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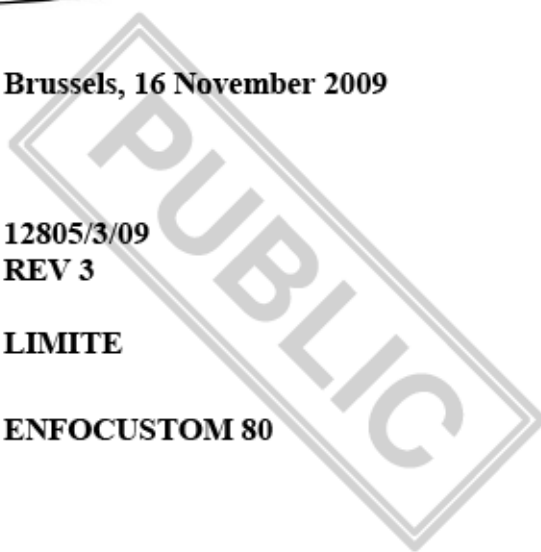
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From: Presidency

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Subject: Draft Final Report of Action 14 of the CCWP Action Plan 1.7.2008 – 31.12.2009
- To elaborate on law enforcement's possibilities within transit procedures (TIR)

Delegations are invited to approve the revised draft final report on Action 14 of the Action Plan to Implement the Strategy for Customs Co-operation in the Third Pillar 1.7.2008 – 31.12.2009 "To elaborate on law enforcement's possibilities within transit procedures (TIR)" as outlined in the Annex.

TABLE OF CONTENT:

Executive Summary	4
Introduction.....	6
Methodology	6
Background	6
Objectives.....	7
Findings - Part 1.....	8
Access of Data.....	11
<i>Customs Utility for TIR Transaction Entry - World-wide Information System for Enquiry - CUTE-Wise</i>	<i>11</i>
<i>International TIR DataBase (ITDB online)</i>	<i>12</i>
<i>New Computerised Transit System - NCTS.....</i>	<i>13</i>
<i>Antifraud Transit Information System - ATIS</i>	<i>16</i>
<i>Economic Operators Registration and Identification System (EORI).....</i>	<i>18</i>
Summary - Part 1.....	20
Findings - Part 2.....	22
Law enforcement activities.....	22
A. Use of Information.....	23
A1 - Case-specific and non-predictive law enforcement.....	23
A2 - Case-specific and pro-active law enforcement	24
A3 - General predictive law enforcement	24
B. Objectives of risk-analysis.....	25
C. First pillar versus third pillar.....	26
D. Availability of information.....	26
Risk indicators and NCTS-TIR	27
Conclusions.....	28
<i>Availability of data.....</i>	<i>28</i>
<i>Accessibility of data</i>	<i>28</i>
<i>Quality of data</i>	<i>28</i>

<i>Exclusions</i>	29
<i>Exchange of information</i>	29
<i>ATIS</i>	29
<i>TIR as single source</i>	29
DELETED	Error! Bookmark not defined.
Recommendations	30
Appendix	31
The Law Enforcement Pyramid.....	31
Table of data storage.....	32
Table of risk indicators	34
Annex 44c – Goods involving higher risk of fraud	37
Annex 38 d - EORI.....	38
Abbreviations	39

Executive Summary

A number of systems are available with information of relevance to transit movements of goods, they are the New Computerised Transit System (NCTS/NCTS-TIR), the Antifraud Information System (ATIS), the Economic Operators Registration and Identification system (EORI), the Customs Utility for TIR-Transaction Entry-World-Wide information system for enquiry (CUTE-Wise) and the International TIR Data Base (ITDB).

The project group has looked at the different systems and concluded that the possibilities to access and analyse TIR and other transit information has improved with the introduction of the NCTS. However, the accessibility of transit data is different dependent if it concerns one or more than two Member States. National storage of transit information and different national NCTS-applications result in data formats and structures are not unified from one Member State to another, which complicates the preparation of information to be analysed if it concerns more than one Member State, but it can be done.

The project group had to agree upon a definition on what is meant by law enforcement activities. This was considered necessary in order to fulfil the mandate approved by the CCWP. Law enforcement, in accordance with the used definition by the project group, includes all activities of Customs aiming at the correct application of relevant legislation, formalities, procedures and legal obligations, both common and national, in all matters where there is a formal responsibility and legal assignment to do so. Therefore, the information, historical or actual, which is available to Customs within the process of transit can be analysed and used for all purpose of all methods of law enforcement by Customs, ensuring the proper application of common and/or national legislation, as part of the daily tasks of customs or by way of a Joint Customs Operation (JCO), irrespective of the chosen method of law enforcement.

Live transit data needed for risk-analysis on a community-level are available within the Commission (TAXUD), so there will be in principle no need to exchange such (live) information between Customs authorities working together in a JCO. However, the data available with the Commission (TAXUD) are restricted to actual inter-state transit movements and to the envelope of the message, no declaration content is available at a central point.

