

RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL
ON THE POOLING OF INFORMATION
CONCERNING CUSTOMS FRAUD

(22 May 1975)

THE CUSTOMS CO-OPERATION COUNCIL,

CONSIDERING that Customs fraud is prejudicial to Members' economic and fiscal interests and to the legitimate interests of trade,

CONSIDERING that Customs fraud can be more effectively combated by the exchange of information relating thereto,

RECOMMENDS that Members, so far as may be possible under their national laws, should participate in a scheme for the pooling of information concerning the matters of Customs fraud listed in the appended Annexes,

APPROVES the following procedure for the application of the scheme :

1. Each Member accepting the present Recommendation shall notify the Secretary General accordingly and shall specify the Annexes which it agrees to apply;
2. As from the date of its acceptance, each Member shall communicate to the Secretary General, to the extent that it considers such information to be of interest from the international point of view, the information specified in the Annex or Annexes it has agreed to apply;
3. The Secretary General shall institute and keep up-to-date a central index of information communicated to him by Members and shall use information from it to prepare summaries and studies of new and recurring trends in Customs fraud and fraudulent practices;
4. The Secretary General shall circulate to those Members that have accepted this Recommendation specific information contained in the central index, to the extent that he deems such circulation useful, and any summaries and studies referred to in paragraph 3 above, it being understood that a Member shall be entitled to receive only information provided for by the Annex or Annexes it has agreed to apply;
5. The Secretary General shall, unless advised to the contrary by the Member furnishing the information, also circulate to the other Members, and to international organizations with which arrangements have been made in this respect, any information concerning illicit traffic in narcotic drugs and psychotropic substances contained in the central index, to the extent that he deems such circulation useful, and any summaries or studies that he may have prepared on this subject under paragraph 3 above;

6. The Secretary General shall, upon request, provide a Member having accepted this Recommendation with any other information available to him concerning an Annex which that Member has agreed to apply;
7. The Secretary General shall honour any restrictions that a Member having provided information may have placed on its circulation;
8. A Member having communicated information shall be entitled to require that it be subsequently deleted from the central index and from any registers established by Members to whom it has been communicated and that no further use shall be made of it;
9. Any information received by a Member under this Recommendation shall be afforded the same protection in respect of professional secrecy as is in force in that Member country with regard to information of the same nature, the circulation and use of the information being restricted in accordance with the directions of the Member which provided it;
10. Nothing in this Recommendation shall be understood to prevent or discourage the spontaneous exchange of information between Customs Administrations, in particular on matters of direct or immediate importance,

REQUESTS Members who accept the present Recommendation to notify the Secretary General of the Annex or Annexes they agree to apply and of the date of implementation. The Secretary General will transmit this information to Members' Customs Administrations.

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ANNEX I**Persons*****Part I : Smuggling**

1. Notifications under this part of the Annex shall provide information concerning :
 - (a) persons finally convicted of smuggling; and
 - (b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Member making the notification, even though no legal processes have been completed, it being understood that when Members refrain from notifying the name and description of the person involved because such notification is prohibited by their national legislation, they shall nevertheless make a notification containing as many as possible of the items listed in this Annex.

In principle, the information notified should be limited to offences which have resulted in or could lead to imprisonment or a fine exceeding the equivalent of US\$2,000.

2. The information to be furnished shall, so far as possible, include the following :
 - (A) Natural persons
 - (a) Surname;
 - (b) Christian names (or forenames);
 - (c) Maiden name (if applicable);
 - (d) Nickname or alias;
 - (e) Occupation;
 - (f) Address (present);
 - (g) Date and place of birth;
 - (h) Citizenship/Nationality;
 - (ij) Country of residence and countries visited during the past 12 months;
 - (k) Type and number of identity papers, including country and date of issue;

* The term "persons" means both natural and legal persons, unless the context otherwise requires.

(a) Physical description :

- (1) Race,
- (2) Sex,
- (3) Height,
- (4) Weight,
- (5) Build,
- (6) Hair,
- (7) Eyes,
- (8) Complexion,
- (9) Distinctive marks or peculiarities;

- (b) Brief particulars of offence (including particulars of type, quantity and origin of goods involved in the offence, manufacturer, shipper, and consignor);
- (c) Nature and amount of penalty and/or sentence imposed;
- (d) Other observations, including language spoken and (if available) any previous convictions recorded;
- (e) Member furnishing the information (including reference number).

(B) Legal persons (firms)

- (a) Name;
- (b) Address;
- (c) Names of principal officers or employees of the firm against whom legal action has been taken and, if appropriate, identifying data as indicated under Part (A), Items (a) – (l);
- (d) Related multinational company;
- (e) Nature of business carried on;
- (f) Nature of offence;
- (g) Particulars of offence, including manufacturer, shipper and consignor;
- (h) Amount of penalty;
- (ij) Other observations, including any previous convictions recorded;
- (k) Member furnishing the information (including reference number).

3. As a general rule, the Secretary General shall circulate information relating to natural persons at least to the countries of citizenship/nationality and residence and to the countries visited by the person during the past 12 months.

Part II : Customs fraud other than smuggling

1. Notifications under this part of the Annex shall provide information concerning :
 - (a) persons finally convicted of Customs fraud other than smuggling;
 - (b) where appropriate, persons suspected of such fraud, even though no legal processes have been completed, it being understood that when Members refrain from notifying the name and description of the person involved because such notification is prohibited by their national legislation, they shall nevertheless make a notification containing as many as possible of the items listed in this Annex.

In principle, the information notified should be limited to offences which have resulted in or could lead to imprisonment or a fine exceeding the equivalent of US\$2,000.

