EUROPEAN UNION
THE COUNCIL

Brussels, 8 November 1995

8941/4/95

DRAFT

REV 4
LIMITE

ENFOPOL 79

NOTE

from : the Working Party on Drugs and Organized Crime

to : Steering Group II

No. prev. doc.: 8941/3/95 ENFOPOL 79 REV 3

Subject: Draft report on the combatting of drug trafficking
- Third Pillar contribution

I. INTRODUCTION

At its meeting of 26 June 1995 in Cannes the European Council urged Member States to unite their efforts and recommended that steps be taken to ensure practical implementation of the strategy involving reducing supply, combating trafficking, and international cooperation. It instructed a group of experts from the Member States to submit to its Madrid meeting an analytical report accompanied by proposals dealing with all these issues.

A) The Presidency decided that the competent bodies of the Three Pillars should each draw up elements of the global document in their own fields of competence. Subsequently the expert group will assess their contributions and elaborate a single contribution to be presented to the European Council.

B) As regards Third Pillar matters the Working Party on Drugs and Organized Crime was invited to make a draft report, it being understood that Member States could invite their experts in fields not usually covered by this group such as police and judicial cooperation, to attend meetings of the Group to contribute to this draft report. The views of the Customs Co-operation Working Party are in document 10637/95 ENFOCUSTOM 38.

C) 1) It was agreed that the contribution of the forerunner countries mentioned in document 9124/94 ENFOPOL 111 should form the basis of the work of the Group. These forerunner countries were the following :

(i) Germany for countries where drugs originate and are cultivated

(ii) Belgium for transit states

(iii) the Netherlands and EDU for the EC's external frontiers

(iv) France for drug trafficking within the EU

(v) the Netherlands and EDU for drug tourism within the EU

(vi) Italy for money laundering

(vii) United Kingdom for the prevention of the diversion of precursors

(viii) Spain for police prevention measures.

The EDU helped some forerunner countries in updating their contributions and drafted a major part of the general situation report as well as statistics on drug seizures.

2) Other basic elements for work of the Group were the document on the strategy against illicit trafficking of drugs adopted by the Council of 9 March 1995 (cf doc 4339/3/95 REV 3 ENFOPOL 13) and the short-term measures featuring in the note of National Drugs Coordinators to the European Council (cf doc 8404/95 CORDROGUE 32).

D) On the basis of the above elements the following draft report was drawn up, which should be considered as the detailed contribution of the Third Pillar to the strategy and actions featuring in document 10979/1/95 CORDROGUE 46 REV 1.

E) In particular, the Council stresses that actions against trafficking should form an essential part of a global, coherent approach, covering activities within the remit of the Three Pillars.

II. GENERAL SITUATION

see annex I

III. REQUIREMENTS FOR MORE EFFECTIVE LAW ENFORCEMENT

A) Drugs

The large-scale smuggling of drugs from the source countries to and between the Member States is controlled by criminal organisations and groups both from within and from outside Member States, albeit that the strategic and integrated response of these Member States varies from country to country according to national circumstances.

In some Member States the prospective strengths of both police and customs agencies may not have been focused to maximum effect in the past.

Improved co-operation between law enforcement agencies at national and international level is essential in the fight against drug smuggling. Consultation between such agencies and judicial authorities should be intensified in order to remove, wherever possible, any obstacles to effective investigations and prosecutions.

In toenemende mate worden de rechterlijke autoriteiten in de landen van de EU geconfronteerd met vragen rond de toetsing van de rechtmatigheid van toegepaste onderzoeksmethoden in andere EU landen, de rechtmatigheid van de overdracht van daaruit voortgevloeide gegevens en de toelaatbaarheid van het gebruik daarvan als bewijs. De toelaatbaarheid van bepaalde onderzoeksmethoden verschilt in de diverse Lid-Staten. Het is daarom nodig dat de normen, die ten aanzien van de verschillende opsporingsmethoden worden gehanteerd, worden geïnventariseerd.

An EU survey on the size and impact of organised crime involved in the drug trade based upon national surveys should continue to be undertaken on a regular basis. Gestreefd moet worden naar gelijkwaardigheid in de nationaal te verzamelen gegevens en verbetering van de onderlinge vergelijkbaarheid.

It seems necessary to create within the EU a systematic and open access to strategic and operational intelligence subject to national laws, so that the authorities at EU level and within the Member States obtain a better view on methods, trends and prognoses influencing future developments. Therefore the use of sensitive data is essential to enrich the information already available via other channels.

