

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (75) 541 final.

Brussels, 4 November 1975.

Recommendation

for a

DECISION OF THE COUNCIL

concerning the negotiation of an International Convention on Mutual Assistance for the Prevention, Investigation and Repression of Customs Offences

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Presented by the Commission to the Council

## Explanatory Memorandum

### Introduction

The purpose of the attached recommendation for a Decision of the Council is to authorise the Commission to open negotiations in the Customs Cooperation Council (CCC) with regard to an International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences and its Annexes.

The structure of this Convention which has been distributed to Contracting Parties of the CCC is the same as that of the so called Kyoto Convention, that is to say, there is one common section followed by a number of annexes, each dealing with a particular aspect of mutual assistance, and each having a separate identity for the purposes of voting.

### Scope of the Convention and the Question of Competence

Although certain provisions of the preliminary draft Convention are of particular relevance to the uniform application of Community Law, others, for example the provisions incorporating measures to combat traffic in dangerous drugs, fall outside the immediate competence of Community institutions. The draft Convention is clearly a matter for which competence is shared, neither the Community nor the Member States having exclusive competence over the whole range of its provisions.

However, there are matters of unmistakable and inalienable Community competence which justify the Commission seeking authority from the Council to reach a common position with the Member States on those matters and to negotiate agreements in the Customs Cooperation Council.

The first consideration of the Preamble is a clear reminder that "offences against customs Law, particularly customs fraud and smuggling, are prejudicial to the economic and fiscal interests of States and to the legitimate interests of trade". That the Community has special and particular trading interests to safeguard is beyond doubt : the common commercial policy based on a common customs tariff, and the common

agricultural policy requiring inter alia the common organisation of agricultural markets and the grant of amounts financed by Community funds are dependent on the uniform application of Community Law. The objectives of those common policies and the provisions designed to implement them can only be said to be fulfilled if effective measures are taken to combat irregularities and attempted irregularities. It is the particular duty of the Commission, by virtue of Article 155 of the Treaty to safeguard those provisions. For this reason the Commission transmitted to the Council in 1973 a proposal for a Council Regulation on mutual assistance between competent authorities of the Member States and between the latter and the Commission for ensuring the correct application of Community customs and agriculture regulations.<sup>(1)</sup>

In particular, Articles 2 and 4 of Annex I and Article I of Annex II of the preliminary draft Convention which deal with measures to prohibit between Contracting Parties exchanges of goods subject to import prohibition must be applied by in conformity with the Treaty of Rome. Article 4 of Annex I deals with matters which have already been the subject of Community legislative provisions, namely Council Directive 68/312 on the harmonisation of provisions relating to (1) customs treatment of goods entering the customs territory of the Community and (2) the temporary storage of such goods, and Community Regulation 542/69 on Community transit. Article 1 of Annex III provides for the communication on written request of information relating to the dutiable value of goods, their tariff classification and origin. This enumeration is not exhaustive and it is possible to find other areas where the provisions of the draft Annexes deal with matters governed by Community Law, and for which the Community is competent.

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(1) Doc. COM(73) 538 final

At the Community level, the preliminary draft Convention drafted by the CCC will concern mutual administrative assistance between the Community and third countries. It is thus quite distinct from the proposal for a regulation referred to here, since that proposal is intended to establish mutual administrative assistance between the Member States of the Community and between Member States and the Commission. Negotiation in the CCC on the setting up of a Convention on mutual assistance can therefore have no influence on the establishment by a Community act of provisions on mutual administrative assistance within the Community.

#### Need for Community action

The importance of measures to combat irregularities for the correct application of Community law, and in particular the common commercial policy has already been stated. The Community interest being thus identified it is necessary to ensure that account is taken of it in negotiations with the CCC. Article 113 of the EEC Treaty states that where agreements with third countries need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. Hence the attached recommendation.

#### Conclusion

The Commission recommends that the Council, by virtue of Article 113 of EEC Treaty, authorise the Commission to negotiate the drawing up of an International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences and its Annexes. Following the precedent followed with regard to the negotiation of several annexes to the Kyoto Convention<sup>\*)</sup> the Commission proposes one single decision of the Council, rather than a number of separate acts.