2. The information to be furnished shall, so far as possible, include the following :
 - (a) Name and address;
 - (b) Names and identifying data of principal officers of the firm against which legal action has been taken;
 - (c) Kind of goods;
 - (d) Country of origin;
 - (e) Related multinational company;
 - (f) Name and address of seller;
 - (g) Name and address of shipper;
 - (h) Names and addresses of other parties involved (buying or selling agents, other middlemen, etc.);
 - (ij) Port(s) or place(s) at which goods were exported;
 - (k) Brief particulars of offence;
 - (l) Amount of penalty and loss of revenue, if any;
 - (m) Other observations, including (if available) any previous convictions recorded;
 - (n) Member furnishing the information (including reference number).

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ANNEX II

Methods of smuggling and other fraud

1. Notifications under this Annex shall provide information relating to methods of smuggling and other fraud, including methods of concealment, in all significant cases. Members shall report each use of a known method of smuggling and other fraud as well as new, unusual or possible methods so that current trends in this field can be detected.
2. The information to be furnished shall, so far as possible, include the following :
 - (a) Description of methods of smuggling and other fraud. As available, the description (make, model, registration, etc.) of any form of transport used. Where applicable, data from the approval plate or certificate of containers or vehicles, the designs of which were approved under an international convention, and information about any violations of seals, bolts, locking devices or other parts of containers or vehicles;
 - (b) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch;
 - (c) Description of goods concerned;
 - (d) Other observations, including the circumstances which led to detection;
 - (e) Member furnishing the information (including reference number).

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ANNEX III

Vessels involved in smuggling

1. Notifications under this Annex shall provide information relating to vessels, of all types, that have been involved in smuggling, but should be limited, in principle, to cases which are considered to be of international interest.
2. The information to be furnished shall, so far as possible, include the following :
 - (a) Name and brief identification of vessel (M.S., M.V., tonnage, silhouette, etc.);
 - (b) Name and address of owner/charterer;
 - (c) Flag;
 - (d) Port of registry and, if different, home port;
 - (e) Name and citizenship/nationality of master (and, if applicable, principal officers);
 - (f) Nature of the offence, including description of goods seized;
 - (g) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch;
 - (h) Country of origin of goods seized;
 - (ij) First port of lading;
 - (k) Final port of destination;
 - (l) Ports of call between (ij) and (k);
 - (m) Other observations (number of cases in which the same vessel, shipping line, charterer or other vessel operator, has been involved in smuggling, etc.);
 - (n) Member furnishing the information (including reference number).

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ANNEX IV

Goods particularly liable to be smuggled

1. Notifications under this Annex shall provide information concerning definite trends, and shall not include details concerning particular cases.
2. The information to be furnished shall, so far as possible, include the following :
 - (a) Full description (including commercial and tariff description) of goods and, where appropriate, identifying marks or particulars;
 - (b) Name of manufacturer (if applicable);
 - (c) Country of manufacture;
 - (d) Country of exportation;
 - (e) Description of method(s) of smuggling used;
 - (f) Other observations;
 - (g) Member furnishing the information (including reference number).

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ANNEX V

Fraud by forgery, falsification or counterfeiting

1. Notifications under this Annex shall be designed primarily to give information about forgery, falsification or counterfeiting of documents. Customs seals, motor vehicle registration plates, etc., their use and the means of detection.
 2. The information to be furnished shall, so far as possible, include the following :
 - (a) Documents, Customs seals, registration plates, etc., involved;
 - (b) Nature and description of forgery, falsification or counterfeiting;
 - (c) Use to which the documents, Customs seals, registration plates, etc., were put;
 - (d) Means by which the forgery, falsification or counterfeiting was detected;
 - (e) Other observations;
 - (f) Member furnishing the information (including reference number).
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RESERVATIONS EXPRESSED BY MEMBER STATES

Customs fraud (1975)

Belgium :

Acceptance extends only to Annexes I, II, IV and V and is subject to the general reservation in Article IV of the Convention of 15 December 1950 establishing the Customs Co-operation Council.

Annex I : It will not be possible to furnish information concerning the names of persons, firms or companies other than those finally convicted of smuggling or other Customs fraud.

Annex IV : It will not be possible to furnish the name of the manufacturer (Item 2 (b)) and the marks or particulars of goods liable to be smuggled (Item 2 (a)) that would permit his identification.

Cyprus :

Subject to the strictest reciprocity by other Customs administrations.

Annex I : The names and descriptions of persons suspected of smuggling or apprehended in the act of smuggling cannot be given (paragraph 1 (b)).

France :

The information specified in paragraph 2 of each of Parts I and II of Annex I may only be furnished subject to the provisions of paragraph 1 (b) of each part, concerning national legislation on professional secrecy.

Iran :

Annex I : Except Item 1 (b) in Parts I and II.

Luxembourg :

Acceptance extends only to Annexes I, II, IV and V and is subject to the following reservations :

Annex I : The information referred to in paragraph 2 of both parts of the Annex can only be supplied subject to the provisions of paragraph 1 (b) of each part, concerning national legislation in respect of official secrets.

Annex IV : The Customs Administration may wish to consider, in each case, whether it is able to supply the information listed at paragraph 2 (a) and (b) of Annex IV, concerning identifying marks or particulars of the goods and the name of the manufacturer.

Customs fraud (1975) (continued)

Netherlands :

Annex I : Only the names of persons known to be involved in narcotic drug traffic will be notified.

The names notified shall be communicated by the Council's Secretariat only to the Customs administrations concerned and to the international organizations involved in action against narcotic drug traffic.