At a national level the project group has described three different ways information regarding transit movements can be used; case-specific reactive, case-specific pro-active and in a general predictive manner, which could be useful in supporting inter alia JCOs.

The project group has compared the data available in the NCTS-TIR with the EU and WCO documents on risk indicators and noticed that 20 indicators were associated to the TIR data in the NCTS system. However, the project group has concluded that all the data in the NCTS are potentially of interest for analysis purposes. The purpose and scope of the analysis decides which data are qualified to be used in an analysis process and this makes it difficult to draw a line between first and third pillar in the analysis process: the outcome of the analysis could just as well refer to first or third pillar activities, using the same source of data. Therefore the working group found no distinction in use of TIR data with regard to first and third pillar objectives. Three recommendations are made:

- 1) *The Member States* should consider to use the information given in transit procedures in a:
 - 1.1 *case-specific reactive* (or non-predictive) manner enabling Customs to determine whether a specific transit-movement has been closed in accordance with applicable rules;
 - 1.2 *case-specific pro-active* manner, for instance profiles to support the daily activities of customs and enabling them to target and select transit movements based on predefined parameters, and
 - 1.3 *general predictive* manner based on analysis of historical data and predicting possible and future violation of applicable rules, and thus supporting Joint Customs Operations.
- 2) *The Commission (OLAF)* should inform the National Administrations about suspect transit movement patterns, identified during analysis of ATIS data, which are considered appropriate for CCWP to (potentially) respond to within its mandate.
- 3) *The CCWP* should transmit this report to the competent fora of the first pillar, in particular the Mutual Assistance Committee (R.515/97) and the Customs Code Committee (Customs status and transit) and invite them to study as appropriate the benefit and feasibility of a centralised storage/accessibility of TIR transit data for the purpose of enabling EU-wide operational or strategic analysis of TIR transit movements when deemed necessary.

Introduction

The Action Plan to implement the Strategy for Customs Cooperation in the Third Pillar (1.7.2008 – 31.12.2009) was approved on 14 May 2008 by the Article 36 Committee. Action number 14, under the work area "Information exchange" concerns the law enforcement possibilities within transit procedures (practical steps to using available information).

The mandate¹ for action 14 – To elaborate on law enforcement's possibilities within transit procedures (TIR) - was approved at the CCWP meeting on 5 February 2009. The project group consisted of participants from Austria, Finland, the Netherlands, Germany, Sweden (lead) and the Commission (OLAF). Germany had volunteered to participate but was unfortunately unable to attend the meetings. Only representatives of the Netherlands and Sweden attended all meetings.

Methodology

The project group had three meetings, in Malmö/Sweden (Swedish Customs), in Heerlen (Dutch Customs) and in Brussels (Commission/OLAF). At the meetings discussions were held within the framework of the mandate. Between meetings the exchange of information took place by means of e-mail.

The final report was elaborated within the project group.

Background

The Joint Customs Operation (JCO) Fireball 2006 was directed at combating illegal firearms transported by lorries crossing the Eastern external border of the European Union and in particular from the Western Balkans. It was decided by the organisation of JCO Fireball to determine whether TIR-data could be used for the benefit of the operation.

¹ 5710/1/09 REV 1 ENFOCUSTOM 10

As a result of this approach historical termination of TIR-operations, discharged with reservations within the EU, was obtained from and in agreement with the International Road Transport Union (IRU) before the operation.

A post-operational study showed that almost 20 percent of the carnet holders that appeared during the operation had historical reservations in the SafeTIR System reported by EU Member States. At the time EU had no central point where reservations on terminated TIR operations were recorded. The Office of Destination is the Customs point where reservations are recorded, e.g. on the TIR voucher and the electronic discharge in the SafeTIR of the TIR carnet to the IRU. At this point the information is only that a reservation exists, not giving any information about the specific irregularity. Each Member State is obliged to have a national contact point for TIR operations. Reservations could be any irregularity from minor issues to more serious offences.

The final report² from JCO Fireball recommended the CCWP to consider initiating discussions with other appropriate groups on how customs law enforcement could benefit from co-ordinated analysis and exchange of TIR-data in their daily work and during Joint Customs Operations involving TIR-transport.

Objectives

The objectives of the mandate of action 14 were divided in two parts:

Part 1 - to explore where and how to access the data of interest, such as TIR operations terminated with reservations by Member States, TIR data in databases covering TIR operations (e.g. valid/invalid carnets) and TIR carnet holders excluded from the TIR Procedure within the EU.

In addition the group should explore whether the data will be available in the future from the Economic Operators Registration and Identification (EORI) Scheme of the EU or elsewhere.