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\*) COM(74) 1768 final

Recommendation  
for a  
DECISION OF THE COUNCIL  
concerning the negotiation of an International  
Convention on Mutual Assistance for the Pre-  
vention, Investigation and Repression of Customs  
Offences

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Article 113 thereof;

Having regard to the recommendation of the Commission,

Whereas the drawing up of an International Convention on Mutual  
Administrative Assistance for the Prevention, Investigation and  
Repression of Customs Offences and its Annexes can make an effective  
contribution in the fight against customs offences and in  
the protection of the economic and trading interests of the Community and  
its Member states;

Whereas such a Convention will directly affect the uniform application  
of the Common Customs Tariff, the Community's rules on customs  
matters, the Community's commercial policy and its common agricultural  
policy; whereas it must take into account the essential requirements of  
the customs union; whereas therefore the Community should negotiate and  
become a party to such a Convention,

HAS DECIDED ;

.../...

Sole Article

The Commission is hereby authorised to conduct negotiations within the Customs Cooperation Council with a view to the drawing up of an International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences.

The text of the preliminary draft of this Convention and its Annexes is annexed to this Decision.

The Commission shall conduct these negotiations in consultation with the Special Committee provided for by Article 113 of the EEC Treaty which shall assist it in this task.

Done at Brussels

For the Council

The President

List of Annexes :

Preliminary draft International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences and its Annexes.



PERMANENT TECHNICAL  
COMMITTEE

21.722 E

T7-8

Brussels, 6 August 1975.

PRELIMINARY DRAFT INTERNATIONAL CONVENTION  
ON MUTUAL ADMINISTRATIVE ASSISTANCE  
FOR THE PREVENTION, INVESTIGATION AND REPRESSION  
OF CUSTOMS OFFENCE

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Latest date  
for receipt of  
replies :  
14 November 1975

SECRETARIAT NOTE

1. At its 45th/46th Sessions the Council endorsed the Permanent Technical Committee's proposal that the Secretariat should be instructed to prepare a draft multilateral Convention on mutual administrative assistance and to circulate it to Members (Minutes, Doc. 21.589, paragraph 143).
2. The Secretariat has prepared a text, reproduced hereafter, in which it has endeavoured to reflect both the views expressed by Members in response to the Questionnaire (Doc. 20.855) and the ideas put forward at the Council and PTC Sessions.  
  
Members' attention is drawn particularly to the following points :  
  
(a) Form of the Convention
3. As suggested by the Committee, the Secretariat has prepared a separate draft Convention with six Annexes, rather than an Annex to the Kyoto Convention in order to ensure the flexibility favoured by some delegations.

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For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

(b) Provisions included

4. The provisions of this preliminary draft are for the most part taken from the model bilateral Convention (1967) and the three Council Recommendations, concerning mutual administrative assistance (1953), the spontaneous exchange of information (1971) and the pooling of information (new version adopted by the Council on 22 May 1975).
5. As requested by the Committee, the Secretariat has also referred to certain bilateral agreements between Members and to the Convention of 7 September 1967 between Belgium, France, Germany, Italy, Luxembourg and the Netherlands on the provision of mutual assistance by their Customs authorities.
6. Where provisions in this preliminary draft are based on (or reproduced) one of these texts, an abbreviated reference to the relevant text has been given in the margin (e.g. "EEC Conv." for the EEC Convention of 7 September 1967 mentioned in paragraph 5 above).
7. Members are requested to examine whether any of the bilateral agreements they have concluded with other countries contains provisions which could usefully be included in the draft multilateral Convention.

(c) Possibility of entering reservations (Article 3)

8. The Secretariat felt that the draft Convention should provide for the possibility of entering reservations. In this way, it has been possible to bring together a number of provisions representing a very high level of mutual assistance, as Members wished. Under this system, countries which cannot apply all of the provisions in full, will be able to enter reservations which they can withdraw progressively when they make the periodic review proposed in paragraph 2 of Article 3.
9. Furthermore, the division into six Annexes, which can be adopted independently of each other, should have the effect of reducing the number of reservations : each country can select the Annexes which suit it, at a given time, while endeavouring to accept the other Annexes in due course.