In addition there is a specific need to exchange so-called hard and sensitive data between Member States for operational use by the various law enforcement agencies involved in the fight against illicit drugs. A pro-active and project-oriented approach is especially needed to enable all law enforcement agencies to benefit from the variety of accessible sources of information and intelligence. This is not only a matter of organizing and structuring the procedures and the technical means but mainly a matter of building up mutual trust and confidence between the different law enforcement agencies at national and international level. Therefore all the intelligence related activities must be organised within a secure and confidential framework in order to give the various law enforcement agencies the necessary assurances to encourage them to exchange intelligence information between each other.

Therefore the needed consensus and mutual understanding within the EU should be a guarantee for a common EU approach.

Although co-operation between the Member States has existed and been developed for many years, it is often carried out on an ad hoc basis in relation to forthcoming or ongoing investigations. It is partly for this reason that requests for assistance from one Member State to another, e.g. with regard to cross-border observation and controlled deliveries, do not always receive a satisfactory response owing to differences in legal conditions and enforcement practices in addition to differing perceptions of priorities and resource implications.

As already mentioned, most of the drugs that come onto the users' markets in the Member States are produced outside the territory of the EU and therefore have to cross one of its external borders. Controls on the external borders, using advanced detection techniques and tactics as well as shared intelligence data, are therefore an essential part of the fight against international drug-related crime.

The continuous and better organised collection, exchange and co-ordination of information and intelligence, nationally and internationally, is therefore essential as are the compatibility of enforcement techniques, technical means and a permanent willingness to co-operate internationally.

B) Money laundering

1) The international community as a whole and in particular the bodies of the EU, have made efforts to combat the use of the legitimate financial sector for the laundering of proceeds from crime. To this end, the 1990 Strasbourg Convention and the 1991 Council Directive have required the Member States of the EU to ratify and introduce new legislation. It is essential that all Member States ratify this Convention. The Commission has submitted a report on the implementation of the 1991 Directive. As described in this report, the major stumbling block, however, is the unique nature of the implementation in the individual Member States and the consequent diverse

interpretations. A notable operational problem in some Member States is the reluctance by the organisations set up to receive suspicious or unusual transactions to disclose sensitive financial information and intelligence to their counterparts in other Member States. Undoubtedly this results in the withholding of one of the most valuable forms of criminal intelligence and reduces the effectiveness of the law enforcement agencies tasked with the investigation of the money laundering offenses.

The principal difficulty in most countries in prosecuting those responsible for laundering money is that any prosecution is dependent upon another initial criminal offence being proven. It is not investigated as a crime independent of any other activity, which is an unusual phenomenon in the law enforcement field. Other difficulties are :

(i) divergent approaches by Member States relating to the application of legislation to the credit and financial institutions ;

(ii) differing privacy levels in EU countries ;

(iii) differences between Member States in the coverage of money-laundering legislation (i.e. application to drugs proceeds only or also the proceeds of other serious offenses) ;

(iv) different reporting systems for suspicious or unusual transactions within the Member States and the different structures of the responsible organizations and in particular the lack, in some Member States, of a central body that receives reports on suspicious transactions ;

(v) limits, judicial or administrative, placed on use and circulation of the information received in a financial disclosure ;

(vi) burden of proof (whether the criminal has to prove how he obtained the funds or the prosecution has to prove the funds came from illegal means) ;

(vii) in several Member States there is no law enforcement infrastructure to ensure that information regarding suspicious transactions is dealt with in a qualified way.

Although legislation is now in place in all Member States, the degree to which any investigation of money laundering activity is carried out varies enormously. These anti-money laundering measures, whilst considered effective at a national level, fail to achieve their objectives internationally.

2) Asset Seizure

In order to counter the ever-increasing threat from internationally-organized drug-related crime and the associated social, economic and penal policy problems, the fight against drugs must be multifaceted and conducted on an international level.

Asset seizure is made possible internationally on the basis of the 1990 Strasbourg Convention and bilateral agreements. Following the identification of proceeds suspected of being derived from criminal activity problems are encountered with the restraint of assets pending the successful conclusion of the prosecution, and subsequently the forfeiture of the assets once a full assessment has been made. In some Member States asset identification and tracing inquiries are undertaken in every drug trafficking criminal enquiry whereas in others there is no set procedure for commencing theses tasks. This is obviously an area for improvement, as is the seizure of assets by one EU country on behalf of another Member State. Although in some cases assets are identified, restrained and later confiscated on behalf of another Member State it is an infrequent occurrence and normally undertaken on an ad-hoc basis. The reasons behind this are unclear although the reticence to exchange information with another country is often given as an explanation. Certain Member States have overcome problems in the exchange of information by signing bi-lateral confiscation agreements specifically to carry out asset seizure.

