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REV 1

LIMITE

ENFOCUSTOM 35

NOTE

from : French delegation

to : ~~Customs Cooperation Working Party~~

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Subject: Customs 2000, Third pillar

- Draft joint action adopting an action programme for the customs administrations of the
Member States of the EU
(Customs 2000 - Third pillar)
-

JOINT ACTION
of
Adopted by the council on the basis of Article K.3 of the Treaty on European Union, adopting an
action programme for the customs administrations of the Member States of the European Union
(Customs 2000 – Third pillar)

The Council of the European Union,

Having regard to the Treaty on European Union and in particular Article K.3 thereof,

Having regard to the initiative taken by France,

Whereas the completion of the internal market, the entry into force of the Treaty on European Union, the enlargement of the Union to include new Member States and the rapid development of trade require that strategic guidelines be specified and implemented in order better to define the role which customs should play in the European Union;

Whereas the customs administrations of the Member States of the Union are responsible for ensuring that legal and regulatory provisions are applied to the import, export or transit of goods and to the movement of funds resulting from breaches of the legislation on psychotropic substances and narcotic drugs; whereas these provisions concern customs duties or any other duties or charges, or prohibition, restriction or control measures;

Whereas breaches of those provisions are prejudicial to the economic, financial, social and cultural interests of the Member States of the Union and their inhabitants;

Whereas the growth of illicit trafficking of all kinds and the transnational dimension of fraud represent serious threats to public health, morality and safety;

Whereas the existence of an internal market, enabling free movement throughout the customs territory of the Community, makes it necessary to implement procedures and controls of an equivalent degree of effectiveness at every point of entry to or exit from that territory, in order to prevent, detect and prosecute breaches of the customs legislation of the Member States of the Union, while reconciling this with the requirements of rapidity and fluidity of lawful international trade;

Whereas, in view of the tasks with which they are entrusted, the customs administrations must have at their disposal the most appropriate means and apply the most modern methods; whereas progress has been made with the implementation of a joint customs information system;

Whereas it may prove desirable to intensify the earlier extensive cooperation achieved within Mutual Assistance Group 92 (MAG 92) and continued in the Council framework, notably by the Customs Cooperation Group, since the entry into force of the Treaty on European Union; whereas this work is reflected in particular in the progress achieved towards the adoption of a Convention replacing the Convention of 7 September 1967 on the Provision of Mutual Assistance by Customs Authorities, known as the Naples Convention;

Whereas a coherent approach to the initiatives under way under each of the pillars in which the customs are involved will enable a high level of balance to be attained between facilitation and verification, as illustrated by Decision No (EC) of the European Parliament and of the Council adopting a Community action programme on customs (Customs 2000), and will reinforce concerted action by the customs administrations;

Whereas such a result can be obtained only by means of increased cooperation and collaboration between the customs administrations of the Member States of the Union, in conjunction with the relevant Commission departments, in accordance with Article K.4(2) of the Treaty on European Union;

Whereas a framework at Union level is necessary in order to establish plans and priorities for achieving coordinated action by the Member States of the Union to ensure that the customs administrations are better adapted to this aim;

Whereas the implementation of an action programme at Union level is one of the most appropriate forms of action for achieving these objectives,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Establishment of the programme

An action programme is hereby established under this joint action for the customs administrations of the European Union, supporting and supplementing the initiatives carried out in the Community framework, particularly the Community action programme on customs (Customs 2000).

The programme shall be known as the Customs 2000 Programme Third Pillar and shall be implemented for the period from 1 January 1997 to 31 December 2001.

Its purpose shall be to establish even closer cooperation and to intensify the joint efforts of the Member States of the European Union to combat customs fraud and illicit trafficking in the European Union.

It shall make it possible in particular to pursue in greater depth studies and action in the fields referred to in Articles 2 to 7 below.

