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ENFOCUSTOM 53

NOTE

from :	German delegation
to :	Customs Cooperation Working Party (Experts)
Nos prev. docs:	6012/99 ENFOCUSTOM 6; 7403/98 ENFOCUSTOM 22 ENFOPOL 46 CRIMORG 51; 8714/97 ENFOCUSTOM 36 ENFOPOL 130; 10782/96 ENFOPOL 160 ENFOCUSTOM 46; OJ C 375, 12.12.1996, p. 1
Subject :	Evaluation of the implementation of the Council Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs

Introduction:

The specific purpose of this note is to evaluate the progress achieved in implementing the abovementioned Resolution.

In adopting the Resolution, the Council set itself the objective of further promoting the existing forms of collaboration between police forces and customs services by means of formal agreements or arrangements at national level which take account of the broad guidelines laid down in the Resolution.

At the time of the last evaluation, it was proposed in Section 6 of the report to Coreper/the Justice and Home Affairs Council (7403/98 ENFOCUSTOM 22 ENFOPOL 46 CRIMORG 51) that a further report should be made to the Council within a year, which should address in particular the progress made in the areas referred to in Section 6 of the report.

Summary of replies to the questionnaire on the evaluation of the implementation of the Council Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
1. Agreements or other arrangements taking account of the broad guidelines laid down in the Council Resolution of 29 November 1996 and concluded after the last evaluation (Annex 1)	none, as Naples II not yet implemented	none ¹⁾	none ²⁾	none	none	none	none ³⁾	none	none ⁴⁾	none ⁵⁾	none	Annex	Annex	Annex	none ⁶⁾

- 1) B: In Belgium there exists an agreement between the Justice and Home Affairs Minister and the Minister for Finance, signed on 17 May 1999, which is based primarily on the Council Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs. The current version of this cooperation agreement comprises only an initial section on cooperation under the EUROPOL Convention. The parties have agreed to consider the possibility of extending their cooperation to the following areas:
1. the functioning of the Schengen Agreement within the EU;
 2. the entry into force of the Naples Convention II on Mutual Assistance between Customs Administrations;
 3. all other areas in which the parties share competence.
- Point 1 above is already under negotiation.
- The planned overall agreement is intended to cover all aspects of police and customs cooperation – at international, cross-border, national and local level. The agreement is intended inter alia to regulate areas of joint competence, the exchange and sharing of information, the exchange of liaison officers, joint operations and the sharing of equipment.
- 2) DK: The Chief Commissioner of Police and the Director of the Customs and Inland Revenue Department decided in November 1997 to set up a working party responsible inter alia for identifying possible ways of promoting closer cooperation on customs matters between the police and customs/tax authorities. The working party has since submitted a report containing a series of proposals for improved cooperation at both central and local level.

- 3) F: The entry refers to the national level. At international level three cooperation agreements between police and customs have been signed in connection with the Schengen Agreement: with Germany (9 September 1997), Italy (3 October 1997) and Switzerland (11 May 1998). These agreements should lead to intensified cooperation between police and customs. In addition to these agreements, regular meetings of customs, police and national gendarmerie are held both at headquarters level and at local level, at which topics of common interest are discussed.
- 4) IRL: In January 1998 a joint training programme was organised.
- 5) I: Discussions are continuing between the competent ministries on the conclusion of agreements aimed at intensified cooperation between police forces and customs authorities in fighting drug-related crime. These agreements will contain provisions concerning point 2 (a), (b), (c), (d), (e), (f), (h), (k), and (l). In 1999 an agreement was concluded between the customs administration and the "Guardia di Finanza" (tax police with competence in the customs sector) with the aim of exchanging information concerning fraud; this also includes information relating to the fight against drugs. Also in 1999 an agreement was introduced which provides for the seconding of a customs liaison officer to the Central Directorate for combating drugs in the Ministry of the Interior.
- 6) UK: The agreement with the Regional Crime Squad has been replaced by an agreement with the National Crime Squad.