Once the assets are confiscated after a successful conviction, problems still occur as there is often a shortfall between the estimated benefit to the offender and the amount collected. However in some Member States some or all of the confiscated assets may be used to further law enforcement activity.

THIRD PILLAR AIMS AND OBJECTIVES

A) Aims

1) The Third Pillar strategy to combat drug trafficking should make a significant contribution to the EU's law enforcement actions in combating illegal drug production and trafficking, and in dismantling international drug trafficking organizations and financially affecting those involved in the illicit drug trade.

2) This has to be accomplished by :

- encouraging all appropriate police, judicial and customs co-operation initiatives, especially concerning new conventions or judicial or administrative assistance ;

- improving practical and operational co-operation between police and customs departments;

- encouraging effectiveness, co-operation, the exchange of information and the complementarity of action between the various national and international law enforcement agencies in order to better fight against illicit traffic in narcotic drugs and psychotropic substances, including the increased development of co-operation in combating the illicit traffic in precursors, and being more effective in tackling the laundering of proceeds obtained by criminal organisations involved in the drugs trade.

3) In order to achieve and sustain a much needed consensus on an anti-drug strategy across the EU Member States, an improved coordination of activities of interwoven fora would be necessary. At least every year, coordinated and complementary working programmes of competent bodies should be drawn up, which should be reviewed regularly. Within the existing legal framework, full use has to be made of possibilities offered by the EDU and the European Drugs Monitoring Centre.

4) Prendre au niveau européen une option de position commune dans les enceintes internationales afin d'affirmer nos décisions avec l'unité nécessaire dans bien des cas.

5) The question of whether and to what extent activities referred to in this report can be financed from European Union funds, will need to be examined further.

6) The concrete measures put forward in this document aim at reducing the supply of drugs. To make the measures effective, they have to be founded on legislation that admits intervention against the drug problem in all its parts and that there is an intention and a capability to uphold such a legislation. It is obvious that all forms of legalisation of drugs are incompatible with these efforts. The framework for all Member States' activities is set out in the three relevant U.N. Conventions (1961, 1971 and 1988).

7) The response to the drugs problem demands renewed efforts in all areas. Many agencies and authorities have a part to play in this - the police and customs and their support services, prosecutors, criminal justice authorities and a range of Ministries. There is a need to ensure close and continuing consultation and co-operation between those agencies and authorities. An important strand in this is the ongoing consideration being given by working groups under Steering Group III to ways of improving judicial co-operation in such areas as extradition, mutual legal assistance and international organized crime.

8) Any actions taken or suggestions implemented as a result of this report should be evaluated and the effectiveness of the results judged before studying new proposals.

B) Objectives

To achieve these aims, the strategic objectives will be :

- to prepare the coordination and initiation of simultaneous law enforcement operations in the Member States against criminal organisations involved in the drugs trade ;

- to make strategic and operational analyses and to exchange intelligence, in relation to the cultivation and production of, and trafficking in, illegal drugs ;

- to develop and implement specific projects related to Central and Eastern European, and Mediterranean transit areas, in order to improve co-operation, strategic and operational analysis, and exchange of intelligence in relation to the cultivation and production of, and trafficking in, illegal drugs ;

- to accelerate the process of coordinating and improving methods of control at air, sea and land frontiers, in particular with regards to checks on containers in sea, inland waterways, and combined ports of the EU ;

- to achieve a well-organized and effective EU intelligence exchange, and improve cross-border and international law enforcement co-operation, giving attention where feasible to the necessity for cross-border observations, controlled deliveries and undercover activities dans tous les mouvements de traffic y compris les mouvements de capitaux et les précurseurs chimiques.

V. ACTIONS

In order to achieve these aims and strategic objectives, the following actions are proposed.

1. Third countries

a) Third countries

(i) Drug production and cultivation

- Knowledge about drug production and cultivation has to be improved. In the context of the actions carried out and financed by the EU and the Member States, it would be desirable to extend, depending of resources available, the use of satellites to monitor the situation in the producing countries and to assist the effective analysis of the problem. This information should, whenever possible, be shared.

- Die Leistung von Beratungs-, Ausstattungs- und Ausbildungshilfe and ausländische Rauschgiftbekämpfungsbehörden erfordert eine Abstimmung der unterschiedlichen Programme auf der Seite der Geber. Die bisherigen Ansätze der Koordinierung haben sich als noch nicht ausreichend erwiesen, in einem Partnerstaat ein integriertes Gesamtprojekt zu planen und durchzuführen.