² 7271/07 ENFOCUSTOM 23 ENFOPOL 44 CRIMORG 52

Part 2 - to explore, report and make recommendations on how customs for law enforcement purposes could benefit from coordinated analysis and exchange of information about 1) TIR operations terminated with reservation by Member States and 2) carnet holders excluded from the TIR procedure within the EU, **DELETED**

The project group should also study the current and future possibilities with regard to the handling and analysis of information, taking into account the fact that the TIR movements starting 1 January 2009 is processed in the Community by means of the New Computerised Transit System (NCTS-TIR). Furthermore, the competent services of the Commission (OLAF-Antifraud service and TAXUD for NCTS-TIR) should be consulted in respect of ongoing and futures data analysis as regards TIR data, in particular on the possibilities arising from the Antifraud Transit Information System (ATIS).

The final report adopted by CCWP shall, in accordance with the approved mandate, be communicated to the competent representatives of the first pillar, in particular the Mutual Assistance Committee (R.515/97) and the Customs Code Committee (Customs status and tTransit), with a view to evaluate the recommendations together with the ongoing developments in the abovementioned committees and coordinate the necessary subsequent actions.

Findings - Part 1

TIR

The principal legislation governing the TIR procedure is the TIR Convention 1975, prepared under the auspices of the United Nations Economic Commission for Europe (UNECE).

In the Community, the Transports Internationaux Routiers (TIR) is provided for in Articles 91 and 163 of the Community Customs Code. The TIR convention³ was ratified by the European Community under EC Reg. No 2112/78 of 25 July 1978. The movement of goods within the Community under cover of a TIR carnet is provided for in Articles 451-457b of the CCIP (Implementing Provisions of the Community Customs Code). The TIR Convention has been regularly amended. The twenty eight amendments to the Convention came into force on 1 January 2009. As of 1 January 2008, the Convention had 68 Contracting Parties including the European Community, its Member States and the EFTA countries. However, a TIR operation is possible only in countries which have authorised a guaranteeing association (56 countries as of 1 January 2009). Under Community legislation, the TIR procedure can be used in the Community only for a transit movement which begins or ends outside the Community or is carried out between two points in the Community through the territory of a third country. There are a number of parties involved in the administration of the TIR Convention. An Administrative Committee composed of all Contracting Parties to the Convention administers its operation. Much of the work of the Administrative Committee is supported and prepared by the UNECE (United Nations Economic Commission for Europe) and the Working Party on Customs Questions Affecting Transport (WP30). The Committee and the Working Party meet regularly in Geneva.

The TIR system is built on five main pillars:

- Goods must be transported in approved vehicles or containers under customs seal.
- Duties and taxes due on the goods are suspended and secured by a chain of internationally valid guarantees. The national guaranteeing association of each country guarantees payment of any duties and other charges which may become due in the event of an irregularity occurring in that country in the course of the TIR operation. Each country sets its guarantee limit but the recommended maximum amount to be claimed from each national association in the event of an irregularity is US\$50 000 and for the Community 60 000 Euro or the equivalent thereof in national currency (Article 457 Implementing provisions).

³ Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) of 14 November 1975.

- The goods are accompanied by an internationally recognised document, the TIR carnet, which provides proof of the existence of the guarantee and serves as the customs declaration in the countries of departure, transit and destination. TIR carnets are printed and issued by the International Road Transport Union (IRU) to national guaranteeing associations. A TIR carnet is valid for one TIR transport only. It is taken into use in the country of departure and serves as the customs control document in the countries of departure, transit and destination.
- Customs control measures taken in the country of departure are accepted by customs of the countries of transit and destination. As a consequence, goods carried under the TIR procedure in sealed vehicles or containers shall not as a general rule be examined at customs offices of transit.
- National guaranteeing associations wishing to issue TIR carnets and persons wishing to use carnets must comply with minimum conditions and requirements and must be authorised by the competent authorities (usually Customs). A TIR transport comprises a sequence of TIR operations. In each Contracting Party, a TIR operation starts at the customs office of departure or entry and is terminated at the customs office of destination or exit. Each TIR operation is controlled in a similar way to Community/common transit using a set of Vouchers No. 1 and 2 from the TIR carnet. The customs office of departure or entry detaches a voucher No. 1 from the TIR carnet. The customs office of destination or exit in the same Contracting Party detaches Voucher No. 2 and returns it to the customs office of departure or to a central customs office for matching up with voucher No. 1, enabling the TIR operation to be terminated. A similar procedure is followed in each Contracting Party throughout the TIR transport. A TIR transport may involve several offices of departure and destination subject to an overall maximum of four. A set of Vouchers No. 1 and 2 is used for each additional customs office of departure or destination. For the purposes of this procedure, the customs territory of the Community is considered as forming a single territory. It is a condition that some part of the TIR transport is made by road and that the vehicle or container displays the TIR plates during the TIR transport.

Access of Data

Transit and TIR procedures have several different operators: Member States, European Union, United Nations Economic Commission for Europe (UNECE) and International Road Transport Union (IRU) which is represented by the respective national Road Transport Union. All these organisations have different responsibilities and have their own systems for collection and storage of different types of information regarding transit and/or TIR.

