances aggravantes viennent s'ajouter, le taux de peines est également relevé. Ainsi, en cas d'infraction de trafic commis à l'égard d'un mineur, ou lorsque l'usage des substances qui ont fait l'objet d'une infraction de trafic de drogues ont causé à autrui soit une maladie paraissant incurable, soit une incapacité permanente de travail personnel, soit la perte de l'usage d'un organe, soit une mutilation grave, le taux d'emprisonnement prévu est de cinq ans à dix ans. Lorsque l'usage qui a été fait a causé la mort, l'infraction de trafic est punie d'un emprisonnement de quinze à vingt ans et de l'emprisonnement à perpétuité lorsque la victime est un mineur. Ces taux sont supérieurs à ceux prévus par le code pénal luxembourgeois pour faits de coups et blessures volontaires ayant entraîné les mêmes séquelles (deux ans à cinq ans) ou pour homicide involontaire (cinq à dix ans).

Les infractions de trafic et de blanchiment du produit de ce trafic sont punies d'un emprisonnement de quinze à vingt ans si elles constituent des actes de participation à l'activité principale ou accessoire d'une association.

NETHERLANDS

Hoge prioriteit wordt in Nederland toegekend aan de bestrijding van de georganiseerde criminaliteit die zich bezighoudt met de handel in en produktie van harddrugs. Het im- en exporteren van drugs kan naast een gevangenisstraf van 12 jaar een boete van fl. 100.000,-- opleveren. Het bezit van een hoeveelheid softdrugs tot 30 gram (voor persoonlijk gebruik) wordt bestraft met een gevangenisstraf van maximaal 1 maand en/of een boete van fl. 5.000,--. De aangetroffen drugs worden altijd inbeslaggenomen. Indien een strafbaar feit inzake de Opiumwet meermalen gepleegd wordt kan een maximale gevangenisstraf van 16 jaar en/of een boete van fl. 100.000,-- opgelegd worden. Tevens wordt bij de vervolging rekening gehouden met de mogelijkheid om op basis van het wetboek van strafrecht (art. 36e Sr) over te gaan tot het ontnemen van het wederrechtelijk verkregen voordeel. Tevens wordt in die gevallen die daartoe aanleiding geven naast het gepleegde strafbare feit in de Opiumwet het deelnemen aan een criminele organisatie op basis van het Wetboek van strafrecht (art. 140 Sr) ten laste gelegd. Het systeem van vervroegde invrijheidstelling is tevens bepalend voor de duur van de uit te zitten gevangenisstraf. In Nederland geldt dat 2/3 deel van de opgelegde gevangenisstraf wordt uitgezeten.

Een voorstel tot wijziging van de Opiumwet in die zin dat de strafmaat voor het bedrijfsmatig telen van cannabis wordt verhoogd van 2 naar 4 jaar is in behandeling bij het parlement. In voorbereiding is tevens een verbod op bedrijfsmatige binnenteelt behoudens een verlof en een verbod op buitenteelt van niet in nationaal of EU-verband expliciet toegelaten vezelhenneprassen.

AUSTRIA

Die höchste in Österreich vorgesehene gerichtliche Strafe ist die lebenslange Freiheitsstrafe. Die Todesstrafe ist nach dem österreichischen Sanktionensystem ausgeschlossen. Ausschließlich lebenslange Freiheitsstrafe wird lediglich für die schwersten Delikte (etwa § 321 Abs. 1 StGB, "Völkermord") angedroht.

Die zweitschwerste Strafdrohung ist die Androhung von zehn bis zwanzig Jahren Freiheitsstrafe oder lebenslanger Freiheitsstrafe (eine mehr als zwanzig Jahre dauernde zeitlich begrenzte Freiheitsstrafe ist im österreichischen Sanktionensystem nicht vorgesehen). Exemplarisches Beispiel für diese Deliktsgruppe ist der Tatbestand des "Mordes" (§ 75 StGB), also der vorsätzlichen Tötung einer Person durch eine andere.

Drogendelikte im engeren Sinne (also mit Ausnahme von Drogenhandel) sind demgegenüber Selbstgefährdungs- bzw. Selbstschädigungsdelikte - Drogenhandel stellt sich als ein Delikt dar, das anderen die Möglichkeit gibt bzw. sie in die Lage versetzt, sich selbst zu gefährden oder zu schädigen. Nach österreichischer Auffassung stellt dies einen substantiellen Unterschied etwa zur vorsätzlichen unmittelbaren Tötung einer Person durch eine andere Person ("Mord") dar, sodaß sich im Hinblick auf die abstrakte Strafdrohung eine Gleichbehandlung von Drogenhandelsdelikten und vorsätzlichem Tötungsdelikt verbietet. Die schwersten Drogenhandelsdelikte werden somit im österreichischen Sanktionensystem mit der drittschwersten Sanktion, mit Freiheitsstrafe von zehn bis zu zwanzig Jahren bedroht (§ 28 Abs. 2 und 5 Suchtmittelgesetz).

Das österreichische Suchtgiftstrafrecht ist daher mit Artikel 4 der gemeinsamen Maßnahme in Einklang.

Zu bemerken ist jedoch, daß wirkliche Vergleichbarkeit zwischen "Sanktionen" einzelner Mitgliedstaaten nur dadurch herzustellen ist, daß abstrakte Strafdrohung, von Gerichten verhängte Strafen und tatsächliche Dauer der Verbüßung der Strafen ermittelt, bewertet und verglichen werden. Dieser Aspekt ist in der bisherigen Diskussion zu kurz gekommen.

Allgemein kann zur österreichischen Rechtslage darauf verwiesen werden, daß eine bedingte Entlassung aus der Freiheitsstrafe unter Setzung einer Probezeit nach Verbüßung der Hälfte der verhängten Strafe nur dann in Betracht kommt, wenn anzunehmen ist, daß es nicht der Vollstreckung des Strafrestes bedarf, um den Rechtsbrecher von weiteren strafbaren Handlungen abzuhalten. Hat ein Rechtsbrecher zwei Drittel der im Urteil verhängten Freiheitsstrafe verbüßt, so ist der Rest der Strafe unter Bestimmung einer Probezeit bedingt nachzusehen, es sei denn, daß besondere Gründe befürchten lassen, der Rechtsbrecher werde in Freiheit weitere strafbare Handlungen begehen.

Die österreichischen Gerichte sind bei der Gewährung der bedingten Entlassung aus einer Freiheitsstrafe unter Setzung einer Probezeit äußerst restriktiv; von allen Strafgefangenen wurden im Jahr 1996 lediglich 18,3 % vorzeitig unter Setzung einer Probezeit entlassen. Dieser Prozentsatz ist bei Drogendelikten noch wesentlich geringer.

PORTUGAL

As regards the penalties for serious drug trafficking offences, the following constitute criminal offences under specific drugs legislation :

1. Drug trafficking, with various degrees of seriousness :
 - a) growing by an unauthorized person : a prison sentence of from 4 to 12 years;
 - b) unlawful supply by an authorized person : a prison sentence of from 5 to 15 years;
 - c) in the case of substances in Table IV : a prison sentence of from 1 to 6 years.

2. With respect to precursors (Tables V and VI) :
 - a) manufacture by an unauthorized person : a prison sentence of from 2 to 10 years;
 - b) possession by an unauthorized person : a prison sentence of from 1 to 5 years;
 - c) manufacture by an authorized person : a prison sentence of from 3 to 12 years;
 - d) possession by an authorized person : a prison sentence of from 2 to 8 years.

3. Conversion, transfer or concealment of assets or proceeds :
 - a) conversion or transfer : a prison sentence of from 4 to 12 years;
 - b) concealment or dissembling : a prison sentence of from 2 to 10 years;
 - c) acquiring or receiving : a prison sentence of from 1 to 5 years;

It should be noted that in all these instances the minimum and maximum sentences may be increased by one third in especially serious cases.

4. Conspiracies to commit crimes in the field of trafficking and precursors :
 - a) instigation or establishment : a prison sentence of from 10 to 25 years;
 - b) aiding and abetting : a prison sentence of from 5 to 15 years;
 - c) leading or organizing : a prison sentence of from 12 to 25 years;
 - d) where the purpose is to launder proceeds : a prison sentence of from 2 to 10 years;
 - e) where the purpose is to aid and abet laundering : a prison sentence of from 1 to 8 years.

5. Minor trafficking, with two possible degrees of seriousness :
 - a) in the case of Tables I to III, V and VI : a prison sentence of from 1 to 5 years;
 - b) in the case of Table IV : a prison sentence of up to 2 years or a fine of up to 240 days.

6. Traffickers, who are themselves drug users, with two possible degrees of seriousness :
 - a) in the case of Tables I to III : imprisonment for up to 3 years or a fine;
 - b) in the case for Table IV : imprisonment for up to 1 year or a fine of up to 120 days.

7. Professional malpractice, including in its coverage :
 - a) doctors issuing prescriptions : a prison sentence of from 5 to 15 years;
 - b) chemists selling : a prison sentence of from 6½ years to 20 years;
 - c) minor cases : a prison sentence of from 1 to 5 years; or imprisonment for up to 2 years or a fine of up to 240 days;
 - d) aggravating circumstances : a prison sentence of from 1¼ years to 16½ years;
 - e) supply to a mentally ill person : a prison sentence of up to 1 year or a fine of up to 120 days.