  An ein Verfahren vergleichbar dem für die MOE-Staaten (Task Force der Geber im organisatorischen Rahmen als UNDCP) könnte dabei gedacht werden.

(ii) Transit Countries

- Following the Corfu and Essen Summit, the Central and Eastern European countries (PECOS) must be considered as priority regions for EU action. Full and effective use should be made of possibilities offered by the PHARE programme and the UNDCP Task Force and this must be properly coordinated.

- Member States should, in consultation with heads of NCIS, draw up and carry out a joint action plan for tackling Turkish drug traffickers and a progress report should be prepared by the end of June 1996.

(iii) Regions of specific interest

The European Union has a clear interest in all producer and transit countries which are sources of drugs reaching its borders. There has been recent action in respect of two specific regions :

- Mediterranean

  [The Euro-Mediterranean Conference of November 1995 in Barcelona has agreed on the following measures for co-operation in the drugs field .....]

- Andean region

  At the Ministerial Troika of the Union and Ministers responsible for the fight against drugs in the Andean countries of 26 September 1995, it was agreed that :

  = regular high-level technical meetings would be held between those responsible for the fight against drugs ;

= the mechanisms for a permanent and smooth exchange of information and coordination between authorities and bodies specializing in the monitoring and prevention of all manifestations of the drug phenomenon were to be bolstered ; to that end a contact point will be designated for each European Union and Andean Pact State ;

= those States which so wish could negotiate bilaterally the appointment of liaison officers in order to step up co-operation between the parties ;

= specific bi-regional co-operation was to be continued and stepped up in areas such as : judicial administration and the training and strengthening of specialized bodies to combat and monitor illicit drug trafficking, prevention of drug addiction and the treatment and reintegration of addicts, as well as reducing the dangers from drug abuse ;

= balanced, alternative development programmes would be stepped up as an action strategy to complement the eradication of illicit crops. Similarly, support would be provided for the protection and conservation of ecosystems threatened by such crops.

b) Role of liaison officers

Nello svolgimento di una azione coordinata, diretta ad apliare le conoscenze relative al fenomeno droga, è da riconiscere l'importante ruolo degli Ufficiali di Collegamento delle Forze di Polizia e Doganali inviati dagli Stati dell'Unione nei Paesi di coltivazione e produzione delle droghe, nonchè in quelli di transito.

La creazione e l'aggiornamento di una rete di Ufficiali di Collegamento, a sostegno di una strategia anti-droga, deve procedere nel rispetto di univoche coordinate rivolte all'acquisizione di un patrimonio informativo nelle rispettive sedi di destinazione, capace di potenziare gli interventi dei Paesi membri nelle competenti sedi istituzionali.

Tenendo conto dell'attuale rete dei citati Funzionari, occorrerà che gli Stati dell'Unione :

- si informino reciprocamente circa l'invio di ulteriori esperti nei Paesi terzi, and other relevent issues including overall threat/risk assessments based on report from national DLOs ;

- respecting national priorities rivolgano una particolare attenzione alle regioni più sensibili ai cennati processi di coltivazione, produzione, transito e deposito di droghe, che risultino "non coperte" dai Paesi membri ;

- tengano conto, nella fase decisionale di assegnazione, della dichiarazione di Berlino del 1994 volta a dare priorità ai Paesi dell'Europa Orientale e Centrale ;

- considerino la feasilibity di utilizzo comune (a livello U.E.) dei Funzionari di Collegamento per quanto attiene ai dati non personali e strategici, favorendo, ove del caso, la sistemazione degli stessi in Paesi Terzi, sulla base di specifiche intese, anche a livello bilaterale ;

- assicurino la elaborazione, da parte dei citati Funzionari, di relazioni periodiche che, considerando le valutazioni espresse nelle sedi in cui operano, tengano conto delle esigenze comuni dell'Unione, richiamate dal Titolo VI° pour les domaines figurant dans le présent rapport.

c) Without prejudicing bilateral and multilateral agreements, specific priorities should be set out in the following areas :

- exchange of intelligence (EDU and neighbourhood EU countries)

- operational (cross-border) co-operation of neighbourhood countries of transit countries concerned.

Member States should make efforts to enhance co-operation and coordination between DLOs both within the EU and in third countries, through increased exchanges of information and intelligence and through regular in-country meetings. They should make use of the DLO network in the control and monitoring of precursors.