Two systems of interest are outside the control of the European Union but used by the Member States for storing, updating and providing information: CUTE-Wise managed by the IRU and ITDB online managed by the UNECE.

Inside the European Union there are three systems which could be used as the main source for analysis of TIR information: the New Computerised Transit System (NCTS/TIR), the Antifraud Information System (ATIS) managed by the Commission (OLAF) and the Economic Operators Registration and Identification system (EORI).

Customs Utility for TIR Transaction Entry - World-wide Information System for Enquiry - CUTE-Wise⁴

TIR-movements are reported by EU Member States to the International Road Transport Union (IRU) using IRU-software CUTE-Wise. The Member States historically do not share details behind reservations within the EU, at least not to any central point. Existence of reservations (without any details) on TIR-movements have not been shared in the past. **DELETED** The CUTE-Wise application was developed by the IRU on the base of the Annex 10 of the TIR Convention 1975 and provides Customs Administrations and Associations with the possibility of consulting up-to-date information on the status of TIR carnets and their termination by means of an internet-based interface.

⁴ Customs Utility for TIR Transaction Entry - World-wide Information System for Enquiry) is an internet based application that allows TIR termination data (SafeTIR data) to be queried. Information on invalid TIR Carnets is also made available.

In addition, specific features allow the Customs Authorities to download a list of invalid / invalidated TIR carnets for their own use.

According to Annex 10, Customs authorities shall transmit information about the termination of TIR operations at offices of destination, to the IRU or to the national guaranteeing associations, if possible on a daily basis. The IRU web-site, <http://www.cutewise.org/>, gives access to information when entering the TIR carnet number, it is also possible to download lists of invalid TIR carnets on this site. To access the system you need to be provided with a username and a password issued by the IRU.

It is possible to identify reservations in the system **DELETED**. There is a possibility in the system to download a list with invalid TIR carnets in Excel format.

International TIR DataBase (ITDB online)

ITDB online is a system that allows to get information about a TIR carnet holder by entering the ID-number or part of the name of the carnet holder. **DELETED**. The system is available by internet via the URL <https://unece.unog.ch/itdbonline/secure/index.asp>. The UNECE is also responsible for updating the system but it is up to the contracting parties, the respective Member State and countries outside EU to send their updates to the secretariat. **DELETED**.

Entering the ID-number or the name of the holder gives access to the following information:

DELETED

New Computerised Transit System - NCTS

“The NCTS will serve as a tool to manage and control the transit system. Based on the use of advanced computer systems and the electronic processing of data, it will guarantee a more modern and efficient management compared to the paper-based system, with its proven flaws” (Transit Manual TAXUD/801/2004).

The main objectives of the New Computerised transit System-NCTS are to:

- increase the efficiency and effectiveness of transit procedures,
- improve both the prevention and detection of fraud,
- Accelerate transactions carried out under a transit procedure and to offer security for them.

As a general rule the NCTS is used for Community transit as well as Common transit. The transit declaration is in an electronic format and can cover the External Community Transit ‘T1’ or the Internal Community Transit ‘T2’. **DELETED** The NCTS links approximately 3000 European Customs Offices.

Main items or messages used in a NCTS operation

It is useful to briefly mention the main items and electronic messages in a NCTS operation:

DELETED

The NCTS-TIR system is a great step forward when it comes to new possibilities for analysing information connected to TIR movements. **DELETED**

Antifraud Transit Information System - ATIS

The system prior to ATIS, the EWS (Early Warning System), was introduced in 1992 as an emergency measure against the dramatic increase of fraud in the transit sector. Conceived as an operational tool for the Customs Administrations of the Member States and EFTA countries, it was set up to provide pre-arrival information on the movements of sensitive goods⁵ in transit, e.g. certain meat and sugar and also spirits, liquors, cigarettes, smoking tobacco above certain quantities.

Initially operated via WORD templates, a specific information system was subsequently developed for this purpose by the Commission, and since 1 June 1996 the system has been operated via the EWS-C AFIS⁶ module. With the implementation of the NCTS, which applies to all types of goods, the main objective of the EWS as described above is achieved automatically at the moment of the release of the goods at departure by means of forwarding the AAR (“Anticipated Arrival Record”) to the Office of Destination.

DELETED

⁵ List of goods involving a higher risk of fraud as laid down in Annex 44c to the Customs Code Implementing Provisions (CCIP), and in Annex I to Appendix I of the Convention on a common transit procedure.

⁶ AFIS (Anti-Fraud Information System) covers a number of systems and databases used to store, transmit and analyse information relating to potential fraud and irregularities.

In order to improve the system, in November 2004 – after having consulted the Commission Legal Service and having obtained the endorsement of the Mutual Assistance Committee OLAF DG TAXUD presented a proposal for a new administrative arrangement to the EC/EFTA Working Group, to partially replace the EWS.