(d) Reciprocity (Article 2)

10. During the discussion of Annex D.3 concerning the control of evidence of origin, the view was expressed that reciprocity, which is desirable in any system of mutual administrative assistance, could not be ensured if the instrument permits reservations (Doc. 20.400, paragraph 7).



11. In the present draft, the Secretariat has incorporated the reciprocity clause from Standard 2 of Annex D.3 to the Kyoto Convention.
12. In this connexion, it should be noted that "reciprocity" can be interpreted as meaning that the country requesting the assistance must itself be legally authorized to furnish such assistance, if so requested.
13. However, the possibility of entering reservations should in no way interfere with the reciprocity principle; the extent to which a Contracting Party having accepted a given Annex can legally grant assistance to others can always be ascertained since all reservations must be notified.
14. Accordingly, refusals to assist motivated by lack of reciprocity should be quite exceptional. Furthermore, the proposed text specifies that reasons must be given and that a copy of the notification of the refusal must be sent to the Secretary General of the Council.
15. As regards paragraph 3 of Article 2, which deals with other cases of refusal to assist, the phrase "the legitimate commercial interests of any enterprise, public or private", which comes from Article IV of the Convention establishing a Customs Co-operation Council, has been placed in square brackets; after stating in the Preamble that Customs fraud and smuggling are "prejudicial ... to the legitimate interests of trade", it may be felt inappropriate to say in Article 2 that a request for assistance may be refused if it might prejudice those same interests.

(e) Confidentiality of the information (Article 7)

16. The Secretariat feels that the expression "renseignements communiqués ou obtenus", which occurs in the French version of Article 16 of the Model bilateral Convention, covers all the information that a Contracting Party may have received under the Convention, whether by means of an actual communication or as a result of enquiries, oral statements, copying of documents, etc., bearing in mind that the confidentiality of the information must be protected both in the country supplying it and in the receiving country. Accordingly, the English version of paragraphs 1 and 2 of Article 7 of the draft Convention has been aligned on the French, with a view to covering all these possibilities more clearly than does the present English version of Article 16 of the Model bilateral Convention.

(f) Languages to be used in requests for assistance (Article 8)

17. It was felt unnecessary to specify in this Article that in addition to English, French and the official languages of the requested country, requests for assistance may be written in any other language that may be mutually acceptable to the Contracting Parties concerned.

18. This point could perhaps be mentioned in the Commentary.

(g) Assistance between countries having a common frontier  
(Annex I)

19. To simplify its wording, Annex I mentions only countries that are actually adjoining one another. But there is no reason why agreements should not be concluded with a view to applying the provisions of this Annex, mutatis mutandis, to countries in the same area or region.

(h) Customs offices situated on the common frontier (Annex I, paragraph 6)

20. It was not felt necessary to specify in Annex I that one desirable method for correlating the powers and working hours of Customs offices situated on the common frontier could be the establishment of offices with joint national controls.

(ij) Pooling of information (Annex V)

21. It should be noted that, under the terms of the draft, the reciprocity rule applies to this Annex and that the latter does not cover information concerning drug smuggling. Hence the information contributed to the central index to be established under this Annex would be circulated only to those Contracting Parties which accept the Annex.

22. Furthermore, the lay-out has been simplified as compared with the Recommendation of 22 May 1975. Thus the part which would have corresponded to Annex IV to the Recommendation (Goods particularly liable to be smuggled) has not been included. Experience has shown that when the 1967 Recommendation was applied very few notifications were received under this head. Furthermore, when the Secretariat analyses the information received under Parts 1 and 2, it will be able to draw some conclusions as to which goods are particularly liable to be smuggled.

23. Fraud by forgery, falsification or counterfeiting (Annex V to the 1967 and 1975 Recommendations) has been incorporated in the second part of the central index established by the draft Convention.