8. Incitement to use narcotic drugs or psychotropic substances falls into the following categories :
 - a) Tables I to III : a prison sentence of up to 3 years or a fine;
 - b) Table IV : imprisonment for up to 1 year or a fine of up to 120 days;
 - c) aggravating circumstances for harming a minor : a one-third increase in the minimum and maximum sentences in a);
 - d) aggravating circumstances on account of the offender's position or the place of commission of the offence : a one-third increase in the minimum and maximum sentences in a) and b).

9. Trafficking and consumption in public places or places of assembly, with provision for :
 - a) the proprietor : a prison sentence of from 1 to 8 years;
 - b) anyone in charge : a prison sentence of from 1 to 5 years;
 - c) after a caution : imprisonment for up to 5 years;
 - d) the possibility of closure of the establishment by the administrative authorities in case c).

FINLAND

The sentence for aggravated narcotics offence is at least one and at most 10 years of imprisonment. The maximum penalty can be exceeded up to 13 years when sentencing the offender for a joint punishment for two or more offences. In practice during the last few years the major offenders of large scale drug trafficking leagues have been sentenced to 12 years of imprisonment.

In Finland the penalties imposed for serious drug trafficking are among the most severe penalties available for crime of comparable severity. More severe penalties (life imprisonment or maximum of 12 years of imprisonment) can be sentenced only for murder, treasonable offences, war crimes or crimes against humanity (e.g. genocide).

SPAIN

En España, puede decirse que las sanciones aplicables a las infracciones graves en los referente al tráfico de drogas se sitúan en la escala de la penas más severas para infracciones de gravedad comparable.

Así, el Código Penal (Ley Orgánica 10/1995) establece las siguientes penas:

- Delito de blanqueo de capitales: 6 meses a 6 años de prisión más multa.

Las penas se impondrán en su mitad superior cuando los bienes tengan su origen en alguno de los delitos relacionados con el tráfico de drogas tóxicas, estupefacientes o sustancias psicotrópicas (artículo 301).

Se impondrán las penas privativas de libertad en su mitad superior a las personas que pertenezcan a una organización dedicada a los fines señalados en los mismos, y la pena superior en grado a los jefes, administradores o encargados de las referidas organizaciones.

SWEDEN

Sweden fulfils the obligations in the Joint Action regarding the penalties imposed for serious drug trafficking. According to the Swedish Narcotic Drugs Act the sentence for a grave narcotic drugs offence is imprisonment for at least two and at most ten years. When sentencing the offender for two or more offences the maximum penalty is imprisonment for 14 years. More severe penalties (life imprisonment) can be imposed only for a limited number of very serious crimes such as murder, genocide and grave espionage.

UNITED KINGDOM

Those who traffic in the most serious drugs of abuse (those in Class A under the Misuse of Drugs Act 1971, including heroin and cocaine) are liable to life imprisonment in the United Kingdom.

DENMARK

In addition to the general sentencing factors (e.g. information regarding the offender's character and age), importance is attached in delivering sentences in drugs cases to the type of substance, including its strength and quantity, and to whether professional, organized importation or dealing etc. is involved.

Thus courts attach particular importance to whether professional activities are involved as part of an international organization, the person's role in the organization, whether financial gain is intended and whether the act has to a considerable extent resulted from personal drug dependency.

Under the most recent legislative amendment regarding repeated trafficking, decisive importance will furthermore be given to the number of offences in determining the penalty, even if individual acts only involve small quantities of drugs.

As regards penalties for serious cases of drugs trafficking, it should be pointed out that the penalties meted out are among the highest under Danish criminal law. However, certain offences such as crimes against the State of homicide are liable to higher penalties, up to 16 years or life imprisonment.

SPAIN

En tales casos, se impondrán además penas de inhabilitación especial para el ejercicio de su profesión o industria por tiempo de 3 a 6 años, además de otras medidas (artículo 302).

- El que, sin hallarse debidamente autorizado, elabore sustancias nocivas para la salud o productos químicos que puedan causar estragos, o los despache o suministre o comercie con ellos, será castigado con la pena de prisión de 6 meses a 3 años y multa e inhabilitación especial de 6 meses a 2 años (artículo 359).
- El que, hallándose autorizado para el tráfico de las sustancias o productos a que se refiere el artículo anterior, los despache o suministre sin cumplir con las formalidades previstas en las Leyes y Reglamentos respectivos, será castigado con la pena de multa de 6 a 12 meses e inhabilitación para la profesión u oficio de 6 meses a 2 años (artículo 360).
- Los que ejecuten actos de cultivo, elaboración o tráfico, o de otro modo promuevan, favorezcan o faciliten el consumo ilegal de drogas tóxicas, estupefacientes o sustancias psicotrópicas, o las posean con aquellos fines, serán castigados con las penas de prisión de 3 a 9 años y multa del tanto al triplo del valor de la droga objeto del delito si se tratare de sustancias o productos que causen graves daños a la salud, y de prisión de uno a 3 años y multa del tanto al duplo en los demás casos (artículo 368).
- Se impondrán penas privativas de libertad superiores en grado a las respectivamente señaladas en el artículo anterior y multa del tanto al cuádruplo cuando:
 - 1º. Las drogas tóxicas, estupefacientes o sustancias psicotrópicas se faciliten a menores de 18 años o disminuidos psíquicos, o se introduzcan o difundan en centros docentes, en centros, establecimientos y unidades militares, en establecimientos penitenciarios o en centros asistenciales.

- 2°. Los hechos fueron realizados en establecimientos abiertos al público por los responsables o empleados de los mismos.
- 3°. Fuere de notoria importancia la cantidad de drogas tóxicas, estupefacientes o sustancias psicotrópicas objeto de las conductas a que se refiere el artículo anterior.
- 4°. Las citadas sustancias o productos se faciliten a personas sometidas a tratamiento de deshabitación o rehabilitación.
- 5°. Las referidas sustancias o productos se adulteren, manipulen o mezclen entre sí o con otros, incrementando el posible daño a la salud.
- 6°. El culpable perteneciere a una organización o asociación, incluso de carácter transitorio, que tuviere como finalidad difundir tales sustancias o productos aún de modo ocasional.
- 7°. El culpable participare en otras actividades delictivas organizadas o cuya ejecución se vea facilitada por la comisión del delito.
- 8°. El culpable fuere autoridad, facultativo, funcionario público, trabajador social, docente o educador y obrase con abuso de su profesión, oficio o cargo.
- 9°. Se utilice a menores de 16 años para cometer estos delitos (artículo 369).

- Las penas privativas de libertad se impondrán en su grado superior cuando las conductas definidas en el artículo 369 sean de extrema gravedad o cuando se trate de los jefes, administradores o encargados de las organizaciones o asociaciones (artículo 370).
- El que fabrique, transporte, distribuya, comercie o tenga en su poder equipos, materiales o sustancias enumeradas en los cuadros I y II de la Convención de Viena de 1988, a sabiendas de que van a utilizarse en el cultivo, la producción o la fabricación ilícitas de drogas tóxicas, estupefacientes o sustancias psicotrópicas, o para estos fines, será castigado con la pena de prisión de 3 a 6 años y multa.

Se impondrán penas en la mitad superior cuando la persona pertenezca a una organización y la pena superior en grado cuando se trate de los jefes, administradores o encargados de dicha organización (artículo 371).

GERMANY

Das Betäubungsmittelgesetz sieht für Drogendelikte dreifach abgestufte Sanktionen vor: für einfache Drogenstraftaten Geldstrafe oder Freiheitsstrafe von mindestens 1 Jahr bis zu 15 Jahren (z.B. für illegalen Drogenhandel mit einer nicht geringen Menge) oder sogar von mindestens 5 Jahren (für Drogenhandel als Mitglied einer Bande) jeweils bis zu 15 Jahren (höchste zeitige Freiheitsstrafe nach dem Strafgesetzbuch).

Article 5

Member States shall endeavour to draft convergent legislation to the extent necessary to make up legal ground or fill legal vacuums as regards synthetic drugs. In particular they shall promote the establishment of a rapid information system to enable such drugs to be identified as substances liable to be prohibited as soon as they appear anywhere in a Member State.

a) National measures

BELGIUM

Les substances de type amphétaminiques sont strictement contrôlées sur base des dispositions législatives et réglementaires d'ores et déjà existantes.

Les dispositions réglementaires seront très prochainement prises par le Ministre de la Santé publique pour contrôler de manière effective et efficace toutes les substances du tableau IV de la Convention des Nations-Unies du 1971 sur les psychotropes.

GREECE

The synthetic substances that have so far been detected in Greece came under Annexes I and II to the 1971 UN Convention. For any new substances that appear in the future the early warning system provided for in Joint Action CORDROGUE 41 can be implemented immediately. At the same time, the EUROPOL "LOGO" programme is being implemented with the active participation of the competent departments.

FRANCE

L'OCRTIS informe l'Agence française du médicament des nouvelles substances découvertes par les services répressifs en vue de leur classement.