Article 2

Common framework of objectives

The common framework of objectives within which a customs strategy shall be established for external frontiers, on the basis of even closer cooperation and increased joint efforts by the Member States of the European Union to combat fraud and illicit trafficking, shall be intended to:

1. assess risks and threats to the financial interests of the European Union and to those of legitimate trade;
2. ensure an equally effective application of Community and national rules at all points within the Community's customs territory;
3. provide a framework for discussion in assessing areas in which a joint action achieves greater effectiveness than would the Member States acting individually;
4. promote and disseminate relevant initiatives by the Member States to improve the overall effectiveness of the customs administrations in carrying out their tasks;
5. help the Member States to develop training for officials of the customs administrations by adapting it to changes in their tasks;
6. support, by taking appropriate steps, the establishment of high-calibre customs services in third countries so requesting;
7. promote the transparency and effectiveness of customs action to the benefit of legitimate trade, by reinforcing relations between European Union customs administrations, business, judicial and scientific circles and operators engaged in external trade;

Article 3

Customs controls

Controls shall take place in the first instance at points of entry and exit from Community customs territory.

In order to improve efficiency, this programme shall provide for strengthening controls, approximating methods of control, drawing on the experience of other Member States prior to the purchase of detection equipment and increasing the powers of customs officials.

1. **Strengthening controls.**

Without prejudice to control-strengthening activities they may implement at selected times and places, the Member States shall organize joint surveillance operations.

Such action may apply to all modes of transport and shall aim at enhancing the competent administrations' knowledge of each other and at collecting information on fraud and illicit traffic flows and methods.

Coordination of such operations may be entrusted to a Member State other than the Member State holding the Presidency of the Union.

2. Consultation and coordination framework

In order to promote optimum use of resources and the simplification and harmonization of customs rules and procedures, a consultation and coordination framework shall be put in place.

The framework shall be directed at identifying the methods necessary for customs action and the resources required. It must make it possible to identify sensitive points in the customs territory and may serve to organize the joint operations referred to in 1.

3. Improvement of control methods

In order to achieve equivalent effectiveness of controls in particular at points of entry to and exit from the Community's customs territory, the Member States shall exchange experience of various control methods, including targeting and risk analysis, with a view to determining which are the best suited to the circumstances.

4. Drawing on the experience of other Member States prior to the purchase of detection equipment.

Prior to the purchase of new equipment, particularly the more costly detection apparatus, each Member State shall endeavour to consult those Member States which have particular experience in the matter. Each Member State may also spontaneously communicate to the other Member States any information of mutual interest which it may have gathered on such equipment.

A network of persons responsible for equipment in the Member States of the Union shall be set up to facilitate exchanges and sharing of each Member State's experience in this area.

5. Evaluation of the powers of customs officials.

An examination of the powers of officials of the Member States' customs administrations shall be carried out in the light of the role they are called upon to play in the implementation of this programme.

Article 4

Combating fraud and illicit trafficking

The Member States shall endeavour to make optimum complementary use of their resources in order to prepare, implement and develop a strategy for combating fraud and illicit trafficking in the Union.

To that end, this programme shall focus, in particular on the following fields:

1. Improvement of the gathering, analysis, dissemination and exploitation of information at Union level.

In order to assist in preventing, investigating and prosecuting serious contraventions of national laws by increasing, through the rapid dissemination of information, the effectiveness of the cooperation and control procedures of the customs administrations, the Member States shall endeavour to implement the Customs Information System provided for by the Council Act of 26 July 1995 as soon as possible.

2. Introduction of coordinated action.

The areas of national customs regulation or organization for which specific monitoring is deemed to be relevant may be the subject of coordinated action between those Member States which so desire.

Such action shall be carried out by teams comprising customs experts from the Member States who may, where necessary, be joined by customs experts from the Commission.

Such teams shall visit specific points in the Community customs territory on the basis of a thematic approach. Following those visits, they shall draw up a report identifying and analysing the best working methods and any difficulties noted in the implementation of regulations in the various places studied and suggesting suitable adjustments to the regulations and organization in order to improve customs efficiency overall.

Those reports shall be communicated to the competent departments in the Member States and, where necessary, to the Commission.

3. Strengthening and extension of mutual assistance between the customs administrations of the Member States of the Union and between the latter and the customs administrations of third countries.