24. Members are requested to examine this preliminary draft Convention and to send the Secretariat their observations, in duplicate and typed on one side of the paper only, by 14 November 1975.

x  
x x

PRELIMINARY DRAFT INTERNATIONAL CONVENTION  
ON MUTUAL ADMINISTRATIVE ASSISTANCE  
FOR THE PREVENTION, INVESTIGATION AND REPRESSION  
OF CUSTOMS OFFENCES

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PREAMBLE

The CONTRACTING PARTIES to the present Convention,  
established under the auspices of the Customs Co-  
operation Council,

Mod.  
Bil.Conv.

Considering that offences against Customs law, particularly  
Customs fraud and smuggling, are prejudicial to the  
economic and fiscal interests of States and to the  
legitimate interests of trade,

Considering that action against Customs offences and  
especially against smuggling in all its forms can be  
rendered more effective by co-operation between  
Customs administrations, and that such co-operation  
is one of the aims of the Convention establishing a  
Customs Co-operation Council,

Rec.  
8.6.71

Considering that the smuggling of narcotic drugs and  
psychotropic substances contributes to the illegal  
supply of such substances, which constitutes a danger  
to public health and to society, and taking note of  
the Single Convention on Narcotic Drugs (New York,  
30th March 1961), of its Protocol (Geneva, 25th March  
1972) and of the Convention on Psychotropic Substances  
(Vienna, 21st February 1971), all of which were drawn  
up under the auspices of the United Nations,

Have agreed as follows :

CHAPTER I

Definitions

Article 1

For the purposes of this Convention :

Mod.  
Bil.Conv.

- (a) the term "Customs law" means all the statutory or regulatory provisions applicable by the Customs Administrations on the importation, exportation, transit or temporary stay of goods or the international movement of capital or means of payment, whether involving the collection or refund of duties and taxes (or security therefor), or the enforcement of prohibitions, restrictions or controls or of exchange control regulations;
- (b) the term "Customs offence" means any breach, or attempted breach, of Customs law;
- (c) the term "Customs fraud" means any Customs offence whose purpose is to obtain any advantage by misleading the Customs;
- (d) the term "smuggling" means Customs fraud consisting in the movement of goods across a Customs frontier in any clandestine manner;
- (e) the term "person" means both natural and legal persons, unless the context otherwise requires;
- (f) the term "the Council" means the Organization set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950;

- (g) the term "Permanent Technical Committee" means the Permanent Technical Committee of the Council;
- (h) the term "ratification" means ratification, acceptance or approval.

## CHAPTER II

## Scope of the Convention

## Article 2

1. The Customs Administrations of Contracting Parties bound by an Annex to this Convention shall afford each other mutual assistance on the terms set out in Articles 1 to 19 hereafter and in that Annex, for the prevention, investigation and repression of Customs offences.

Annex D.3  
Standard2

2. A Contracting Party which has received a request for assistance need not comply with it if the requesting Contracting Party would be unable to furnish that assistance if the positions were reversed. In such cases the requested Contracting Party shall notify the requesting Contracting Party of its refusal to assist, stating its reasons, and shall send a copy of that notification to the Secretary General of the Council.

Council  
Conv.  
Art.IV

3. A Contracting Party need not comply with a request for assistance if it considers that to do so might prejudice its sovereignty, security or other essential interests 7, or the legitimate commercial interests of any enterprise, public or private<sup>7</sup>. In such cases, the requested Contracting Party shall notify the requesting Contracting Party of its refusal to assist, stating its reasons, and shall send a copy of that notification to the Secretary General of the Council.

Article 3

Kyoto  
Conv.  
Art.5

1. Any Contracting Party which accepts an Annex shall be deemed to accept all the provisions therein unless at the time of accepting the Annex or at any time thereafter it notifies the Secretary General of the Council of the provision(s) and, if appropriate, the part(s) of the Annex in respect of which it enters reservations. Any Contracting Party which has entered reservations may withdraw them, in whole or in part, at any time, by notification to the Secretary General of the Council specifying the date on which such withdrawal takes effect.