Participation active des services de police, de gendarmerie et de douane au projet LOGO via l'Unité nationale Europol.

Analyse systématique des substances saisies par les réseaux de laboratoires de police scientifique et des douanes.

Echange d'information avec les Pays-Bas sur les réflexions nationales en cours.

IRELAND

Ireland's drugs legislation provides for a **generic** classification of drugs which has helped to legislatively control certain synthetic drugs as ecstasy before they became problems. So synthetic drugs in themselves do not have to be named in our legislation (requiring numerous legislative changes). In accordance with this Article, Ireland's Forensic Science Laboratory is working closely with Europol and other Member States in providing a rapid response and exchange of information on new synthetic drugs. In addition, the Laboratory is supplying systematic details to the Pompidou Group of the Council of European drug purity indicators.

ITALY

In 1996 Italy transposed into its own legal system Community Directive 92/109/EEC on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances and Community Directive 93/46/EEC amending the aforementioned Directive 92/109/EEC.

As regards the speedy inclusion of new substances in the tables containing synthetic drugs to be banned we should mention that a proposal has already been submitted for amending the current legislation in order to make the relevant procedure more streamlined and quicker.

We are in favour of establishing a rapid information system enabling such drugs to be identified as substances to be banned as soon as they appear in a Member State: to that end it is advisable to identify very precise scientific criteria regarding toxicity, active ingredients, etc.

NETHERLANDS

De Opiumwet geeft in artikel 2 lid 3 de mogelijkheid een stof onverwijld onder het regime van de wet te brengen. Recentelijk is hiertoe overgegaan bij de stof 2CB. Zowel via de circuits van de gezondheidszorg en de hulpverlening als via de politie en justitiediensten en de gerechtelijke laboratoria wordt informatie verzameld en uitgewisseld over nieuwe drugs.

AUSTRIA

Das österreichische Suchtmittelgesetz trägt für eine schnelle und unbürokratische Anpassung der nationalen Suchtgift- und Psychotropenlisten an neuentwicklungen und Gegebenheiten Sorge. Es bedarf zu einer Anpassung dieser Listen keiner Gesetzesänderung, sondern lediglich einer Anpassung der durch den für Gesundheitsfragen zuständigen Bundesminister erlassenen Verordnungen ("Suchtgiftverordnung"; "Psychotropenverordnung"), die in Ihren Anhängen die verbotenen Substanzen erfassen. Beim Bundesministerium für Inneres ist eine Suchtgiftzentralstelle eingerichtet, die für ganz Österreich Informationen über neu aufgetretene Substanzen sammelt. Diese Suchtgiftzentralstelle leitet diese Informationen umgehend dem für Gesundheitsfragen zuständigen Bundesminister weiter, damit dieser die erforderlichen Veranlassungen im Verordnungswege treffen kann. In den gesetzlichen Verordnungsermächtigungen ist dafür Sorge getragen, daß auf die nationalen Suchtgift- und Psychotropenlisten auch international noch nicht kontrollierte Substanzen aufgenommen werden können; dies ist bei einer Reihe von Substanzen auch geschehen. Dieses System ist in der Lage, schnell und flexibel auf Neuentwicklungen zu reagieren und ist friktionsfrei in das Europäische Frühwarnsystem einzupassen.

Zu betonen ist abschließend, daß Österreich bis auf weiteres nicht daran denkt, eine generische Definition einzuführen, sondern an der Methode der Einzelanzählung der verbotenen Substanzen festhält. Ein gewisses generisches Element ist im österreichischen System allerdings insofern enthalten, als jeweils nur die Essen der verbotenen Substanzen ausdrücklich aufgezählt sind und durchwegs die Isomere, Ester, Äther,

Molekülverbindungen sowie die Salze der sogeführen Suchtmittel einschließlich der möglichen Salze der Isomere, Ester, Äther und Molekülverbindungen auch als Suchtmittel bezeichnet werden. Derartige chemisel präzise Umschreibungen sind aus österreichischer Sicht notwendig, aber such hinreichend, um dem verfassungsrechtlichen Bestimmtheitsgebot von Gesetzer Rechnung zu tragen.

Das österreichische Suchtmittelstrafrecht ist daher mit Artikel 5 der Gemeinsamen Maßnahme in Einklang.

FINLAND

Huumausaineena pidetään YK:n vuoden 1961 ja vuoden 1971 yleissopimuksissa tarkoitettuja aineita siten kun sosiaali- ja terveysministeriön päätöksellä tarkemmin määrätään. Huumausaineiden valmistuksessa käytettävänä aineina pidetään vuoden 1988 yleissopimuksen liitteen luettelossa tarkoitettuja aineita sekä näitä aineita sisältäviä valmisteita siten kuin sosiaali- ja terveysministeriön päätöksellä tarkemmin määrätään.

SWEDEN

The Swedish Ministry of Health and Social Affairs has instructed a Working Party to draw up a survey of Swedish legislation on the classification of synthetic drugs. It is intended that the Working Party should submit proposals making it possible to classify new substances more quickly as they appear on the drug abuse market. The Working Party's findings are to be submitted in the autumn of 1997.

Sweden is preparing the measures necessary to comply with obligations in the Joint Action regarding exchanges of information, risk-assessment and the control of synthetic drugs (Early Warning System). The Swedish National Police Board and National Institute of Public Health will, within the limits of their brief as focal points for the EDU and the EMCDDA, be responsible for Sweden's reports within the system.

UNITED KINGDOM

The United Kingdom's Misuse of Drugs Act incorporates **generic** definitions of synthetic drugs of abuse where these are scientifically possible, thus ensuring that in many cases new types of synthetic drugs are controlled before they appear on the illicit market. In other cases new synthetic drugs may be brought under legislative control within months if necessary.

GERMANY

Nach § 1 Abs. 3 BtMG ist das Bundesministerium für Gesundheit ermächtigt, "in dringenden Fällen zur Sicherheit oder zur Kontrolle des Betäubungsmittelverkehrs durch Rechtsverordnung ohne Zustimmung des Bundesrates Stoffe und Zubereitung, die nicht Arzneimittel sind, in Anlagen 1 bis 3 des Betäubungsmittelgesetzes aufzunehmen, wenn dies wegen des Ausmaßes der mißbräuchlichen Verwendung und wegen der unmittelbaren oder mittelbaren Gefährdung der Gesundheit erforderlich ist. Eine auf der Grundlage dieser Vorschrift erlassene Verordnung tritt nach Ablauf eines Jahres außer Kraft".

Diese Ermächtigungsgrundlage wurde in jüngster Vergangenheit bereits mehrfach im Hinblick auf neu auftretende sog. Designerdrogen angewandt. Stellt sich innerhalb des Geltungsjahres heraus, daß die entsprechende Droge eine weitere Verwendung findet, wird der entsprechende Stoff im üblichen Gesetzgebungsverfahren dauerhaft dem Betäubungsmittelgesetz unterstellt. Mit diesem Verfahren ist es bereits in der Vergangenheit gelungen, innerhalb weniger Wochen einen Stoff dem Betäubungsmittelgesetz zu unterstellen und damit zu verbieten.

Hinsichtlich der Einführung einer sog. "generischen Klausel" werden derzeit im Bundesministerium für Gesundheit erste Entwürfe erarbeitet.

b) *Implementation of joint action*

BELGIUM

Les mesures nationales pour appliquer l'action commune du 16 juin 1997 relative aux nouvelles drogues de synthèse sont à l'étude.

IRELAND

Regular meetings involving the Department of Justice, Equality and Law Reform, Department of Health and Children, REITOX, the Gardai, Forensic Science Laboratory and other relevant agencies as required, are taking place at national level to transfer of information to EMCDDA and Europol is to be established. A confidential network to facilitate the exchange of information nationally will also be established shortly.

LUXEMBOURG

Les préparatifs pour la mise en oeuvre de l'action commune adoptée en juin 1997 sont en cours.

NETHERLANDS

Onder Nederlands voorzitterschap is het g.o. betreffende een early warning mechanism voor synthetische drugs door de Europese Raad aangenomen. Dit early warning mechanism kent drie fasen. De eerste fase heeft als doel een snelle uitwisseling te garanderen tussen de Lidstaten over nieuw verschenen synthetische drugs. De tweede fase betreft een assessment onder auspiciën van het wetenschappelijk comité van het EMCDDA over de risico's van de betreffende nieuwe drug. In de derde fase kan op basis van de eerder genoemde assessment in raadsverband een besluit worden genomen om de nieuwe drug onder controle van de wetgeving te laten vallen.

PORTUGAL

Following the adoption of the Joint Action introducing an early-warning mechanism for new synthetic drugs, those concerned, in particular the Criminal Investigation Department, have taken a number of steps to bring in domestic measures implementing that Joint Action. The steps in question include :

- 1. Dissemination of the Joint Action internally within the Criminal Investigation Department;*
- 2. The national Europol unit will be keeping a lookout for the purposes of the Joint Action, to which it is to give effect and the findings of which it will pass on to Europol in The Hague or via the REITOX network;*
- 3. The forensic science laboratory, at the Criminal Investigation Department, will be available to respond to any requests made to it.*

UNITED KINGDOM

The United Kingdom intends to cooperate fully in the recently agreed EU rapid information system for new synthetic drugs and has taken steps to comply with the Joint Action on new synthetic drugs. Representatives of the two focal points NCIS (EDU) and the ISDD (REITOX) meet regularly with the relevant Government departments to take forward implementation of the rapid information system.

