



**COUNCIL OF
THE EUROPEAN UNION**

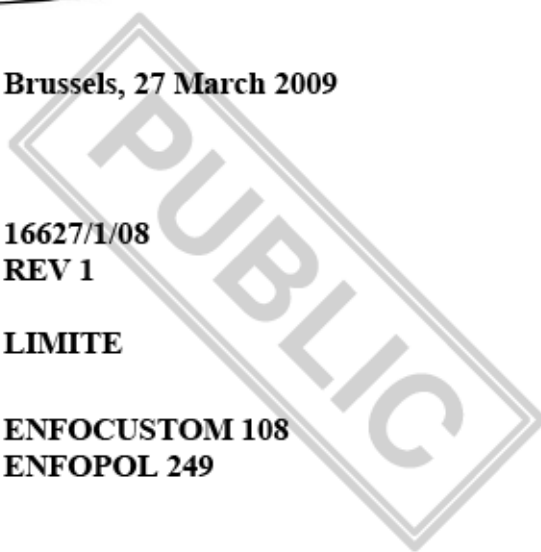
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NOTE

from : United Kingdom Delegation
to : Customs Cooperation Working Party

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Subject : Customs role in security / anti-terrorism (Action 2 of the Action Plan 2008-2009)
- draft mandate

Introduction

1. International terrorism is a threat to us all. Since the 11 September 2001 attacks on New York and Washington there have been attacks in Kenya, Bali, Tunisia, Istanbul, Morocco, Saudi Arabia, Spain and the UK. Within the European Union it is just a question of time when another attack will take place. Terrorist cells have been discovered throughout the Union including cells in Germany, France, The Netherlands, Italy, Spain and the United Kingdom.

2. In its Resolution of 2 October 2003 (OJ 247, 15.10.2003, p. 1) the Council underlined the need for customs administrations and other authorities of the Member States with responsibility for implementation of customs legislation, to carry out a strategy, within the framework of the creation of an area of freedom, security and justice, to enable the better protection of society and the economy against smuggling and fraud; cross border organised crime within the Union and at the EU external borders, and money laundering, threats to the environment and the cultural heritage and other threats within their competencies. According to the Strategy for customs co-operation in the third pillar¹ towards implementing the resolution of the Council, the Customs Co-operation Working Party (CCWP) plans and coordinates the activities to be undertaken aimed at fulfilling the objectives laid down in the strategy, by means of Action Plans.
3. The Article 36 Committee has approved the second 18 months Action Plan for customs cooperation in the third pillar to commencing on July 1st, 2008 enabling continued implementation of the above-mentioned Council Resolution and the Strategy document.
4. Action 2 in the current action plan tasks the CCWP to continue identifying and implementing actions that customs administrations can undertake to play an active role in the fight against terrorism with the objectives to consider new forms of co -operation and to take practical steps towards implementing these new forms of co-operation. Action 2 furthermore includes reporting to the CCWP on the continuous work of the counter-terrorism project group (CTPG) and the implementation of the Action Plan to combat Terrorism (7233/01/07/REV 1). It also includes adoption of an updated Action plan for the CTPG for the time period from 1/7/08 to 31/12/09 and – if deemed necessary - of the following CCWP action plan as well as a regular review of the implementation of the CTPG Action plan, once per Presidency. The CCWP has adopted the updated action plan in June 2008. Outcomes sought are to enhance the role of customs administrations in the fight against terrorism and to improved law enforcement inter-agencies cooperation and enhanced flow of criminal intelligence and information.

¹ Doc. 11167/5/03 REV 5 ENFOCUSTOM 29

The Threat

5. The international terrorist threat comes in many different forms but the areas of direct Customs interest are:

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Background

6. Following the September 2001 terrorist attacks a great number of initiatives have been taken forward to improve supply chain security and to improve the international counter-terrorism response. The G8, United Nations, European Union, World Customs Organisation and the International Maritime Organisation have all produced initiatives, action plans and regulations to improve security. A number of initiatives have also been taken forward at national level. In order to improve the co-ordination of initiatives it is essential to integrate customs authorities – according to their competences - as early as possible.
7. On 21 September 2001 the European Council approved conclusions and a plan of action to enhance police and judicial co-operation, to develop legal instruments, to tackle the funding of terrorism, to strengthen air security and to co-ordinate the EU's global action against terrorism (SN 140/01). Since 2001 a great deal has been achieved including: the adoption of a framework Decision on Combating Terrorism (OJ L 164, 22.6.2002, p.3); approximating EU Counter Terrorism laws; the creation of a European arrest warrant to replace extradition (OJ L 190, 18.7.2002, p.1); EU legislation to freeze terrorist finances (OJ L 182, 5.7.2001, p.1); and improved exchange of criminal intelligence and other information on terrorism.