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ATIS is providing and giving access to historical information for analytical purpose covering all Member States in one centralised place. Compared to the NCTS, which has its information stored in the respective Member States and a request for data has to be sent to 27 Member States, this will bring a major improvement for risk analysis purposes. **DELETED**

Economic Operators Registration and Identification System (EORI)

EORI is a part of a common EU system of operators with customs activities which entered into force on 1 July 2009. The basic idea is that all operators with customs activities within EU shall have a unique identity number to be used for all customs related activities within EU.

An EORI number means a number, unique throughout the European Community, assigned by a customs authority or designated authority or authorities in a Member State to economic operators and other persons in accordance with the rules laid down in Part I, Title I, Chapter 6 of the Customs Code Implementing Provisions (CCIP). The provisions on the EORI number neither limit nor undermine the rights and obligations derived from rules governing the requirement to register for, and obtain, any identification number which may be required in individual Member States in fields other than customs, such as taxation or statistics.

Customs authorities in the EU must have easy and reliable access to operators' registration and identification data. In order to ensure this, a central electronic system has been developed for storing data on the registration of economic operators and other persons and for exchanging data on EORI numbers between customs authorities. This central system will hold data listed in Annex 38d CCIP (some of them are mandatory and others optional).

The EORI legal provisions have provided certain flexibility to issue an ad hoc number. Ad hoc number is a number that may be assigned by the customs administration (i.e. which can also refuse to assign one) for the declaration concerned. This number is not an EORI number and will not be exchanged in the EORI system. The primary objective of ad hoc numbers is to serve in exceptional situations when the person has not yet received an EORI number or the person is not obliged to be registered for the EORI number but is required, by Annex 37 to the CCIP, to indicate its identification number in the customs declaration. **DELETED** The rules concerning management of this number (i.e. if and how one is to be assigned) should be established in Member States' national provisions.

DELETED

Excluded TIR carnet holders

The Commission publishes lists containing excluded TIR carnet holders on its website CIRCA (Closed User Group). The exclusion is based on Article 38 in the TIR Convention, stating that contracting parties may exclude persons guilty of a serious offence against the Customs laws/regulations applicable to the international transport of goods. This exclusion can be temporary or permanent. Within the Community Article 6.4 (revoke the authorisation) is recommended to be used instead of Article 38.

The lists are divided into two parts: List A containing EU authorised persons excluded from the TIR procedure within the Community and List B containing non EU authorised persons excluded from the TIR procedure within the Community.

DELETED

Summary - Part 1

There are several different systems available, both inside and outside the EU, dealing with TIR data. To be able to use this information for the purpose of risk analysis of TIR-consignments, it is necessary that information is as standardised as possible and as specific as needed. In the view of the project group, data will have to be stored in a central point and on a central server, with a possibility to perform automated operations on the data (linking, merging, combining etc.). Another view is that TIR information has to be easily accessible within the EU. The development of NCTS-TIR has given a lot of new possibilities to analyse data and to get a better picture of all the TIR Operations, however, this analysis would benefit from further standardisation and compulsory lodging of the data in the declarations. **DELETED** Therefore the ATIS is a desired complement

DELETED

Some more remarks:

- The TIR carnet number is the key to all possible information in the CUTE-Wise system.
DELETED
- Customs authorities are transmitting information about the termination of TIR operations at offices of destination to the IRU.
- To gather information about the reservations from different Member States, the Customs authorities have to contact the IRU.

- It is possible to download lists of invalid TIR carnets from IRU on www.cutewise.org
- ITDB is a database managed by UNECE where the key to the information is the TIR carnet holder's ID number. **DELETED** It is up to the contracting parties to send in information. It is the UNECE which makes the updates to the database on the basis of the provided information.
- The Commission is publishing lists of excluded TIR carnet holders. **DELETED**
- EORI numbers are at the moment of limited interest for risk analysis purpose due to the possibility to register an ad hoc number.
- **DELETED**

Findings - Part 2

Law enforcement activities

The definition of law enforcement activities, as defined in the present document, cannot be taken into account in other works of the Council or the Commission but it is for the exclusive use of this project group's works.

The project group had to agree upon a definition on what is meant by law enforcement activities. This was considered necessary in order to fulfil the mandate approved by the CCWP.

Law enforcement, in accordance with the agreed definition, includes all activities of Customs aiming at the correct application of relevant legislation, formalities, procedures and legal obligations, both common and national, in all matters where there is a formal responsibility and legal assignment for Customs to do so.

Law enforcement by Customs includes:

- all activities of Customs, aiming at informing about legislation, formalities, procedures and obligations, facilitating a correct application,
- all activities of Customs, determining whether legislation, formalities, procedures and obligations are applied correctly,
- all activities of Customs carried out whenever a violation of legislation, formalities, procedures and obligations is determined.

Law enforcement is a very broad area and does cover first as well as third pillar-related matters.

Information can be gathered by Customs while executing either one of the abovementioned methods of law enforcement (and can then be used for the purpose) or within the framework of another method of law enforcement.