SPAIN

España respalda la acción común adoptada por el Consejo el 16 de junio de 1997 sobre la creación de un sistema de información rápida sobre las nuevas drogas de síntesis. El punto focal español de REITOX esta trabajando en colaboración con el OEDT para poner en marcha dicho sistema en 1998. A su vez, la Unidad de Drogas de EUROPOL y la unidad nacional han iniciado los contactos con dicho fin.

Se está trabajando en la valoración de los recursos humanos y materiales que, en su caso, serán necesarios para la aplicación de la citada acción común.

Las medidas nacionales para dicha aplicación están todavía estudiándose.

GERMANY

Deutschland hat sich aktiv an der Erarbeitung der Gemeinsamen Maßnahme zur Errichtung eines EU-Frühwarnsystems zu synthetischen Drogen beteiligt. Die nationale Umsetzung ist weitestgehend abgeschlossen. Für den Bereich der Strafverfolgungsbehörden ist die Informationsübermittlung mit Beginn des Jahres 1998 vorgesehen.

Article 6

Without prejudice to the powers of the Community, Member States shall undertake to adopt the necessary measures to effect a tangible increase in operational cooperation between police, customs services and judicial authorities in combating drug addiction and preventing and combating illegal drug trafficking.

Several delegations pointed out replies on this article are identical to those on article 3.

GREECE

In addition to the points made with respect to Article 2 and with regard to the prevention of the spread of drugs and to treatment, there is a special body (Organization for Combating Drugs: OKANA) which is responsible for the implementation of national policy on drugs and for the treatment, vocational training and social rehabilitation of drug addicts. The Organization studies the problem of drugs in Greece and has the responsibility of providing information for the public and of raising public awareness. It also collaborates with all the services involved in combating drugs (police, customs, port police, judicial authorities), with private agencies and with international organizations.

FRANCE

Les services français de police et de douane disposent d'une large expérience concrète des livraisons surveillées, qui sont régulièrement mises en oeuvre.

Un protocole d'accord est en cours d'élaboration entre la police, la douane et la gendarmerie. Il aura pour finalité de permettre, en vue de la lutte contre les stupéfiants, la mise à disposition mutuelle de moyens et matériels.

En 1996, la douane française a organisé une action combinée de surveillance maritime (Opération REQUIN), qui a associé les officiers de liaison des différents Etats membres concernés.

En 1997, la douane a participé aux exercices conjoints de contrôle effectués sur le vecteur aérien (opération "Pegasus") et maritime (opération "Sea Horse") organisés dans le cadre du groupe Coopération douanière.

- Réflexion dans le cadre du groupe franco-néerlandais sur les modalités d'échange d'informations entre autorités judiciaires.

IRELAND

The Irish police, Customs and other relevant agencies liaise with health authorities on the implementation of demand reduction strategies including drugs addiction.

Ireland has a multi-agency policy approach which focuses on the needs of areas identified as most affected by the drugs problem.

Structures for the effective, co-ordinated delivery of the drugs services at national, regional and local level have been set up in accordance with the recommendations of the "First and Second Reports of the Ministerial Task Force on Measures to Reduce the Demand for Drugs."

The main structures in place are:

Cabinet Sub Committee on Drugs and Social Inclusion

National Drugs Strategy Team - (Policy Group of Asst. Secretaries)

National Drugs Strategy Team (NSDT) - (Operational)

Local Drugs Task Forces

The National Drugs Strategy Team comprising members from cross Departmental and those with a background from the voluntary and community sector dealing with drugs has been established. It is giving greater impetus to the implementation of the National Drugs Strategy and is providing increased operational cooperation.

Local Drug Task Forces have been established in key areas identified as having the most acute drugs problem. Each Task Force comprises representatives from all relevant agencies, including health boards, the Prison Service, the Probation and Welfare Service, the relevant local authority, the local Youth Service and voluntary drug agencies (12 are in Dublin and 1 in Cork).

Provision of new services and extensions to existing services will be channelled, delivered and controlled via these structures. £ 10 million has been allocated to support the implementation of "Service Development Plans" which have been prepared by each Local Drugs Task Force.

A major development in 1996 was the establishment by the Government of the **Criminal Assets Bureau**. This new body, which has staff drawn from the Gardai, the revenue Commissioners and the Department of Social Welfare, will ensure closer and more concerted operational cooperation between the State agencies in dealing with drug trafficking and organised crime.

The Garda authorities have reviewed their operations in regard to combating the drugs problem in Dublin and the Garda Commissioner has introduced their new strategy "Operation Dóchas" (Dóchas meaning hope in Irish as part of the police's efforts to bring fresh hope and optimism to communities most affected by the drugs problem). This new strategy operates in all Dublin Districts and involves the deployment of in excess of 500 uniformed and plain-clothes Gardaí working with local communities, both community leaders and individual families. Backup is provided by specialists mobile units and other units.

This operation has already resulted in an increase in the quantity of drugs seized and an increase in the arrest of those suspected of being involved in drugs. To ensure its effectiveness Operation Dóchas is subject to ongoing review as are all Garda operations. It will continue operating and will be revised as circumstances indicate or require.

ITALY

Italian law already has adequate measures to establish practical cooperation between agencies involved in the fight against drug addiction and drug trafficking.

Anti-drug legislation has conferred on the Central Directorate for the Anti-drug Service, an inter-force body, the task of coordinating the operational activities of the abovementioned agencies at national and international level.

NETHERLANDS

De problematiek rondom synthetische drugs heeft onverminderd hoge prioriteit. Onder verantwoordelijkheid van het Openbaar Ministerie en een daartoe specifiek aangewezen landelijk coördinerend officier van justitie is een landelijke unit synthetische drugs (USD) gestart, waarin verschillende opsporings- en controlediensten participeren. Over deze USD is reeds gesproken bij artikel 2. De unit houdt zich bezig met de landelijke analyse, het verbeteren van de coördinatie tussen de diensten en de opsporing van de handel in en produktie van XTC en andere synthetische drugs. Het tegengaan van de handel in en produktie van synthetische drugs is tevens een belangrijk onderwerp in bilaterale besprekingen met een aantal nabijgelegen landen.

De aanpak van de georganiseerde criminaliteit ten aanzien van alle drugs heeft onverminderd hoge prioriteit voor politie- en justitie.

Voor de activiteiten van de HARC-teams en het aanschaffen van de containerscanners wordt verwezen naar de tekst bij de artikelen 2 en 3.

Door de ministeries van Volksgezondheid Welzijn en Sport, Justitie, Binnenlandse zaken en Financiën wordt in nauw overleg bepaald hoe de inzet van middelen en mensen zo optimaal mogelijk kan zijn bij de bestrijding van de handel in en produktie van drugs. Tevens wordt gekeken hoe zo goed mogelijk de vraag naar drugs kan worden tegengegaan. Preventieve maatregelen spelen hierbij eveneens een rol. Dit beleid wordt verder uitgewerkt door de lokale autoriteiten en instellingen. Hierdoor wordt zowel aandacht besteed aan de problemen aan de vraagzijde van het drugsprobleem als aan de aanbodzijde.

AUSTRIA

Zum Umsetzungsstand wird auf die Ausführungen zu Art. 2 verwiesen und zusätzlich ausgeführt, daß schon derzeit von der Suchtgiftzentralstele des Bundesministeriums für Inneres ausgezeichnete Kontakte zu den entsprechenden Ansprechpartnern der anderen Mitgliedstaaten - im Rahmen von IKPO-Interpol, EDU/Europol, Institutionen des Schengener Vertragswerkes sowie verschiedener bilateraler Abkommen - bestehen, Auf Grund dieser Kooperationsmöglichkeiten ist die operative Zusammenarbeit mit den jeweils anderen Mitgliedstaaten sowohl in zeitlicher als auch inhaltlicher Hinsicht als ausgesprochen gut zu bezeichnen und kann speziell in operativen Angelegenheiten unter Berücksichtigung der praktischen Erfordernisse kaum noch verstärkt werden.

FINLAND

In addition to what is mentioned in the article 2 there is a written cooperation agreement between the police, customs services and frontier guard concerning controlled deliveries. In order to carry out this agreement also joint field training has been organised.

Some personnel of the customs services regularly participates in the training of the prevention and investigation of drug offences carried out by the police. The personnel of the frontier guard also participates in the training in some occasions.

SWEDEN

The Swedish National Police Investigation Department, Customs and Excise Department and Pharmaceutical Department have together started a cooperation programme for controlling chemicals which can be used for the production of drugs (precursors). The authorities concerned have appointed a central supervisory Working Party to coordinate activities. The main function of the programme is to contact undertakings dealing in chemicals. One of the aims is to persuade the undertakings concerned to report voluntarily any suspicious purchase or transport of chemicals at both Swedish and international level.