2. EU external borders

a) Prior consideration should be given to the following measures :

- the external frontier strategy which is currently being developed in the Customs Co-operation Working Party, should pay special attention to the effectiveness of controls and co-operation between police and customs authorities. Practical measures should be developed to improve co-operation between law-enforcement agencies of Member States. The adequacy of the resources, facilities and arrangements in place at sea- and airports, required to protect the external borders of the Union from drug trafficking, should be looked at ;

- special attention should be given to drugs in container traffic, also for containers in transit, as well as co-operation with national and international transport organizations, and cross-border drug-related cash flow ;

- refined selection of checks (e.g. targeting criteria, methods of selection) and collection of operational information, should be accomplished in the context of the respective responsibilities of the police and customs authorities and their normal co-operation arrangements, making use of information and intelligence obtained specifically for this purpose ;

- door de douane dienen convenantes (Memoranda of Understanding) afgesloten te worden met het bedrijfsleven om tot een gezamenlijke aanpak in de drugs- en fraudebestrijding te komen. Op basis van deze afspraken leveren de bedrijven voor de aankomst van de vervoermiddelen informatie met betrekking tot de goederen, op basis waarvan de douane risico-analyse kan toepassen en zo haar controles kan richten op die goederen waaraan een verhoogd risico zit.

b) Other measures could relate to :

- enlargement of the scope of the initiative on the future exchange of intelligence between law-enforcement authorities actually being prepared by EDU with Member States (e.g. airports : Belgium) should be studied and possibly coordinated, among aothers, with the Customs Information System avoiding duplication of work ;

- identification of practical measures to promote co-operation with trade bodies in the fight against drug trafficking on an EU-wide basis.

3. Intra EU-actions

a) Prior consideration should be given to the following measures :

- common actions to fight internationally-operating criminal organizations involved in the drugs trade (co-operation between police and customs officers of the competent law-enforcement authorities can avoid duplication of efforts and make optimum use of their complementary tasks, manpower and resources), at the borders as well as within the Member States ;

- identification of appropriate work areas in incoming/outgoing exchanges/secondments ;

- strong and effective action to combat and dismantle domestic cultivations of drugs within the Member States concerned ;

- Member States should exchange and second law enforcement officers involved in anti-drug trafficking activities ; exchanges should be centrally coordinated or arranged on a mutually beneficial bilateral basis between Member States, as appropriate. [Information on these exchanges should be provided to the Presidency by the end of March 1996. First exchanges and secondments should be undertaken during the period 1 April 1996 to 31 March 1997.] ;

- operational co-operation between the competent bodies of the Member States through controlled deliveries, international surveillance and, where feasible, undercover operations with, if appropriate, the logistic support of the EDU structure ;

Extracted by Wiffen Hoppe

- reduction of drugs destined for drugs tourists by appropriate police and administrative measures of Member States concerned, such as regular drug tourism studies, strengthening and developing of customs administrations' staff, mobile patrol squads, intensification of internationally-coordinated controls, common investigations, adequate network of contact points, operational registration and data system, exchange of liaison officers, judicial co-operation, common preventive measures and common control actions ;

- coordination of Member States' efforts to tackle Turkish traffickers on an EU-wide basis, using intelligence sharing and profiling techniques ; imposing stronger controls on eastern external borders and in due course identifying a suitable joint project to be conducted in co-operation with EDU, Interpol and the World Customs Organization. [Member States should, in consultation with Heads of NCIS, draw up and carry out a joint action plan for tackling Turkish drug traffickers. A progress report should be prepared by the end of June 1996.] ;

- die erforderlichen rechtlichen Grundlagen für die verbesserte grenzüberschreitende Zusammenarbeit der Strafverfolgungsbehörden, wie zum Beispiel die Observation, die kontrollierte Lieferung, die Nacheile oder der Einsatz von verdeckten Ermittlern oder Vertrauenspersonen müssen geschaffen bezw. verbessert werden.

* S.O. Türkische Händler

o) Other measures should comprehend :

- effective exchange of intelligence-sensitive data to be organized between the Member States ;

- a ballistic profiling system, to identify distribution patterns for drugs throughout the EU is being compiled by the EDU with the assistance of the European Drugs Monitoring Centre. The question needs to be addressed by Member States, with EDU support, whether an additional chemical profiling system is required, perhaps through a European network of forensic laboratories. [A report on this issue should be prepared by end June 1996.] ;

- the drug-prices indicator system produced by the EDU should be enhanced by the addition of a purity indicator system. This will need the assistance of the European network of forensic laboratories and the European Drugs Monitoring Centre.