2. Each Contracting Party bound by an Annex shall at least once every three years review the provisions therein in respect of which it has entered reservations, compare them with the provisions of its national legislation and notify the Secretary General of the Council of the results of that review.

CHAPTER III

Role of the Council and of  
the Permanent Technical Committee

Article 4

1. The Council shall, in accordance with the provisions of this Convention, supervise the administration and development of this Convention.

Kyoto  
Conv.  
Art.6

2. To these ends the Permanent Technical Committee shall, under the authority of the Council and in accordance with any directions given by the Council, have the following functions :

(a) to submit to the Council proposals for such amendments to this Convention or to its Annexes as it may consider necessary;

- (b) to furnish opinions on any matters concerning the application of the Convention;
- (c) to maintain relations with the other International Organisations concerned and, in particular, with the competent bodies of the United Nations and with ICPO/Interpol, as regards action against the illicit traffic in narcotic drugs and psychotropic substances;
- (d) to take any action likely to further the general aims of the Convention and in particular to study new methods and procedures to facilitate the prevention, investigation and repression of Customs offences, to convene meetings, etc.;
- (e) to perform such tasks as the Council may direct in relation to the provisions of the Convention.

#### Article 5

For the purposes of voting in the Council and in the Permanent Technical Committee each Annex shall be taken to be a separate convention.

Kyoto  
Conv.  
Art.7

#### CHAPTER IV

#### Miscellaneous provisions

#### Article 6

The Council and the Customs Administrations of the Contracting Parties shall arrange for the services responsible for the investigation and repression of Customs offences to maintain personal and direct relations with a view to furthering the aims of this Convention, in particular by the exchange of information.

Mod.  
Bil.Conv.  
Art.15  
Rec.1953  
para.5



Article 7

Mod.  
Bil.Conv.  
Art.16A 7c

1. Any information communicated or obtained under this Convention shall be treated as confidential in the sense that it shall be used only for the purpose of the prevention, investigation and repression of Customs offences.

Ditto  
(1st  
variant)

2. Any information communicated or obtained, under this Convention may be made use of during proceedings and prosecutions before administrative or judicial authorities of one Contracting State, unless the Customs Administration of the other Contracting State has made specific reservations to the contrary. Where such reservations are made the reasons shall be given.

Rec.75  
para.9

3. Any information received by a Contracting Party under this Convention shall be afforded the same protection in respect of professional secrecy as is in force in that Contracting Party with regard to information of the same nature.

Article 8

Requests for assistance shall be in the language, or in one of the official languages, of the requested Contracting Party or shall be accompanied by a translation into that language or languages. However, Contracting Parties shall accept requests for assistance written in French or English or accompanied by a translation into French or English.

## Article 9

Kyoto  
Conv.  
Art.8

For the purposes of this Convention any Annex or Annexes to which a Contracting Party is bound shall be construed to be an integral part of the Convention, and in relation to that Contracting Party any reference to the Convention shall be deemed to include a reference to such Annex or Annexes.

## Article 10

The provisions of this Convention shall not preclude the application of the more extensive mutual administrative assistance which certain Contracting Parties grant or may grant in accordance with bilateral or regional agreements.

## CHAPTER V

## Final provisions

## Article 11

Kyoto  
Conv.  
Art.10

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall so far as possible be settled by negotiation between them.
2. Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Permanent Technical Committee which shall thereupon consider the dispute and make recommendations for its settlement.
3. If the Permanent Technical Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.

4. The Contracting Parties in dispute may agree in advance to accept the Recommendations of the Permanent Technical Committee or Council as binding.

Article 12

1. Any State Member of the Council may become a Contracting Party to this Convention :

- (a) by signing it without reservation of ratification;
- (b) by depositing an instrument of ratification after signing it subject to ratification; or
- (c) by acceding to it.

2. This Convention shall be open until ..... for signature at the Headquarters of the Council in Brussels by the States referred to in paragraph 1 of this Article. Thereafter, it shall be open for their accession.