UNITED KINGDOM

The United Kingdom seeks to build on the existing good co-operation between its police and customs services and their counterparts in other Member States. It was the first member State to ratify the Europol Convention. It regularly participates in joint exercises between customs services, and seeks to expand the existing memoranda of understanding between its customs service and those of other Member States. Within the United Kingdom the customs service and police forces co-operate closely, on the basis of mutually agreed procedures, against drug trafficking. HMC Customs and Excise National Investigation Service signed an Operational Protocol with the police Regional Crime Squads of England in Wales in April this year. NCIS and HMCE NIS provide a focal point for co-operation at the European and wider international levels. Through its network of European Liaison Officers and Europol, NCIS co-ordinates operational activity between the UK and law enforcement agencies from other Member States.

A notable example is the high profile drugs investigation known as "Operation Crayfish". This concerned extensive and long-term co-operation between the UK and the Netherlands against an individual classified as a major "kingpin" drugs trafficker. After a lengthy trial in the Netherlands, he was sentenced to 12 years imprisonment.

The designated contact point for all mutual legal assistance requests, including those connected to drug trafficking, is the UK Central Authority.

Article 7

Member States shall ensure that their obligations under the United Nations Conventions on Narcotic Drugs and Psychotropic Substances of 1961, 1971 and 1988 are applied strictly and effectively.

BELGIUM

La Belgique a ratifié toutes les conventions des Nations-Unies en la matière, à savoir :

- convention du 30 mars 1961 sur les stupéfiants ;
- protocole du 25 mars 1972 modifiant la convention du 30 mars 1961 ;
- convention du 21 février 1971 sur les substances psychotropes ;
- convention du 20 décembre 1988 contre le trafic illicite de stupéfiants et de substances psychotropes.

Elle applique strictement toutes les dispositions de ces conventions, à l'exception de certaines substances du tableau IV de la convention de 1971 qui seront très prochainement mises sous contrôle.

GREECE

Greece has ratified the relevant UN International Conventions on drugs (1961, 1971 and 1988) and has adopted all the necessary measures for implementing the provisions thereof at national level.

IRELAND

Ireland is party to these United Nations Conventions and Irish legal convention obliges that where an International Convention is to be signed and ratified, domestic law must be in place beforehand and to be in a position to implement immediately the provision of the Conventions. In accordance with this article, Ireland has reviewed its obligations under the named UN Conventions and is applying their provisions strictly and effectively.

ITALY

A Member State may carry out three types of controls in this area: political, legislative and judicial.

The first is generally the responsibility of Parliament.

Anti-drug legislation provides in addition for a National Committee for Anti-drug Coordination. It is chaired by the President of the Council of Ministers (Prime Minister) and participants are, among others, the Ministers for Foreign Affairs, the Interior, Justice, Finance, Defence, Public Education, Health, Labour and Social Security, Universities and Scientific Research and Social Affairs.

The Committee is responsible for directing and promoting the general policies for prevention and intervention in respect of the illicit production and distribution of narcotic or psychotropic substances, at national and international level.

The second is overseen by the Constitutional Court which has recently ruled on the non-admissibility of a referendum on the liberalization of the cultivation, production and consumption of so-called "soft" drugs.

The third aspect is a matter for the judicial authority, with its three levels of jurisdiction.

LUXEMBOURG

Le Luxembourg a ratifié et mis en oeuvre l'ensemble des trois Conventions des Nations-Unies visées à l'article 7 de l'Action commune. Le règlement grand-ducal du 6 février 1997 a remédié à une lacune qui se présentait encore pour la mise en oeuvre de la Convention sur les substances psychotropes de 1971 en rapport avec les substances des tableaux III et IV.

NETHERLANDS

De Nederlandse wetgeving (Opiumwet) is in overeenstemming met de VN-verdragen uit 1961, 1971 en 1988. In 1995 geeft het kabinet een beleidsnota uitgebracht met de titel "Het Nederlandse drugbeleid; Continuïteit en verandering". Nadien zijn er 2 voortgangsrapportages aan het parlement toegestuurd waarin de voorgenomen beleidsmaatregelen uit de nota van 1995 nader zijn uitgewerkt. In deze rapportages wordt aangegeven wat de huidige stand van zaken is.

AUSTRIA

Samtliche UN-Drogenkontrollabkommen sind für Österreich in Kraft (Psychotropenkonvention 1971: BGBl. III Nr. 148/97; Wiener Übereinkommen 1988: BGBl. III Nr. 154/1997; Einzige Suchtgiftkonvention (ESK) 1961: BGBl. Nr. 531/1978).

Das am 1. Jänner 1998 in Kraft tretende Suchtmittelgesetz (BGBl. I Nr. 112/1997) setzt die von der ESK 1961 sowie der Psychotropenkonvention 1971 vorgesehenen Kontrollmaßnahmen bezüglich Suchtgiften bzw. psychotropen Substanzen vollständig um und trifft auch Bestimmungen über ein Kontrollregime bezüglich Vorläuferstoffen, das in Übereinstimmung mit den entsprechenden EG-Vorschriften einerseits und dem Wiener Übereinkommen 1988 andererseits steht.

Das österreichische Suchtmittelrecht ist daher mit Artikel 7 der Gemeinsamen Maßnahme - insbesondere auch im Hinblick auf Artikel 36 Abs. 1 lit. b in Verbindung mit Artikel 38 ESK 1961 - im Einklang. Auf die Erklärung Österreichs zu Artikel 36 ESK 1961 wird in diesem Zusammenhang verwiesen (s. auch unten zu Artikel 11)."

Am 6. Mai 1997 wurde das parlamentarische Verfahren bezüglich eines neuen "Suchtmittelgesetzes" abgeschlossen. Am selben Tag wurden auch die parlamentarische, Genehmigungsverfahren bezüglich des Beitritts Österreichs zu der UN-Psychotropenkonvention von 1971 sowie des Wiener Suchtgift-Übereinkommens 1988 abgeschlossen.

Das Suchtmittelgesetz setzt die von der Einzigsten Suchtgiftkonvention (ESK) 1961 sowie der Psychotropenkonvention 1971 vorgesehenen Kontrollmaßnahmen bezüglich Suchtgiften bzw. psychotropen Substanzen vollständig um und trifft auch Bestimmungen über ein Kontrollregime bezüglich Vorläuferstoffen, das in Übereinstimmung mit den entsprechenden EG-Vorschriften einerseits und dem Wiener Übereinkommen 1988 andererseits steht.

Das Suchtmittelgesetz wird am 1. Jänner 1998 in Kraft treten: die Ratifikationserklärungen bezüglich der UN-Übereinkommen werden demnächst hinterlegt werden.

Das Österreichische Suchtgiftrecht ist daher mit Art. 7 der Gemeinsamen Maßnahme - insbesondere auch im Hinblick auf Art. 36 Abs. 1 lit. b iVm Art. 38 der einzigen Suchtgiftkonvention (ESK) 1961 - im Einklang. Auf die Erklärung Österreichs zu Art. 36 ESK 1961 wird in diesem Zusammenhang verwiesen (siehe auch unten zu Artikel 11).

SPAIN

España ha ratificado las Convenciones de Naciones Unidas en materia de drogas de 1961, 1971 y 1988. Les tres has sido publicadas oficialmente. Esto supone que dichas Convenciones forman parte del ordenamiento jurídico español y que, según la Constitución española, sus disposiciones sólo podrán ser derogadas, modificadas o suspendidas en la forma prevista en las propias Convenciones.

FINLAND, UNITED KINGDOM, FRANCE, SWEDEN, GERMANY

Finland, UK, France, Sweden and Germany have declared that they comply fully with obligations under the three United Nations Conventions.

Article 8

Member States undertake to take the most appropriate steps to combat the illicit cultivation of plants containing active ingredients with narcotic properties.

BELGIUM

Les autorités judiciaires et policières recherchent et poursuivent toute culture illicite sur le territoire. Les services compétents du Département de l'Agriculture ont pris des mesures strictes pour éviter le détournement des subsides pour les cultures de chanvre textile. Ces mesures sont plus sévères que celles prévues pour les dispositions communautaires. Elles portent notamment sur les points suivants :

- déclaration préalable à toute culture ;
- types de chanvre textile admissibles ;
- utilisation obligatoire de graines certifiées ;
- contrôle en cours de cultures et de récoltes ;
- etc.

GREECE

Under Greek legislation the illicit cultivation of plants containing active ingredients with narcotic properties is completely forbidden, with offenders being liable to a prison sentence. There are no glass-houses in Greece and the problem of illicit cultivation is not in general very wide-spread, being chiefly confined to Indian cannabis plants. It has not therefore taken on any organized form and all production is destined for internal consumption. Illicit cultivation takes place in small areas in the open countryside, usually in gardens, agricultural areas or in remote and inaccessible places with rich vegetation, which makes them difficult to locate. Apart from illicit cultivation in specific areas of the countryside, there are many naturally growing cannabis plants. It is the job of the competent services to locate and destroy such plants as well.

As regards illicit cultivation of the opium poppy, the problem is negligible and confined to a very small number of clusters cultivated indoors.