Therefore, the information, either historical or actual, which is available to Customs within the process of transit can be analysed and used for the purpose of all methods of law enforcement by Customs, ensuring the proper application of common and/or national legislation, as part of the daily tasks of customs or by way of a Joint Customs Operation, irrespective of the chosen method of law enforcement.

A. Use of Information

Whenever a transit-declaration is lodged in NCTS (irrespective of the kind of transit movement: Community Transit, Common Transit or TIR), Customs have an amount of (digital) information regarding this movement and goods and parties involved at their disposal (for instance information regarding the goods, the consignor, the consignee, the transporter, the means of transport, license number of the truck, office of departure, office of destination etcetera). This information can be used in three different ways with a view to law enforcement purposes:

- 1) a *case-specific reactive* (or non-predictive) manner enabling Customs to determine whether a specific transit-movement has been closed in accordance with applicable rules;
- 2) a *case-specific pro-active* manner, for instance profiles to support the daily activities of customs and enabling them to target and select transit movements, based on predefined parameters, and
- 3) a *general predictive* manner based on analysis of historical data and predicting possible and future violation of applicable rules, and thus supporting inter alia Joint Customs Operations.

A1 - Case-specific and non-predictive law enforcement

First of all, the information available in NCTS can be used to determine whether a specific transit movement has been fulfilled in accordance with the formalities described in the Community Customs Code, the Common Transit Agreement or the TIR-Convention. Therefore, when ending a transit movement in NCTS, the information available at that moment within the system enables Customs to judge whether irregularities have taken place and to take appropriate action whenever it is determined that irregularities took place. Thus, the information can contribute to law enforcement by Customs in a specific transit movement as it enables Customs to hold the principal responsible for determined irregularities and breaches of formalities and procedures stated in legislation.

A2 - Case-specific and pro-active law enforcement

Secondly, information regarding a specific transit movement is available within the NCTS-system as soon as the goods depart from the office of departure and, preceding this departure, the transit-declaration is lodged in NCTS. From that moment on, it is possible to analyse information regarding a specific transit movement that is expected at the office of destination at an estimated time of arrival. Herewith, it will be possible to profile and target transit movements at the moment they arrive at the office of destination and to intervene with the transit movement whenever risk-analysis of specific data indicates a certain transit movement as suspicious. This enables Customs to stop for instance goods being brought into free circulation whenever there is a risk that the goods do not meet the demands for free circulation or, as another example, to prevent that transported goods are being unlawfully removed from customs supervision whenever there is a suspicion that the transporter or consignor will do so for whatever reason. It will also enable customs to check the transported goods and stop the unloading of the goods in case the goods are delivered at an authorized consignee, whenever there is a suspicion of irregularities.

In this case, law enforcement by Customs will be triggered by the Advanced Arrival Message (IE001) in NCTS alerting Customs that a profiled transit-movement is about to arrive and enabling them to take the right steps in due course. However, besides that an extra alert-system should be considered, for instance when Customs supervision is needed immediately.

A3 - General predictive law enforcement

Thirdly, historical data regarding irregularities within transit movements in the past, can be used to analyse patterns and to determine possible future irregularities. **DELETED**

This kind of predictive analysis forms a good base for Joint Customs Operations, where possibly suspect transports can be monitored from departure to arrival by the participating Customs authorities.

B. Objectives of risk-analysis

Information available within the NCTS-system can, according to the project group, be used in three different ways:

- Risk-analysis on the basis of the information available in the NCTS-system can first of all support and contribute to the law enforcement activities by Customs regarding:
 - Community Customs regulations,
 - Community agricultural regulations,
 - Community non-fiscal regulations.

- The same information, data available within the NCTS-system, can then be used to perform a risk-analysis supporting the law enforcement by Customs regarding:
 - national custom-related matters (formalities, procedures and non-fiscal regulations)

- Furthermore, on the basis of the same data used for supporting the law enforcement by Customs in Community and national custom-related matters, a risk-analysis can be carried out with the focus on:
 - terrorism threats or serious organized crime

In other words, the information gathered from the NCTS-system can be used for multiple purposes (Communal and national custom-related matters as well as third pillar matters) and in different ways (reactive or predictive). One source can therefore serve different purposes. In our opinion, the (TIR-) data available in the NCTS-system could be a starting point for risk-analysis concerning TIR-movements, concerning matters related to first pillar but also concerning matters related to the third pillar.

C. First pillar versus third pillar

It is obvious that the difference between risk-analysis and intelligence within the first pillar concerning fiscal and custom-related matters on the one hand and risk-analysis and intelligence within the third pillar concerning terrorism threats and organized crime on the other hand will not be very distinct. **DELETED**

However, it should be clear that this distinction is of no importance regarding law enforcement: risk-analysis for the benefit of the first pillar related issues is after all based on the same data as risk-analysis for the benefit of Pillar 3-related matters. To illustrate this, a diagram “The Law Enforcement Pyramid” can be found in the Appendix of this report.