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2. Provisions contained in such agreements:	N/A	N/A	N/A	N/A	N/A ¹⁾	N/A	N/A	N/A	N/A	see question 1	N/A	see question 1			N/A
(a) precise delineation of, and respect for, the competences of each of the two services															
(b) exchange of relevant information													+	+	
(c) exchange of descriptions of drug traffickers' modus operandi															
(d) exchange of information on the application of risk analysis techniques															
(e) exchange of liaison officers at headquarters level of the two services															
(f) putting in place close liaison arrangements at local level													+		

(g) joint agreed press statements															
(h) joint police-customs task forces for intelligence and/or investigation purposes															
(i) agreed police-customs procedures for operational matters involving both these agencies													+		
(j) joint police-customs mobile patrol squads															
(k) joint police-customs training programmes															
(l) sharing of equipment by police and customs													+		
(m) other matters													2)		

- 1) E: Although not reflected in 7403/98 ENFOCUSTOM 22, an exchange of liaison officers between customs authorities and police forces is organised in Spain with the aim of improving cooperation and promoting mutual trust.
- 2) P: Although the cooperation agreements referred to do not, strictly speaking, contain the points listed under the other letters, they do include the exchange of information on traffickers' operating methods and provisions concerning liaison officers, press statements and training.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
3. What amendments have been made to agreements concluded before the last evaluation?	¹⁾	none	none	none ²⁾	none	none	none	none	none	none	none	none, no adjustment necessary	³⁾		none

- 1) A: (a) Precise delineation of, and respect for, the competences of each of the two services
re (a) The delineation of competence is in accordance with the Austrian Drugs Act.
(f) Putting in place close liaison arrangements at local level
(g) Joint agreed press statements
re (f) and (g)
An informal agreement exists at Vienna/Schwechat airport concerning persons apprehended and press information.
(l) Sharing of equipment by police and customs
re (l) Joint use of customs inspection sheds by police (in the presence of customs).
- 2) D: Consideration is currently being given to reorganising cooperation between customs and police in the joint drugs investigation teams.
- 3) P: A comprehensive programme for cooperation has been developed, particularly between the Direcção-Geral das Alfândegas e dos Impostos Especiais Sobre o Consumo (Directorate-General of Customs and Excise) and the Polícia Judiciária (Criminal Investigation Police); the additional protocols in question contain specific provisions concerning investigations of vehicles and the sharing of equipment used for surveillance and monitoring.
As regards both exchange of information and operational aspects, these agreements allow for intensified cooperation between the police and customs authorities, which leads to more arrests and an increase in the volume of drugs seized.
In addition, depending on future requirements, it is planned to draw up further additional protocols.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
4. Where satisfactory arrangements do not already exist, was consideration given to the development of the cooperation procedure at local and central level?	see question 1		¹⁾	see question 3	no, situation is satisfactory		²⁾		no		no	see question 3	³⁾		

- 1) DK: The working party referred to (see question 1) has suggested that the existing cooperation arrangements should be expanded through cooperation agreements at central and at local level.
It was recommended that the cooperation agreements should be set out in writing, including a number of permanent features but retaining some flexibility.
- 2) F: In accordance with the provisions governing coordination between the law enforcement agencies or by way of operational cooperation in general, the customs and police often carry out joint operations at national and international level. At national level, in 1997, in connection with the circular on upgrading the security plans of the "départements", more than 1 000 high-impact operations were organised. Internationally, in addition, joint operations involving various law enforcement agencies are regularly organised (e.g. in Northern France with Belgium and the Netherlands, in the South of France with Spain or, in the broader framework of Schengen working parties, "route operations").
- 3) P: Provision is made in the abovementioned protocols (see question 3) for decentralised cooperation, in which national and regional contact points are designated. Likewise, on the basis of the protocol on cooperation between police and customs authorities in the fight against drugs, regional bodies and a national body have been set up and hold regular meetings.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
5. Where satisfactory arrangements do not already exist, was consideration given to cooperation in technical and procedural matters?	see question 1			¹⁾	see question 4			²⁾	no	yes ³⁾	no	see question 3	⁴⁾	yes ⁵⁾	

- 1) D: Customs and police officers in the joint drugs investigation teams work on an equal footing as a team. They routinely cooperate in technical and procedural matters.
- 2) GR: The setting up of a special unit for risk analysis in the field of drug prevention is under consideration.
- 3) I: Such cooperation is carried out by the Central Directorate for combating drugs.
- 4) P: The protocols provide expressly for the sharing of equipment and also include general coverage of controlled deliveries, training and exchange of information on the use of risk analysis techniques.
- 5) S: The existing cooperation between customs and police includes areas such as training, use of equipment, controlled deliveries and exchange of information. A working group with representatives from customs, the police and the coast guard has started to examine the effects which the Europol Convention will have on cooperation between law enforcement agencies in Sweden, with a view to finding practical solutions and further improving day-to-day cooperation and coordination.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
6. Where satisfactory arrangements do not already exist, was consideration given to the use of joint police-customs task forces for intelligence and/or investigation?	no, as customs are only empowered to apprehend persons			¹⁾	see question 4		²⁾		no	yes ³⁾	yes ⁴⁾	see question 3	no ⁵⁾		