The problem of illicit cultivation is being tackled effectively by the measures taken by the competent authorities. No expansion has been observed in recent years, on the contrary there has been a stabilization and general decline. The following measures are being taken in particular:

1. Training

Seminars are regularly held every year in order to train personnel throughout the country, and especially those charged with combating drugs. Special reference is made in the training programmes to locating areas of illicit cultivation and naturally growing plants, developing information networks and improving cooperation with other competent services.

2. Equipment

All the requisite means are available for detecting illicit crops from the air (helicopters), by vehicle or foot patrols and for eliminating them with pesticides, by burning or by grubbing-up.

3. Gathering information

Particular importance is attached to the development of an information network (informers, UNDERCOVER AGENTS), which is an effective tool in locating most of the illicit cultivation.

Close cooperation is also being developed with other competent services, for example community policemen and forestry officials.

4. Handbooks of guidelines

The written guidelines used in staff training include guidelines on this specific topic.

5. Other

Every year from May onwards special groups of police officers are set up in the countryside to work with community policemen and forestry officials. They have clear guidelines and instructions with respect to locating naturally growing or illicitly cultivated areas of Indian cannabis and opium poppy and destroying them. They also provide information for the public with a view to securing their support in this work.

FRANCE

La culture illicite de plantes stupéfiantes à des fins de consommation personnelle ou de trafic est interdite et sanctionnée.

Etude par les ministères concernés des possibilités d'adapter la réglementation communautaire pour mieux encadrer le commerce et les mouvements intra communautaires de semences de cannabis.

Recherche de possibilités de contrôle des semences sur la base du code des douanes national.

IRELAND

A cross Departmental Governmental Committee involving the Police, Customs, Department of Agriculture, Department of Health and Children and the Department of Justice, Equality and Law Reform has been established to develop existing policy regarding the granting of licences related to the cultivation of plants containing active ingredients with narcotic properties. The Department of Health recently issued licences for the commercial growing of Hemp (Cannabis Sativa L) which contains less than 0.3% THC. The Department notify the Gardai of applicants. Garda reports on convictions are forwarded before the issue of licence is decided. Periodic inspections of Hemp crops are carried out by Gardai and Department of Agriculture personnel. A Working Group, involving all relevant agencies, is monitoring the matter.

All Garda units perform duties to detect and prevent the illicit cultivation of plants containing active ingredients with narcotic properties. All Garda Divisions have Drugs Units which give particular attention to drug related issues. Coastal Watch has also been set up to monitor related activities and to gather intelligence, analyse and act on information received.

It should be noted that Irelands control of plants is very wide e.g. controls are in place in respect of Papaver Bractiatum and Khat.

LUXEMBOURG

Le Gouvernement a introduit en juin un projet de règlement établissant des critères pour la culture de cannabis à des fins licites (textile, industrielle). Des modalités strictes de contrôle sont prévues.

NETHERLANDS

Door politie en justitie wordt hoge prioriteit toegekend aan de bestrijding van bedrijfsmatige cannabisteelt en de export van de hiermee geproduceerde cannabis. Een voorstel tot wijziging van de Opiumwet dat ziet op verhoging van de strafmaat voor de bedrijfsmatige teelt van cannabis van 2 naar 4 jaar en een geldboete van fl. 100.000,-- is in behandeling bij het parlement. Tevens zal het kabinet bewerkstelligen dat bedrijfsmatige binnensteelt van hennep behoudens verlof in de toekomst verboden is en dat buitenteelt alleen zal zijn toegestaan voor in nationaal of EU-verband expliciet toegelaten vezelhenneprassen.

Hiermee wordt naar de mening van het kabinet een adequate oplossing aangereikt om de productie van zaad voor de teelt van Nederwiet (illegale hennep) tegen te gaan.

AUSTRIA

Von den Strafverfolgungsbehörden werden die erforderlichen Maßnahmen und Ermittlungen bei Feststellung von Kulturen von Pflanzen, aus denen suchtgift gewonnen werden kann, im Einklang mit internationalen Verpflichtungen und nationalem Recht nachhaltig durchgeführt.

FINLAND

There is only a small-scale cultivation of narcotic plants in Finland because of the climatic conditions. However every year several cases of cannabis cultivation are being discovered leading to a normal crime investigation.

SPAIN

El artículo 368 del Código Penal de 1995 establece: "los que ejecuten actos de cultivo (...) que promuevan, favorezcan o faciliten el consumo ilegal de drogas tóxicas, estupefacientes o sustancias psicotrópicas (...) serán castigados con las penas de prisión de 3 a 9 años y multa (...) si se trata de sustancias que causan grave daño a la salud, y de prisión de 1 a 3 años y multa (...) en los demás casos".

La Fuerzas y Cuerpos de Seguridad, los Jueces y Fiscales y las autoridades sanitarias competentes trabajan en la lucha contra el cultivo ilícito de determinadas plantas.

SWEDEN

The cultivation of plants which can be misused occurs, partly for climatic reasons, only to a very limited extent in Sweden. All such activities, including cultivation of low THC hemp, is in principle prohibited. Consideration is not at present being given to any further legislative measures.

UNITED KINGDOM

The United Kingdom vigorously enforces the laws on the cultivation of plants from which illicit drugs can be produced. In 1995, there were 94, 202 seizures of cannabis plants, and 5,045 people were found guilty or cautioned for cultivation.

GERMANY

Der illegale Anbau von Pflanzen, die Stoffe mit Suchtwirkung enthalten, ist in der Bundesrepublik Deutschland gemäß § 29 Abs. 1 Satz 1 Nr. 1 BtMG unter Strafe gestellt (Freiheitsstrafe bis zu fünf Jahren oder Geldstrafe). Darüber hinaus wurde aufgrund der jüngsten Zulassung des Anbaus von THC-armen Hanfsorten (maximal 0,3 % THC) ein umfangreicher Kontrollmechanismus eingerichtet, der mit der Ausgabe von lizenzierten Samen beginnt und mit der Verarbeitung der Pflanzen endet. Vereinzelt gab es Mißbrauchsfälle durch Entwendung und teilweise Weiterverkauf von rauschmittelarmen Hanfpflanzen.

Der illegale Unterglasanbau von Cannabis hat in der Bundesrepublik Deutschland ausweislich der jährlichen Sicherstellungszahlen keine Bedeutung.

Article 9

Member States undertake, subject to their constitutional principles and the basic concepts of their legal systems, to make it an offence publicly and intentionally to incite or induce others, by any means, to commit offences of illicit use or production of narcotic drugs. They shall be especially vigilant as regards the use made of on-line data services and in particular the Internet.

BELGIUM

Comme précisé à l'article 1er, la loi pénale belge incrimine :

- La facilitation de l'usage, à titre onéreux ou titre gratuit, soit en procurant un local, soit par tout autre moyen ;
- L'incitation à l'usage.

Des études sont en cours sur le plan international pour éviter les abus de l'utilisation d'Internet.

La loi punit d'un emprisonnement de un à cinq ans tout fait de propagande ou de publicité en faveur des substances psychotropes, stupéfiantes ou soporifiques ou la provocation à l'usage, même si elle n'a pas été suivie d'effet.

GREECE

Under Greek law, incitement or inducement, by any means, to engage in the illicit production or use of, or trafficking in, narcotic substances is a criminal law offence. However, we have to point out that there are serious difficulties with the implementation of this legislation because on the one hand it is in practice difficult to substantiate charges of incitement and on the other hand in the area of the mass media perceptions concerning freedom and the circulation of ideas are not particularly helpful in arriving at a generally accepted deontological framework with regard to the drugs issue.

Under Greek law any person who incites or induces others to engage in the illicit production, use of or trafficking in drugs is guilty of a criminal law offence.

In practice, the same problems arise in the case of all offences committed via the INTERNET. Thus far Greek law has, however, not dealt with offences committed via the INTERNET in breach of the Law on Drugs.

DENMARK

As regards the obligation in Article 9 of the Joint Action to criminalize public incitement to the illegal use or production of drugs (including through use of Internet), it is pointed out that this obligation already follows from Article 3(1)(c)(3) of the 1988 UN Convention.

FRANCE

- *Réflexion nationale en cours.*
- Surveillance du réseau par les services de police, de gendarmerie et de douane.
- Renforcement par la douane des contrôles d'acheminement par voie postale ou de fret express d'envois liés à des commandes faites via Internet.
- Sensibilisation dans le cadre du groupe de travail franco-néerlandais.

IRELAND

It should be noted that Section 5 of the Misuse of Drugs Act, 1984 creates the offence of publicly and intentionally inciting or inducing others by any means to commit offences of illicit use or production of narcotic drugs and that it is an offence at Irish common law to solicit or incite a person to commit an offence.

The Minister for Justice, Equality and Law Reform has established a Working Group on Illegal and Harmful use of the Internet comprising Government, public and private interested parties to co-ordinate an effective response to this problem. Its terms of reference are:

To identify the nature and extent of the issues surrounding the illegal and harmful use of the Internet.

To prioritise such issues with particular reference to the need to address the issue of child pornography in the short term.

To examine and assess the current approaches both domestically and internationally to addressing the problem of illegal and harmful use of the Internet.

Ireland already has controls over the publication of books. Our controls in regard to medicines generally would prevent activities of this nature from originating in Ireland.