3. Each State referred to in paragraph 1 of this Article shall at the time of signing, ratifying, or acceding to this Convention specify the Annex or Annexes it accepts, it being necessary to accept at least one Annex. It may subsequently notify the Secretary General of the Council that it accepts one or more further Annexes.

4. The instruments of ratification or accession shall be deposited with the Secretary General of the Council.

Kyoto  
Conv.  
Art.11

5. The provisions of paragraph 1 of this Article shall also apply to Customs and Economic Unions insofar as the obligations arising from the instruments establishing such Customs or Economic Unions require the competent bodies thereof to contract in their own name. However, such bodies shall not have the right to vote.

#### Article 13

1. This Convention shall enter into force three months after five of the States referred to in paragraph 1 of Article 12 thereof have signed the Convention without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any State signing without reservation of ratification, ratifying or acceding to this Convention after five States have signed it without reservation of ratification or have deposited their instruments of ratification or accession, this Convention shall enter into force three months after the said State has signed without reservation of ratification or deposited its instrument of ratification or accession.

3. Any Annex to this Convention shall enter into force three months after five Contracting Parties have accepted that Annex.

4. For any State which accepts an Annex after five States have accepted it, that Annex shall enter into force three months after the said State has notified its acceptance.

Kyoto  
Conv.  
Art.12

## Article 14

1. Any State may, at the time of signing this Convention without reservation of ratification or of depositing its instrument of ratification or accession, or any time thereafter, declare by notification given to the Secretary General of the Council that this Convention shall extend to all or any of the territories for whose international relations it is responsible. Such notification shall take effect three months after the date of the receipt thereof by the Secretary General of the Council. However, the Convention shall not apply to the territories named in the notification before the Convention has entered into force for the State concerned.

Kyoto  
Conv.  
Art.13

2. Any State which has made a notification under paragraph 1 of this Article extending this Convention to any territory for whose international relations it is responsible may notify the Secretary General of the Council, under the procedure of Article 15 of this Convention, that the territory in question will no longer apply the Convention.7

## Article 15

1. This Convention is of unlimited duration but any Contracting Party may denounce it at any time after the date of its entry into force under Article 13 thereof.

2. The denunciation shall be notified by an instrument in writing, deposited with the Secretary General of the Council.

3. The denunciation shall take effect six months after the receipt of the instrument of denunciation by the Secretary General of the Council.

Kyoto  
Conv.  
Art.14

4. The provisions of paragraphs 2 and 3 of this Article shall also apply in respect of the Annexes to this Convention, any Contracting Party being entitled, at any time after the date of their entry into force under Article 13 of the Convention, to withdraw its acceptance of one or more Annexes. Any Contracting Party which withdraws its acceptance of all the Annexes shall be deemed to have denounced the Convention.

#### Article 16

1. The Council may recommend amendments to this Convention.

2. The text of any amendment so recommended shall be communicated by the Secretary General of the Council to all Contracting Parties to this Convention, to the other signatory States and to those States Members of the Council that are not Contracting Parties to this Convention.

3. Within a period of six months from the date on which the recommended amendment is so communicated, any Contracting Party or, if the amendment affects an Annex in force, any Contracting Party bound by that Annex, may inform the Secretary General of the Council :

- (a) that it has an objection to the recommended amendment,  
or
- (b) that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled in its country.

4. If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of its acceptance of the recommended amendment, submit an objection to that amendment within a period of nine months following the expiry of the six-month period referred to in paragraph 3 of this Article.

5. If an objection to the recommended amendment is stated in accordance with the term of paragraph 3 or 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.

6. If no objection to the recommended amendment in accordance with paragraph 3 or 4 of this Article has been stated, the amendment shall be deemed to have been accepted as from the date specified below :

- (a) if no Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the expiry of the period of six months referred to in paragraph 3;
- (b) if any Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the earlier of the following two dates :
  - (i) the date by which all the Contracting Parties which sent such communications have notified the Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month period;
  - (ii) the date of expiry of the nine-month period referred to in paragraph 4 of this Article.