4. Money laundering

It is essential that the Member States develop a uniform strategy in order to enhance co-operation, at the EU and international level, to combat money laundering. In this regard the following measures are of great importance :

- the ratification and effective implementation of the Vienna and Strasbourg Conventions as well as the full application of all the provisions of Directive 91/308/EEC ;

- to encourage the creation of a single central body in all Member States responsible for storing information on suspicious transactions and money laundering techniques ;

- to promote the creation of appropriate mechanisms for the exchange of information and co-operation between the above mentioned central bodies ;

- to promote application of appropriate anti-money laundering standards by third countries. In this respect, co-operation in the framework of the FATF and other international organizations as well as at bilateral level is paramount ;

- co-operation between judicial authorities should continue to be improved ;

- police and custom investigation teams should be created in order to make the most effective use of specialized knowledge in the Member States.

The development of an EU law enforcement financial database should be studied. This initiative could help to elaborate on a regular basis a general EU situation report in this matter. In order to achieve this aim, there is a need to improve the coordination of the exchange of intelligence between the national disclosure institutes and the law enforcement agencies. One or several specific contact points per Member State should be responsible for the organization of internal EU co-operation, together with the EU organizations and institutes. Incorporate intelligence and clues in the relevant information systems have to be organized. Police and custom investigation teams have to be created in order to make the most effective use of specialized knowledge in the Member States.

Efforts should continue to be made to ensure that the responsible authorities for receiving financial disclosures in all Member States exchange information and intelligence on a legal basis between Member States.

Competent bodies of the Union are to produce in co-operation with the Member States a report on the financial transport techniques, the methods to disseminate information about suspicious transactions, money laundering and to study further initiatives.

Competent bodies of the Union, especially the Commission and EDU, will also elaborate an internal strategy on money laundering, leading to investigation related initiatives, and have been invited to prepare a report to be presented to the Council of Ministers before the end of 1995.

These bodies are also carrying out specific work in the field of money laundering e.g. bureau de change and asset seizure.

Contacts should be established and maintained with other bodies active in the field of money laundering, in particular the FATF.

5. Preventing the diversion of precursors

Effective co-operation at regional and international level is a prerequisite for success. Existing and potential action by the EU and Member States spans all three pillars of the EU Treaty. Work is undertaken through Community legislation, the PHARE Regional Drugs Programme and both bilateral and multilateral investigations by national authorities and enforcement agencies. In addition the role of the DLO network as well as co-operation with UNDCP is essential.

At EU level, any proposed strategy to prevent the diversion of precursors should reflect the full range of existing and potential activity in this field. A comprehensive strategy should include the following components:

- stricter controls on commercial trade of certain chemical substances used in the illegal production of drugs ;
- EU relations with third countries ;
- enforcement (Member States/police and customs co-operation/EDU support) ;
- effective co-ordination and co-operation within the EU institutions, with other international organisations and with the industry involved, having regard of national data protection and tax secrecy laws ;
- Member States should promote and maintain the closest possible co-operation and understanding between responsible enforcement, licensing and regulatory bodies at both national and international levels.

In the field of drug precursors (Council Regulations (EEC) No. 3677/90 and No. 900/92 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances) administrative co-operation between Member States and the Commission is extensively stated. To demonstrate the competence between the first and third pilar it is clear that enforcement (non administrative co-operation) is the competency of the bodies governed by Title VI of TEU.

Various competent bodies can provide support to co-operation and mutual assistance. The exchange of information and intelligence should be coordinated in respect of this distribution of competencies.

5. Training

In the EU, depending on national capabilities, joint training programmes for officials from the different law enforcement agencies should be increased both at national and international level. This may include basic training and advanced courses on crime analysis, controlled deliveries, observation, undercover operations, money laundering, precursor chemicals, automation and communication, profiling and detection. Training programmes could be supplemented by common expert meetings, common exchange programmes, and a constant sharing of information, for example in the field of scientific analysis and detection.

For specific courses where certain countries have gained experience in the field consideration should be given to the setting up of international ad-hoc training teams. Duplication of efforts can then be avoided, a better co-ordination of training activities can be arranged and realistic operational needs can be identified and reached.

The coordination function required to reach this position will benefit from the contribution of the UNDCP.

7. Judicial co-operation (1)

With regard to judicial co-operation, the following measures should be taken :

- improvement of the legal basis for co-operation, i.e. by ratification of relevant treaties (see annex II) ;
- organization of a structured dialogue between magistrates and prosecutors ;
- bilateral exchange of liaison magistrates/prosecutors.