- 1) D: Joint police-customs task forces for investigation exist in the form of the joint drugs investigation teams. If necessary, joint intelligence activities are also carried out in these teams. Furthermore, joint intelligence projects are often carried out between the Federal Police Office and the Customs Investigation Office.
- 2) F: In connection with the interministerial circular on increased cooperation between law enforcement agencies, permanent liaison offices were set up in 1998 to increase cooperation between authorities at local level, particularly by jointly setting and following up objectives. Finally, in connection with the fight against drugs, regular joint meetings of customs, police and gendarmerie are held, to facilitate coordination between the authorities and cooperation in technical matters. The last meeting of this group was organised by customs in September 1998.
- 3) I: The agreement between the customs administration and the "Guardia di Finanza" is along these lines.
- 4) LUX: When joint surveillance operations take place at internal Schengen borders, joint units from police forces and customs have been formed to combat illegal drug trafficking (e.g. SNOW and HASELDONK operations).
- 5) P: Provision is made in the protocols for exchange of information and operational cooperation.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
7. Where satisfactory arrangements do not already exist, was consideration given to building into the agreement an undertaking (a) to provide regular feedback on cooperation activities and (b) to have in place a formal mechanism at national level for reviewing the effectiveness of cooperation and the opportunities for strengthening it at least once each year?	see question 1		1)	2)	see question 4		see question 6		no		no	see question 3	3)		

- 1) DK: As already indicated in question 4, there is a proposal to establish both central and local cooperation agreements. Once these cooperation agreements are concluded, the intention is to evaluate cooperation at regular meetings. Proposals may be put forward for new joint projects as well. It is also planned that the agreements should incorporate arrangements for providing feedback on results and investigations covered by the cooperation scheme.
- 2) D: There is no formal mechanism at present. However, meetings between representatives of the customs and police authorities are regularly held, at which various questions are discussed.
- 3) P: These questions are discussed in meetings at national level and in annual reports.

Country	A	B	DK	D	E	FIN	F	GR	IRL	I	L	NL	P	S	UK
8. Were recommendations from national working parties which had been established to review existing agreements and/or procedures circulated to other Member States?	no, since there are no national working parties		no	no	no ¹⁾				no	no	no	²⁾	no ³⁾		

1) E: Existing agreements have not been amended recently.

2) NL: It is very useful to exchange experience between Member States. At present no structured exchange of recommendations by national working parties takes place.

3) P: There have been no formal recommendations from national working parties; the most important aspects were, however, communicated in meetings at Community level.

- NL:** 1. Cooperation between customs, customs investigations units and police in the hit-and-run container (HARC) teams has been expanded. These teams are designed to investigate and prosecute drugs smuggling in containers. Since this operational cooperation is very effective, as well as the HARC teams already working in Amsterdam, in Rotterdam and at Schiphol airport, a fourth cooperation team has been set up in Zeeland.
2. Another agreement is the Financial Expertise Centre (FEC), for cooperation between tax offices, to which the FIOD (Fiscal Information and Investigation Service), police, public prosecutor's office/justice department and other financial investigation services belong. The tasks of this cooperation forum are:
- exchanging information on fraud profiles, trends and market developments;
 - endeavouring to throw more light on crimes which have not been completely resolved by an authority;
 - developing expertise in support of investigative proceedings.
- P:** After a cooperation agreement concerning the exchange of information and operational cooperation to combat drugs trafficking was concluded in 1996 between the "Direcção-Geral das Alfândegas e dos Impostos Especiais Sobre o Consumo" (Directorate-General of Customs and Excise), the "Polícia Judiciária" (Criminal Investigation Police) and the "Polícia de Segurança Pública" (Public Security Police), the "Guarda Nacional Republicana" (National Republican Guard) and the "Serviço de Estrangeiros e Fronteiras" (Aliens and Borders Department), a protocol on an agreement in the economic sphere was completed in 1997 and 1998. This is an agreement with the "Polícia Judiciária", aimed at combating economic fraud. Two additional protocols on motor vehicles and on surveillance and monitoring were drawn up under this agreement in 1997 and 1998.

S: The review of the 1968 three-party agreement between the National Prosecutor's Office, the Board of Customs and the National Police Board has been completed. A proposal for a four-party agreement including the Swedish Coast Guard, was concluded in September 1998. That agreement is, however, not formally approved yet.

The Board of Customs, the National Police Board and the Medical Agency agreed in March 1999 to instigate discussions with the representative body for traders in chemicals which could be used as precursors in the manufacturing of illicit drugs.