7. Any amendment deemed to be accepted shall enter into force either six months after the date on which it was deemed to be accepted or, if a different period is specified in the recommended amendment, on the expiry of that period after the date on which the amendment was deemed to be accepted.

8. The Secretary General of the Council shall, as soon as possible, notify the Contracting Parties to this Convention and other signatory States of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. He shall subsequently inform the Contracting Parties and other signatory States whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or accept it.

#### Article 17

1. Any State ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or accession.

2. Any State which accepts an Annex shall be deemed, unless it enters reservations under Article 3 of this Convention, to have accepted any amendments to that Annex which have entered into force at the date on which it notifies its acceptance to the Secretary General of the Council.

Kyoto  
Conv.  
Art.17



Article 18

The Secretary General of the Council shall notify the Contracting Parties to this Convention, the other signatory States, those States Members of the Council that are not Contracting Parties to this Convention, and the Secretary General of the United Nations of :

- (a) signatures, ratifications and accessions under Article 12 of this Convention;
- (b) the date of entry into force of this Convention and of each of the Annexes in accordance with Article 13;
- 7(c) notifications received in accordance with Article 147;
- (d) notifications and communications received in accordance with Articles 3 and 17;
- (e) denunciations under Article 15;
- (f) any amendment deemed to have been accepted in accordance with Article 16 and the date of its entry into force.

Kyoto  
Conv.  
Art.18

Article 19

In accordance with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Secretary General of the Council.

In witness whereof the undersigned being duly authorised thereto, have signed this Convention.

Kyoto  
Conv.  
Art.19

Done at ....., this ..... day  
of ..... nineteen hundred and seventy <sup>eight</sup> ....., in  
the English and French languages, both texts being  
equally authentic, in a single original which shall be  
deposited with the Secretary General of the Council who  
shall transmit certified copies to all the States referred  
to in paragraph ... of Article .... of this Convention.

x

x

x

## ANNEX I

ASSISTANCE BETWEEN COUNTRIES HAVING A COMMON FRONTIER

The Contracting Parties which accept this Annex\* undertake, subject to the provisions of Article 3 of this Convention, to take the following measures :

ASSISTANCE IN THE PREVENTION OF OFFENCES

Mod.  
Bil.Conv.  
Art.3

1. The Customs administrations of Contracting Parties shall communicate to each other lists of goods the importation of which is absolutely prohibited in their respective territories.

2. The Customs administration of one Contracting Party shall not permit the exportation to another Contracting Party of goods the importation of which is absolutely prohibited in the other Contracting Party.

Mod.  
Bil.Conv.  
Art.4

3. The Customs administrations of the Contracting Parties shall communicate to each other lists of goods known to be the subject of illicit traffic between their territories.

MEASURES CONCERNING IMPORTATIONS AND EXPORTATIONS ACROSS THE COMMON FRONTIER

4. The Customs administrations of the Contracting Parties shall take such steps as may be appropriate in order to ensure that goods exported and imported over the common frontier pass through the competent Customs office and along the approved routes\*\*.

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\* Assistance in action against the smuggling of narcotic drugs and psychotropic substances is dealt with in Annex VI hereafter.

\*\* For the purposes of this Annex, the term "approved routes" means the roads, railways, waterways and any other routes (pipelines, etc.) which, in accordance with the Customs provisions of a State, must be used for the importation and exportation of goods.

Mod.  
Bil.Conv.  
Art.5

5. They shall communicate to each other for that purpose a list of the Customs offices located along the common frontier, giving details of the powers of those offices and their working hours and, when appropriate, any changes in these particulars.

Ditto.  
Art.5  
para.3  
Rec.1953  
para.1

6. The Customs administrations of the Contracting Parties shall correlate the powers and working hours of the Customs offices situated on their common frontier.

Mod.  
Bil.Conv.  
Art.6

7. The Customs administration of a Contracting Party shall not permit the exportation of goods to another Contracting Party where the corresponding Customs office in that Contracting Party is not competent to clear them.