D. Availability of information

It should be clear that live data, needed for risk-analysis on a community-level, are available within Commission (TAXUD), so there will be, in principle, no need to exchange this information between Customs authorities working together in a Joint Customs Operation. **DELETED** Whenever there is a need of transit data regarding the movements within one of the Member States, these specific data should be exchanged between Customs authorities.

Risk indicators and NCTS-TIR

The CCWP has adopted a report⁷ on risk indicators and the World Customs Organization has produced a similar document⁸. The project group has compared the data available in the NCTS-TIR with the EU and WCO documents on risk indicators and noticed that twenty (20) indicators were associated to three categories of data in the NCTS system:

- Records received from Customs offices of destination,
- Termination certified with (R) or without (OK) reservation,
- Name of carnet holder.

However, the project group has concluded that all the data in the NCTS are potentially of interest for analysis purposes. The purpose and scope of the analyses decides which data are qualified to be used in an analysis.

In order to visualise any links between TIR-data – Risk indicators (EU/WCO) – NCTS/TIR a table has been created (please see the Appendix and the Table of Risk Indicators).

⁷ 8785/05 ENFOCUSTOM 26

⁸ EC0149E9a "Standardized Risk Assessments – Model Risk Indicators/Profiles" 2008

Conclusions

Availability of data

The project group has concluded that the possibilities to access and analyse TIR information has improved since these data are available in the NCTS. Law enforcement by customs can benefit from this improved availability.

Accessibility of data

DELETED

Quality of data

DELETED

Exclusions

DELETED

Exchange of information

DELETED

ATIS

ATIS is a positive step to accessibility and giving access to content of the declaration for analytical purpose, covering all Member States in one centralised place, compared to the NCTS which has its information stored in the respective Member State and a request for data has to be sent to 27 Member States. **DELETED**

TIR as single source

TIR data can be used as a single source for different purposes, therefore it is difficult to draw a line in the analysis work where the outcome could be a first or a third pillar result. Therefore there is no distinction in use of TIR data between the first and third pillar information.

Recommendations

Information about TIR movements are of interest from a perspective of law enforcement and the Member States should make use of the existing possibilities to use TIR / Transit information in the NCTS - TIR system and the ATIS system for analysis purposes.

- 1 The Member States should consider to use the information given in transit procedures in a:
 - 1.1 *case-specific reactive* (or non-predictive) manner enabling Customs to determine whether a specific transit-movement has been closed in accordance with applicable rules;
 - 1.2 *case-specific pro-active* manner, for instance profiles to support the daily activities of customs and enabling them to target and select transit movements, based on predefined parameters, and
 - 1.3 *general predictive* manner based on analysis of historical data and predicting possible and future violation of applicable rules, and thus supporting Joint Customs Operations
- 2 The Commission (OLAF) should inform the National Administrations about suspect transit movement patterns identified during analysis of ATIS data, which are considered appropriate for CCWP to (potentially) respond to within its mandate.
- 3 The CCWP should transmit this report to the competent fora of the first pillar, in particular the Mutual Assistance Committee (R.515/97) and the Customs Code Committee (Customs status and transit) and invite them to study as appropriate the benefit and feasibility of a centralised storage/accessibility of TIR transit data for the purpose of enabling EU-wide operational or strategic analysis of TIR transit movements when deemed necessary.

Appendix

The Law Enforcement Pyramid

This model is used within Dutch Customs to point out that the Law Enforcement ~~is not~~ only comes down to (reactive) "taking appropriate actions whenever something wrong is discovered" but consists of all (proactive and reactive) actions finally aiming at the correct application of legislation, formalities, procedures and legal obligations, falling down in the groups Service- Supervision Investigation, regardless pillar (first or third).