8. What is clear from the various initiatives is the important role that Customs can play in increasing supply chain security, detecting and deterring the movement of terrorist weapons and related materials, detecting terrorist related funds and providing intelligence and information to competent national authorities. Member States have implemented initiatives to tackle security threats, ranging from the EU wide implementation of AEO under 1st pillar activities, to where some Member States have installed radiation portals and container scanners. Customs are in a unique position to actively participate in the fight against international terrorism through their presence at the external frontier. Our knowledge of international freight movements, application of risk assessments and concealment methods is second to none and that makes us an invaluable as well as indispensable player in the process of identifying possible terrorist consignments or suspects.
9. To effectively tackle international terrorism requires a multi-agency international approach. Customs involvement in counter-terrorism is also cross pillar. In the first Pillar amendments have been made to the Community Customs Code to include advance information of imports into and exports out of the EU and to increase supply chain security. The so called "security amendment" of the Community Customs Code also provides for a Common Risk Management Framework the elements of which are further elaborated in the implementing provisions to the Community Customs Code. There are a significant number of initiatives currently underway in the first pillar context to ensure an effective common approach to risk analysis and management by customs for security and safety purposes. Of particular note is the recent unanimous approval by the Member States of a draft Commission Decision providing for the adoption of common criteria for security and safety risk analysis to be applied by the Member State customs authorities on goods prior to their entry into the European Union. This Decision represents a key component in the development of a common risk management framework and will enable, for the first time, all goods to be screened against a common set of risk criteria prior to their entering the Community.

Additional noteworthy developments include ongoing pilot actions for all modes of transport between customs offices at the external frontier to ensure the necessary levels of coordination, cooperation and exchange of information are in place to support the new legal operational requirements for Member States. These activities are implemented through the well established contact groups and managed by TAXUD and the Member States also in the framework of the Customs 2013 Security Risk Rules project group. This group is also working on the establishment of a list of high interest countries and goods related to security risks in the context of the customs controls to be carried out on the basis of security/safety risk analysis common criteria; the results of this work will be formally submitted to the Customs Code Committee in due course.

The current EC/USA agreement on mutual assistance and co-operation on customs matters has been amended to include security issues and working groups are to explore practical ways of improving co-operation. These ideas can act as a template for other EC mutual assistance and co-operation agreements. Also agreed is the extension of the US Container Security Initiative (CSI) to other EU ports. Other EU security initiatives include regulations for port and ship security, aircraft and airport security, advance passenger information and access to airline reservation systems.

10. The EU Action Plan on Terrorism must be the starting point for any Customs counter terrorism initiatives and our activities must be consistent with this plan.

In 2004, the EU supplemented the 2001 Action Plan against Terrorism and re-aligned it to pursue **seven major objectives**:

1. to reinforce **international efforts** to combat terrorism;
2. to reduce terrorists' access to **financial and economic resources**;
3. to increase the capacity of the European institution and Member States **to investigate and prosecute**;

4. to protect the **security of international transport** and set **up effective systems of border controls**;
5. to strengthen the **coordination between the Member States and thus the European Union's capacity to prevent and deal with the consequences of a terrorist attack**;
6. **to identify the factors that contribute to the recruitment of terrorists**;
7. **to encourage third countries** to engage more effectively in combating terrorism.

On 6 November 2007, the Commission adopted a package containing a series of proposals dealing with the criminalization of terrorist training, recruitment and public provocation to commit terrorist offences, the prevention of the use of explosives by terrorists and the use of airline passenger information in law enforcement investigations as well as the second report on the implementation of the Framework Decision on combating terrorism.

Proposals

11. The CCWP to continue working with other third pillar groups such as the Terrorism Working Party and the CBRN Task Force to ensure co-ordination of actions is consistent with that plan.
12. The CCWP needs to agree on;
 - priority areas for Customs involvement;
 - objectives;
 - activities.

Priority areas: **DELETED**

Cash is the life blood of terrorism. It takes money to develop or buy weapons and to train terrorists. EC Regulation 1889/05 places an obligation on any natural person entering or leaving the Community and carrying cash of a value of EUR 10,000 or more to declare that sum to the competent authorities of the Member States. The aim of the Regulation is to introduce preventive action to combat money laundering and terrorist financing through more effective customs cooperation.

- Cash entering or leaving the Community

Criminal intelligence is the life blood for Law Enforcement agencies.

- Review the exchange of criminal intelligence relating to terrorism between customs authorities and other law enforcement agencies and between customs authorities; the use of information technology (e.g. CIS) for dissemination of such intelligence.

To help identify the threat and high risk routes the CCWP to

- Produce terrorist specific threat assessments;
- Identify the equipment necessary to help identify chemical or biological agents, radiological and nuclear materials (CBRNs); consider pooling research and development of such equipment and to promote the sharing of experiences once they are up and running.

Objectives: CCWP objectives are suggested as being to

- Detect and deter the illicit movement of CBRN and other terrorist related material across the external boundary of the EU (land, sea and air);
- Detect and deter the movement of terrorist related cash entering or leaving the Community(land, sea and air) and therefore to adjust the available provisions and strategies in their efficiency;
- Co-ordinate CCWP counter-terrorism activities with other Council Working Parties and to develop effective communication links with other law enforcement counter-terrorism agencies.

Activities: CCWP activities to take forward the above objectives are suggested as being to

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The CTPG is tasked by the CCWP to carry out the activities in this mandate.