With due regard for the rules of national law, the Member States shall encourage recourse to particular forms of cooperation such as hot pursuit, cross-border surveillance, controlled delivery, discreet investigation or the establishment of joint special investigative groups.

4. Development of risk profiling and targeting techniques.

In the light of existing experience and with a view to allowing optimum use of the instruments available, the Member States shall endeavour to designate or set up a reference service for data analysis and risk profiling in each Member State.

The reference service shall be responsible for collecting information, exploiting it and storing it and transmitting to the relevant services any information on trends emerging and risk evaluations. It shall also be responsible for liaison with the customs administrations in the other Member States, allowing mutual exchanges of information and experience.

Member States shall also examine the best ways of using existing instruments with a view to the establishment of a Community database for this purpose. They shall consider which are the partners or products for which the setting of uniform risk parameters may be relevant.

5. Development and strengthening of cooperation via liaison officers.

In order to exploit all existing sources of information and transmit all important new data with greater administrative flexibility, each Member State shall examine ways of deploying its network of customs liaison officers, in coordination with the network of its other national law enforcement authorities and those of the other Member States' customs administrations. On the basis of the information collected on the geographic distribution of the staff in question, a coordinated development of the network thus identified shall be planned.

6. Long-term exchanges of customs officials

In order to improve training and compare practices, the Member States shall endeavour to develop long-term exchanges of customs officials and second them to offices situated at the main entry and exit points of the Community's customs territory. The Member States shall endeavour, without prejudice to their national legislation, to entrust such officials with the same duties as are discharged by their own officials.

Article 5

Training measures

With regard to training, this programme shall focus in particular on the following fields:

- harmonization of training measures;
- training of staff in new working methods (new technologies, handling of data processing tools, etc.);
- implementation of training measures in the field of combating fraud (information gathering, methods of analysis, etc.);

- development of exchanges of officials between the customs administrations of the Member States of the Union and between the latter and the customs administrations of third countries;
- organization of training seminars.

Such training shall be supplemented by measures to introduce customs authorities in the Union to the best working methods and techniques developed in the customs administrations of third countries, and more generally by increased cooperation with those countries.

Article 6

Training measures as technical assistance for third country customs administrations

Priority in technical training, assistance and cooperation measures for third country administrations shall be given to the principal partners of the Union, or to those countries in respect of which risk profiling suggests that the establishment of high-calibre customs services will be a positive contribution to combating fraud.

Article 7

Relations with operators engaged in external trade

This programme shall reinforce and give support to initiatives taken by the Member States, aimed at improving and strengthening relations between the customs administrations of the Union and operators engaged in foreign trade. Account shall be taken of the experience and information available to those operators.

These actions may take the form, in particular, of:

- the development, publication and distribution of informative material intended to make operators more familiar with customs procedures;
- an in-depth dialogue with business circles;
- the conclusion of protocols of agreement to facilitate controls;
- training activities for foreign trade operators.

Article 8

Evaluation and reports

This programme shall be subject to continuous evaluation carried out by a group of senior customs officials who shall propose the necessary measures.

The Presidency shall forward to the Council:

- by 31 December 1998 at the latest, an interim report, and
- by 31 December 2001 at the latest, a final report on the implementation of the programme.

The Council shall in addition examine a single final report covering both the Customs 2000 programme and the programme set up by this joint action.

The European Parliament shall be informed of proceedings under the conditions set out in Article K.6 of the Treaty.

Article 9

Financing

The financial framework for the implementation of this programme for the period referred to in Article 1 is hereby set at ECU (2) million.

The annual appropriations shall be authorized by the budgetary authority under the conditions set out in Article K.9 of the Treaty on European Union and within the limits of the financial perspective.

The Member States shall contribute to achieving the objectives of the programme as far as their financial perspectives allow and subject to their budget procedures.

Article 10

This joint action shall enter into force on the day of its publication in the Official Journal of the European Communities.

It shall apply with effect from 1 January 199(7).

For the Council
The President