NETHERLANDS

De Nederlandse wetgeving verbiedt uitdrukkelijk elke openbaarmaking die kennelijk is gericht op het bevorderen van de verkoop, aflevering of verstrekking van verdovende middelen. Door het Openbaar Ministerie wordt bij de opsporing en vervolging bijzondere aandacht gegeven aan publiciteit die gericht is op buitenlandse kopers. De Opiumwet biedt ook de mogelijkheid om op te treden tegen het adverteren via Internet. Tegen reclame via Internet voor de verkoop van cannabis is reeds opgetreden.

AUSTRIA

§ 29 Suchtgiftgesetz stellt Handlungen unter Strafe, mit denen in einem Druckwerk, einem Laufbild oder sonst öffentlich zu Mißbrauch von Suchtgift aufgefordert wird oder sonst der Mißbrauch von Suchtgift in einer Art gutgeheißen wird, die geeignet ist, einen solchen Mißbrauch nahezulegen. Mit dem Begriff "Mißbrauch" sind sämtliche Tatbegehungsformen des Suchtgiftgesetzes (Erzeugung, Einfuhr, Ausfuhr, Erwerb, Besitz, Überlassen, Verschaffen, Inverkehrsetzen) erlaßt. Durch die Formulierung "oder sonst öffentlich" ist nach österreichischer Strafrechtsauffassung die Tatbegehung im allgemein zugänglichen Teil des Internet oder anderen elektronischen Datennetzen erlaßt. Öffentlich bedeutet dabei, daß eine Handlung unmittelbar von etwa zehn oder mehr Personen wahrgenommen werden kann. Die österreichischen Strafverfolgungsbehörden, insbesondere Polizeibehörden, richten derzeit besonderes Augenmerk auf die Nutzung elektronischer Datennetze, speziell Internet, für die Vorbereitung oder Begehung strafbarer Handlungen.

FINLAND

It is an offence in Finland under the Criminal Code to incite or attempt to incite any person to commit an offence. Material passing over the Internet is subject to the same laws as material distributed by other means.

ITALY

Italian law deems it an offence to aid and abet the use of narcotic or psychotropic substances: it is punishable by a prison sentence of between three and ten years.

It is also an offence to incite, encourage or induce a minor to use narcotic or psychotropic substances: the penalty is from one to six years' imprisonment.

Direct and indirect advertising is also an offence: the penalty is a fine of an administrative nature.

SPAIN

Está penado en el Código Penal todo acto que promueva, favorezca o facilite el consumo ilegal de drogas tóxicas, estupefacientes o sustancias psicotrópicas (artículo 368).

SWEDEN

A Swedish State Committee has examined the need for changes in legislation relating to information sent via data networks. The Committee has inter alia analyzed penal legislation including penal laws on drugs in order to see whether they are appropriate for information *which can be sent via data services such as Internet. In this connection, the Committee has also analyzed the liability of network operators for information distributed via a network. The Committee has made a number of proposals for amending legislation and these are currently being considered by the Ministry of Justice.*

UNITED KINGDOM

It is an offence in the United Kingdom, under the Misuse of Drugs Act 1971, to incite or attempt to incite any person to commit any offence under our drugs legislation. Material passing over the Internet is subject to the same laws as material distributed by other means. The Internet Watch Foundation (IWF) has been set up by Internet service providers, with Government support, to examine ways of preventing the Internet being used for criminal purposes. The IWF has established a hotline for users to report illegal material (but particularly child pornography) on the Internet. It is now looking into the possibility of setting up a ratings system for material on the Internet. The United Kingdom participates in work carried out in international fora with regard to the use of the Internet for illegal purposes. NCIS are to hold a meeting of European law enforcement agencies in early 1998 to examine the processes involved in the use of the Internet for criminal purposes. It will not, however, examine ways of combating particular crimes such as drug trafficking.

GERMANY

Die Werbung für Betäubungsmittel, die sich in Anlage 1 des Betäubungsmittelgesetzes befinden (z.B. Marihuana, Haschisch, Heroin, DOB, LSD, MDA) wird gemäß § 29 Abs. 1 Satz 1 Nr. 8 i.V.m. § 14 Abs. 5 BtMG bestraft. Ebenso wird bestraft, wer öffentlich in einer Versammlung oder durch Verbreitung von Schriften dazu auffordert, Betäubungsmittel zu verbrauchen, die nicht zulässigerweise verschrieben worden sind (§ 29 Abs. 1 Satz 1 Nr. 12 BtMG).

Dem Gesichtspunkt der kriminellen Nutzung auch von elektronischen Datennetzen, insbesondere des Internet, widmet die Bundesregierung verstärkt Aufmerksamkeit Angesichts der Möglichkeiten der weltweiten Verbreitung derartiger Informationen erscheint hier allerdings nur eine internationale Kooperation erfolgversprechend.

Article 10

Nothing in this Joint Action shall prevent a Member State, with due regard for its international commitments, from maintaining or introducing in its territory any additional measure it deems appropriate to fight drug addiction and to prevent and combat illicit drug trafficking.

BELGIUM

Comme précisé à l'article 8, les dispositions belges en matière de contrôle des cultures sont plus strictes que les dispositions communautaires en la matière.

La Belgique applique strictement les dispositions de la convention d'application de la convention de Schengen dont l'article 71 relatif à tous types de stupéfiants et de substances psychotropes.

AUSTRIA

Unter Einhaltung seiner internationalen Verpflichtungen insbesondere aus Art. 36 Abs. 1 lit. b in Verbindung mit Art. 38 ESK 1961 wird Österreich weiterhin seine seit Jahrzehnten bewährten Konzepte von "Therapie Statt Strafe" bei suchtmittelabhängigen Rechtsbrechern fortsetzen und gegebenenfalls - soweit dies insbesondere zur Bekämpfung der Drogenabhängigkeit und zur Verhütung des illegale Drogenhandels (insbesondere durch Drogenabhängige) sinnvoll erscheint - ausbauen.

DENMARK

In the light of the government's statement on drugs policy of 16 March 1994, a number of initiatives concerning the police, prevention and treatment have been taken with regard to drugs in the last few years. Mention can be made inter alia of an experimental scheme for the treatment of criminal drug abusers as an alternative to unconditional imprisonment. An experimental scheme has also been set up in the context of contract prisons whereby the

inmate who undertakes to refrain from taking drugs while serving his sentence is given support, counselling and treatment to give up drugs and at the same time is allowed certain privileges, in the same way as certain areas in Denmark provide for the possibility of serving a sentence in drug-free wards. Great importance is furthermore given to improved cooperation between the responsible authorities, including cooperation between the police and the social services at street level.

Article 11

The government of the Member States shall undertake to take all appropriate steps to implement this Joint Action as soon as it is adopted.

The Presidency shall report to the Council each year on the implementation of this Joint Action.

AUSTRIA

Generell ist somit festzuhalten, daß aus österreichischer Sicht die Verpflichtungen, die sich aus der Gemeinsamen Maßnahme ergeben, voll erfüllt sind. Weitere Umsetzungsmaßnahmen zu den Art. 1 bis 6, 8 und 9 scheinen nicht möglich zu sein bzw. sich ausschließlich im Bereich von bereits im Rahmen bestimmter Rechtsinstrumente etablierten Verpflichtungen zu halten. Konkrete Maßnahmen zur Verbesserung der Zusammenarbeit werden überdies in nahezu jeder Ratsarbeitsgruppe im Rahmen der dritten Säule behandelt und erörtert.

Es wird aber darauf hingewiesen, daß von Art. 7 der Gemeinsamen Maßnahme auch Verpflichtungen der Mitgliedstaaten gemäß Art. 36 Abs. 1 lit. b in Verbindung mit Art. 38 der Einigen Suchtgiftkonvention (ESK) 1961 umfaßt sind. Es wird hier insbesondere auf die schon in Art. 38 Abs. 1 ESK ausgesprochenen Verpflichtungen zur Koordinierung der Bemühungen der Mitgliedstaaten im Bereich der praktischen Maßnahmen zur Prävention des Suchtgiftmißbrauchs sowie zur Früherkennung, Behandlung, aufklärung, Nachbehandlung und soziale Wiedereingliederung hingewiesen. Im Hinblick auf die Erstattung des Berichts über die Erfüllung der Gemeinsamen Maßnahme wird aus österreichischer Sicht den nationalen Berichten zur Umsetzung dieser Maßnahmen mit besonderem Interesse entgegengesehen.

Österreich lädt ein, diesen bedeutenden - und in den bisherigen Diskussionen auf europäischer Ebene zu kurz gekommenen - Vertragsbestimmungen im Gesamtbericht besondere Aufmerksamkeit zu widmen, damit das Niveau der europäischen Diskussion nicht neuerlich hinter den Standards der fast vierzig Jahre alten UN-Rechtsinstrumente zurückbleibt.

Insbesondere zu Artikel 10 erwartet Österreich somit, daß der Gesamtbericht ein eigenes Kapitel enthalten wird, in dem die einzelnen Mitgliedstaaten detaillierte Ausführungen über zusätzliche Maßnahmen machen, die zur Bekämpfung der Drogenabhängigkeit und zur Verhütung und Bekämpfung des illegalen Drogenhandels sinnvoll erscheinen. Die Verpflichtungen insbesondere im Hinblick auf die Artikel 36 und 38 ESK werden dabei besondere Berücksichtigung finden müssen.