(1) Various delegations have announced their intention to forward concrete proposals on this item.

GENERAL SITUATION

A) Situation report on drugs

The EU Member States are confronted on a large scale with problems arising from the use, smuggling and production of drugs, and associated money-laundering activities. The pattern of drug abuse varies according to the type of drug concerned.

Some Member States are confronted with drug tourism - which, seen from the point of view of the EU as a whole, is a regional problem - and with the phenomenon of organised music "parties or raves" where ecstasy and amphetamines may be widely used.

The growing influence of new groups from Central and Eastern Europe, including former Yugoslavia, Russia, Poland, Rumania, Bulgaria and Albania, is perceptible in almost every Member State.

In the source-countries, political, economic and social factors play a major role in influencing both the production and anti-drug effort. In Pakistan and Myanmar for example, the central government is unable to effectively exercise authority in the isolated areas where drugs are cultivated. In Afghanistan, Colombia and Peru, the resistance movements finance their activities partly from the production of drugs. Corruption, sometimes at government level, the fear of criminal organisations, inadequate legislation and poor equipment, prevent the law enforcement and prosecution agencies from achieving their objectives. High unemployment, compounded by lack of social provisions and low prices for agricultural produce, drive the population to the coca and poppy fields and into the hands of criminal organisations.

Most illegal drugs can only be refined by adding or using chemicals (either precursor or essential). Partly for this reason, the UN Convention of 1988 obliges the signatory countries to the Convention to introduce a system for monitoring international trade in certain chemical substances used in the illegal production of drugs.

In this connection, the Council of the European Communities adopted EC Regulation No. 3677/90, which was supplemented and amended in 1992/1993 by EC Regulations No. 900/92, No. 3769/92 and No. 2959/93. These Regulations represent an important step forward in the control of drug precursor chemicals ; the drawing up of profiling programmes and the national and international observation and controlled delivery of these substances can make a significant contribution to locating the place of production and thus to the success of an investigation.

B) Products

1) Heroin

The "Golden Crescent", the border region between Afghanistan, Pakistan and Iran, is known as a major production area. Heroin produced in this area is smuggled to the Member States from Pakistan by ship, by post or by couriers. Many couriers are nationals of countries in East and West Africa.

Turkey is the main transit country for heroin from the Golden Crescent. Some 85 % of the 5,907 kg of heroin seized in the Member States in 1994 was delivered via the various Balkan Routes, which are controlled by Turkish criminal organisations. Use is often made of TIR lorries travelling through the Central European and Baltic states.

The network of Turkish drug trafficking organisations has now spread into almost all the Member States. The main countries of destination are Germany, Spain, Italy, France, Belgium, the Netherlands, the United Kingdom and the Scandinavian countries.

There are indications that heroin is being stored in Bulgaria, Hungary, Rumania, Poland and the Czech Republic. Albania is becoming increasingly important both as a transit and trafficking country.

Another production area is known as the "Golden Triangle", on the border of Thailand, Myanmar and Laos. It is the world's main producer of opium with an annual yield of between 30 and 40 tonnes of heroin, about 15 % of which goes to the European market. Thailand is the Asian centre for heroin smuggling. Delivery to consumer countries is made mainly through air passenger couriers, travelling directly to EU airports using various transit airports in the Member States. The sale of this heroin is primarily controlled by groups originating from Hong Kong, the People's Republic of China and Singapore. (The same groups are also involved in smuggling people out of the People's Republic of China).

The use of heroin is still considered to be the major drug problem encountered within the European Union.

Large quantities of chemicals are needed in the refining process and some of these are obtained from the Member States.

2) Cocaine

South America is the main producer of cocaine. Peru, Bolivia, Colombia, and Brazil produce a total of over 30,000 tonnes of coca leaves each year, enough for almost 900 tonnes of cocaine. Chemicals from the United States and Europe, destined for the cocaine laboratories in Colombia and Bolivia, are stored in Venezuela. Groups based in the Cali area of Colombia control the wholesale market in the Member States. The main smuggling routes begin in Colombia and Venezuela. Panama is emerging as a transit country. In the Caribbeans, the French and Netherlands Antilles, Jamaica and Trinidad and Tobago are exit points for the smuggling of cocaine to the Member States.

The quantity of cocaine seized on the external borders of the European Union increased by 300 % between 1988 and 1992. Approximately 60 % of all cocaine destined for the Member States is shipped in containers.