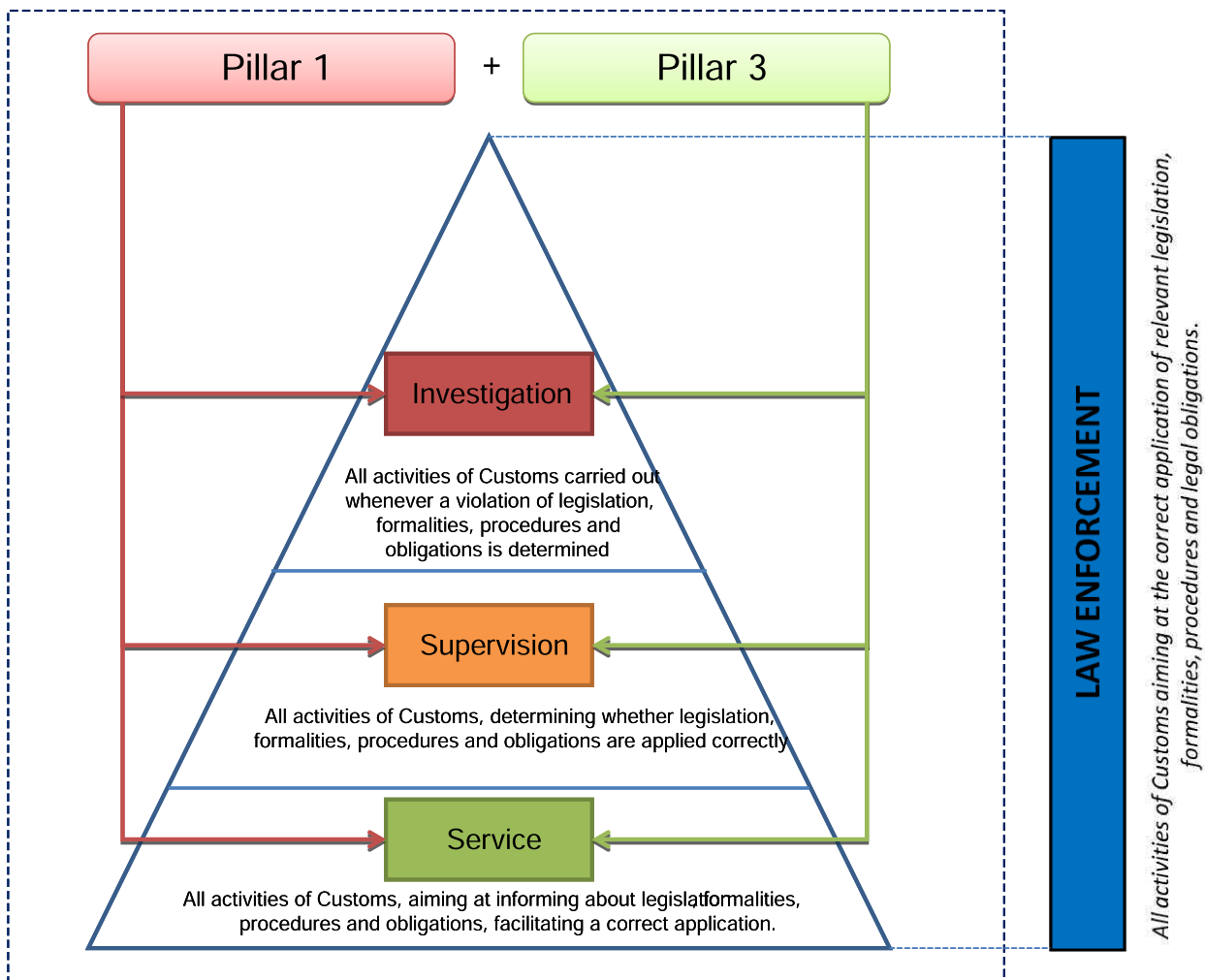


Table of data storage

DELETED

Notes *

DELETED

Table of risk indicators

DELETED

DELETED

DELETED

Annex 44c – Goods involving higher risk of fraud

6.12.2008 EN Official Journal of the European Union L 329/39

1 HS code	2 Description of goods	3 Minimum quantities	4 Sensitive goods code (1)	5 Minimum rate of Individual guarantee
0207 12 0207 14	Meat and edible offal, of the poultry of heading 0105, of fowls of the species <i>Gallus Domesticus</i> , frozen	3 000 kg		—
1701 11 1701 12 1701 91 1701 99	Cane or beet sugar and chemically pure sucrose, in solid form	7 000 kg		— — — —
2208 20 2208 30 2208 40 2208 50 2208 60 2208 70 ex 2208 90	Spirits, liquors and other spirituous beverages	5 hl	1)	2 500 EUR/hl pure alcohol
2402 20	Cigarettes containing tobacco	35 000 pieces		120 EUR/1 000 pieces
2403 10	Smoking tobacco, whether or not containing tobacco substitutes in any proportion	35 kg		—

Where the transit data are exchanged using electronic data-processing techniques and the HS code is not enough to identify without ambiguity the goods listed in column 2, both the sensitive goods code given in column 4 and the HS code given in column 1 must be used.

Annex 38 d - EORI

DELETED

Abbreviations

AAR	Anticipated Arrival Record
ATIS	Antifraud Transit Information System
ATR	Anticipated Transit Record
CCIP	Customs Code Implementing Provisions
CCN/CSI	Common Communication Network/Common System Interface
CIRCA	Communication and Information Resource Centre Administrator
CN	Combined Nomenclature
CUTE-Wise	Customs Utility for TIR Transaction Entry
EORI	Economic Operators Registration and Identification
EWS	Early Warning System
IPC	Implementing Provisions of the Community Customs Code
IRU	International Road Transport Union
ITDB	International TIR Data Base
MRN	Movement Reference Number
NCF	Notification of Crossing Frontier
NCTS	New Computerized Transit System
TAD	Transit Accompanying document
TIR	Transport Internationaux Routiers
UNECE	United Nations Economic Commission for Europe