Im übrigen werden - insbesondere zur Verbesserung der praktischen Zusammenarbeit - die eigens dafür eingerichteten Ratsarbeitsgruppen in die Identifizierung von Problemen und die Erstattung von Vorschlägen zu Ihrer Ausräumung einzubinden sein. Es sollte hier jede Anstrengung unternommen werden, um Duplizitäten und Parallelitäten bei der Erbringung von Arbeiten zu vermeiden.

Contribution by the Italian delegation

**COMPARISON BETWEEN THE PENALTIES FOR THE
MOST SERIOUS OFFENCES AND THOSE FOR
ILLICIT CULTIVATION, PRODUCTION AND TRAFFICKING
OF NARCOTIC OR PSYCHOTROPIC SUBSTANCES**

CRIMINAL CODE

ART. 416 :	Criminal association	
	- heads	3 to 7 years' imprisonment
	- participants	1 to 5 years' imprisonment
	- with weapons	5 to 15 years' imprisonment
	- more than ten persons	sentence increased by up to 1/6
ART. 416a:	Mafia-type association	
	- heads	4 to 9 years' imprisonment
	- participants	3 to 6 years' imprisonment
	- with weapons	4 to 10 years' imprisonment
	- financed with the proceeds of crime	sentence increased by 1/6 to 1/2
ART. 575	Murder:	
	- general aggravating circumstances	not less than 21 years' imprisonment
	- specific aggravating circumstances	up to life imprisonment
ART. 648a:	Money laundering:	4 to 10 years' imprisonment
	- Aggravating circumstances	sentence increased by up to 1/6
ART. 648b:	Re-use of money and other goods	4 to 12 years' imprisonment

ANTI-DRUG LAW

(Consolidated text No 309/90)

- ART. 73** – **Cultivation,
production,
illegal trafficking
(Tables I and III):** 8 to 20 years' imprisonment
- **Cultivation,
production,
illegal trafficking by persons
holding an authorization:** 8 to 22 years' imprisonment
- **Cultivation,
production,
illegal trafficking of substances
other than those authorized
(Tables I and III):** 8 to 22 years' imprisonment
- **Cultivation,
production,
illegal trafficking
(Tables II and IV):** 2 to 6 years' imprisonment
- **minor offences:** 1 to 6 years' imprisonment
- **aggravating circumstances:**
- larger number of persons sentence increased by up to $\frac{1}{3}$
 - collaboration sentence reduced by $\frac{1}{2}$ to $\frac{2}{3}$

ART. 74: Criminal association for the purpose of trafficking:

- heads 20 to 30 years' imprisonment
- participants not less than 10 years' imprisonment
- more than ten persons sentence increased by up to $\frac{1}{3}$
- with weapons heads: not less than 24 years' imprisonment
participants: not less than 12 years' imprisonment
- collaboration sentence reduced by $\frac{1}{2}$ to $\frac{2}{3}$



Regional cooperation

a) *Nordic Cooperation*

SWEDEN

The Nordic countries have long had a policy of comprehensive and highly developed cooperation in the drugs field. Within the Nordic Council there is a special Committee of Officials for Drug Questions, which holds regular meetings of Government officials from Sweden, Norway, Denmark, Finland and Iceland in order to exchange information and implement certain projects. Part of this work involves comparing drugs legislation in the various countries and where necessary considering the possibility of greater harmonization of laws.

As early as 1982, following a decision by the Nordic Ministers for Justice and the Interior, Nordic police and customs officials began organized cooperation known as PTN (Polis-Tull-Norden). The main aim of PTN is to establish better exchanges of information between the countries. One significant result is that joint Nordic police and customs officials have been seconded to a large number of countries both inside and outside the Union. Cooperation is being developed gradually and in the course of 1997 Sweden sent a further two customs officials abroad.

Under the aegis of PTN, a number of specific projects are in progress which focus either on drug preparation as such or on the groups which are behind illegal drug trafficking. The most recently launched project, for which Finland is chiefly responsible, is directed against ecstasy.

FINLAND

Between the Nordic countries over ten years there has been a cooperation working party on drugs (PTN) between the police and customs authorities. In its framework a network of international liaison officials has been established. In addition various projects are being carried out in cooperation - the most recently launched project, for which Finland is chiefly responsible, is directed against ecstasy.

Finland participates in the Logo-project of the Europol by sending information on the ecstasy-pills found in Finland. Furthermore Finland participates actively in amphetamine-, chemical- and ecstasy-projects within Nordic countries.

Finland participates in the development of technical and scientific cooperation between the forensic laboratories within EU and the Nordic countries.

Finland also participates actively in the control of the external market of the EU concerning precursors.

b) *Hazeldonk*

Reference to cooperation along the Hazeldonk model is in replies to article 3.

The Belgian delegation provided the following data on Hazeldonk cooperation.

L'opération "No way out" du 15 mars 1997 se composait de contrôles des points de distribution en stupéfiants aux Pays-Bas, de contrôle du trafic ferroviaire international, y compris la liaison Thalys, ainsi que de contrôles des autoroutes et des axes secondaires dans la région frontalière (Pays-Bas - Belgique, Belgique - France).

Les résultats du 15 mars sont les suivants :

- *nombre de personnes contrôlées : 22.416*
- *nombre de véhicules contrôlés : 11.848*
- *quantité de drogues découvertes et saisies : cannabis 3.964 g, héroïne 304,25 g, cocaïne 20,5 g, XTC 619 pilules, amphétamines 50 g ;*
- *nombre d'armes saisies : 5*
- *nombre de personnes privées de leur liberté : 123*

<i>Répartition par pays</i>	<i>PAYS-BAS</i>	<i>BELGIQUE</i>	<i>FRANCE</i>
<i>nombre de personnes contrôlées</i>		<i>1007</i>	<i>21399</i>
<i>nombre de véhicules contrôlés</i>	<i>212</i>	<i>786</i>	<i>10850</i>
<i>quantité de drogue saisies</i>			
<i>cannabis</i>	<i>1.866 g</i>	<i>730 g</i>	<i>1.368 g</i>
<i>cocaïne</i>		<i>2 g</i>	<i>18,5 g</i>
<i>héroïne</i>	<i>51 g</i>		<i>253,25 g</i>
<i>amphétamines</i>	<i>48 g</i>	<i>2 g</i>	<i>546 g</i>
<i>XTC</i>	<i>4 pilules</i>	<i>69 pilules</i>	
<i>nombre d'armes saisies</i>	<i>3</i>	<i>2</i>	
<i>nombre de personnes privées de leur liberté</i>	<i>20</i>	<i>4</i>	<i>99</i>

L'opération "Saint-Martin" du 14 juin 1997 concernait toute la frontière sud des Pays-Bas (de la province de Zélande jusques et y compris Maastricht). La totalité de la frontière franco-belge était également concernée.

Les moyens mis en oeuvre s'élevèrent à 2.300 personnes répartis comme suit :

- France 1.600*
- Belgique 240*
- Pays-Bas 440*

Dans ces trois pays, des contrôles ont été effectués sur les autoroutes et routes secondaires, dans les trains internationaux y compris le train Thalys et cette fois dans les petits aéroports.

Des observations et des contrôles ont également eu lieu dans des Coffeeshops (53) de neuf villes des Pays-Bas. Les stocks au moment de la fermeture ont été contrôlés. Dans le même temps, une surveillance orientée vers les touristes de la drogue français était effectuée en Belgique.

c) *Visby*

The Swedish delegation gave in reply to question 6 the following information:

At the Baltic Summit in Visby in May 1996, the Heads of Government decided to set up a special Task Force on Organized Crime in the Baltic Sea Region consisting of personal representatives instructed to draw up and immediately begin implementation of measures and other concrete proposals to strengthen regional cooperation in this field. An important part of the Task Force's work is to prevent illegal production and trafficking in drugs. A large number of measures have been and are being taken in the course of this cooperation. These cover improved and increased exchanges of information between customs and police, joint operations, judicial cooperation and joint investigation and training arrangements. In this context particular mention should be made of the Amphetamine Project, which is much like the project for which a special preliminary study is now being made within the EU. The Amphetamine Project forming part of Baltic Sea cooperation has already entered the operational stage and is being conducted by Poland and Sweden jointly. Financial support for the project is currently being discussed with representatives of the Phare programme.

Sweden is providing the Baltic States with police drug-related security assistance. Such assistance has on the one hand involved the upgrading of police laboratories to a level which meets basic requirements for conducting chemical analyses of drugs, and on the other the training of Baltic chemists in Sweden in chemical detection methods and of Baltic criminal-investigation police in questions relating to the preparation and practical control of drugs. The result is that the Baltic States can now conduct chemical analyses of drugs and drug controls are currently of a higher order than previously. Moreover, through the contacts which were established in the course of training, the Swedish police have started operational cooperation with their Baltic colleagues and this is now being developed further. Similar arrangements are also being implemented or planned in Poland and in the Russian city of St Petersburg.