Couriers travel from various airports in South America to the Member States. Of the 29 tonnes of cocaine seized in the Member States in 1994, 4.5 tonnes was found at airports. The Netherlands, Italy, France and Spain accounted for 81 % of the cocaine seized in the EU. The largest consignment ever seized in Europe - 5,490 kg - was found in Italy.

Central and Eastern European countries are playing an increasingly important role in the transit and trafficking of cocaine to the Member States. Large quantities of cocaine, destined for the market in the Member States, have been intercepted in Poland, the Czech Republic, Rumania and Russia in recent years.

3) Synthetic drugs

Synthetic drugs are found in the Member States in numerous forms. The most widely available of these are amphetamine and amphetamine derivates MDA, MDMA (ecstasy) and MDEA, and LSD.

Unlike heroine and cocaine, synthetic drugs are also produced in the European Union itself. Groups which manufacture these drugs for the home market or import/export operate in many Member States. Amphetamine laboratories have been found in the past few years in the Netherlands, Germany, United Kingdom, Denmark, Belgium and France. More amphetamine (1,171 kg) was seized in the United Kingdom in 1994 than in the other Member States put together.

Poland, Hungary, the Czech Republic and the Baltic states are emerging as producers and exporters of these drugs. Approximately 30 % of the amphetamine found in Denmark in 1994 originated from East European countries, notably Poland. In Sweden this figure is estimated to be 50 %.

There is a marked involvement of EU nationals in the production process in East European countries and subsequent distribution in the EU.

4) Cannabis

In 1994, 733 tonnes of cannabis were seized in the Member States, including 238 tonnes in the Netherlands, 219 tonnes in Spain and 60 tonnes in France.

Morocco is the main source country to the EU. Almost 95 % of the cannabis seized in Spain in 1994 originated from Morocco. In Denmark this figure was 93 % and in France 50 %.

A large amount of cannabis is smuggled in yachts, fishing boats and coasters. In the past few years the emphasis has been on road and sea container transport. In some cases, road haulage companies falling into financial difficulties are being used, having been taken over by criminal organisations. Cannabis is also smuggled in cars, caravans and campervans.

Cannabis consignments from Pakistan are shipped from the port of Karachi. The cannabis is often concealed among the legal cargo in containers.

Almost all Member States are transit countries as well as user countries. Of the 800 tonnes of cannabis seized in France in 1994, 11 tonnes were delivered via Spain and 800 kg from the Netherlands. A large proportion of this was destined for the Netherlands, Belgium and the United Kingdom.

[A significant amount of cannabis and derivatives is traded [illegally] annually in the +/- 1100 coffee shops in the Netherlands.] (1)

[Apart from the dozens of tonnes of cannabis imported through EU ports each year, often concealed in containers from Colombia, Nigeria, Cameroon, Jamaica and Southern Africa, cannabis is being grown increasingly, on a professional scale, in some Member States themselves [especially in the Netherlands].][1]

(1) The Netherlands delegation favoured the deletion of these sentences because in the paragraphs on other products no mention is made of traffic and cultivation patterns in the European Union.

C) Money Laundering

It is widely accepted that the economic impact of drug trafficking and money laundering is no longer limited to the proceeds from drug trafficking but to all criminal offenses. De mogelijkheden om dit te bestrijden zijn verbeterd door de Richtlijn van 1991 en de daarop volgende nationale wetgeving. De bestrijding wordt echter gehinderd doordat het Verdrag van Straatsburg van 1990 door veel Lid-Staten nog niet is geratificeerd en doordat in veel landen buiten de Unie relevante wetgeving ontbreekt. Bovendien verbreiden zich trends in money laundering in steeds meer landen waarbij in ingewikkelde procedures een illegaal gebruik wordt gemaakt van bureaux de change, life insurance, bonds, property investment (also via trust companies) and the general use of trust companies as a legal cover.

IMPROVEMENT OF THE LEGAL BASIS FOR JUDICIAL CO-OPERATION

(cf. point V.7, page 20)

Multilateral treaties on judicial co-operation which should be ratified by the Member States of the European Union to strengthen and facilitate the fight against illegal drug trafficking :

- Additional Protocol to the European Convention on Extradition (Strasbourg, 15 October 1975)
- Second additional Protocol to the European Convention on Extradition (Strasbourg, 17 March 1978)
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 17 March 1978)
- European Convention on the International Validity of Criminal Judgments (The Hague, 28 May 1970)
- European Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 15 May 1972)
- Convention on the Transfer of Sentenced Persons (Strasbourg, 21 March 1983)
- Convention on the Enforcement of Foreign Criminal Judgments (Brussels, 13 November 1991)
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990)