SURVEILLANCE OF PERSONS, GOODS AND MEANS OF TRANSPORT

8. The Customs administration of a Contracting Party shall, when expressly requested by another Contracting Party, maintain special surveillance, within the Customs surveillance zone\*, over :

- (a) the movements, particularly the entry into and exit from its territory, of particular persons suspected by the requesting Contracting Party to be habitually or professionally engaged in activities contrary to the Customs law of that Contracting Party;
- (b) suspicious movements of particular goods stated by the requesting Contracting Party to be the subject of important illicit traffic towards that Contracting Party;

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\* For the purposes of this Annex the term "Customs surveillance zone" means an area adjacent to the land frontier or the coastline, in which the Customs have special powers, e.g. in which the movement and storage of goods, or of certain classes of goods, are subject to special Customs control.

(c) particular places where stocks of goods have been built up, giving reasons to assume that they will be used for illicit importation into the requesting Contracting Party;

Mod.  
Bil.Conv.  
Art.8  
Rec.1953  
para.2

(d) particular vehicles, ships, aircraft or other means of transport suspected of being used to commit Customs offences in the requesting Contracting Party;

and shall communicate the results to the Customs administration of the requesting Contracting Party.

RIGHT OF PURSUIT

9. Officers of a Contracting Party who are authorized to investigate Customs offences and are in pursuit of persons, goods or means of transport shall be permitted to enter the territory of another Contracting Party to continue such pursuit. They shall immediately call upon the assistance of competent officers of the Contracting Party whose territory they have entered.

Conv.Co-op  
Benelux  
29.4.1969  
Art.24  
Bil.Conv.  
Norway-  
Sweden

10. However, if they are still in pursuit and if for urgent operational reasons they are unable to call immediately on the competent authorities of the Contracting Party whose territory they have entered, the pursuing officers may detain and apprehend the person pursued and inspect, search and seize the goods and means of transport, until they can secure the assistance of such authorities.

11. When officers of one Contracting Party have seized goods or means of transport in the territory of another Contracting Party, they shall hand them over to the competent authorities of that Contracting Party, for safe-keeping pending a decision as to their disposal.

Conv.Co-op  
Benelux  
Art.24

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## ANNEX II

SPONTANEOUS MUTUAL ASSISTANCE

The Contracting Parties which accept this Annex\* undertake, subject to the provisions of Article 3 of this Convention, to take the following measures :

ASSISTANCE IN THE PREVENTION OF OFFENCES

1. The Customs administrations of one Contracting Party shall not permit the exportation of goods to another Contracting Party which has notified them that the importation of such goods is absolutely prohibited in its territory.

2. The Customs administrations of Contracting Parties shall communicate to the other Contracting Parties lists of goods known to be the subject, on importation, exportation or in transit, of operations in breach of their Customs law.

SURVEILLANCE OF PERSONS, GOODS AND MEANS OF TRANSPORT

3. The Customs administration of a Contracting Party shall spontaneously maintain special surveillance in the Customs surveillance zone\*\* :

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\* Assistance in action against the smuggling of narcotic drugs and psychotropic substances is dealt with in Annex VI hereafter.

\*\* For the purposes of this Annex, the term "Customs surveillance zone" means an area adjacent to the land frontier or the coastline, in which the Customs have special powers, e.g. in which the movement and storage of goods, or of certain classes of goods, are subject to special Customs control.

Mod.  
Bil.Conv.  
Art.3

Glossary  
No. 59

- (a) the movements, particularly the entry into and exit from its territory, of persons suspected to be habitually or professionally engaged in activities contrary to the Customs law of another Contracting Party;
- (b) suspicious movements of particular goods stated by another Contracting Party to be the subject of important illicit traffic towards that Contracting Party;
- (c) particular places where stocks of goods have been built up, giving reason to assume that they will be used for illicit importation into another Contracting Party;
- (d) particular vehicles, ships, aircraft or other means of transport suspected of being used to commit Customs offences in another Contracting Party;

Mod.  
Bil.Conv.  
Art.8  
Rec.1953  
para.2

and shall communicate the results to the Customs administration of the Contracting Party concerned.

COMMUNICATION OF INFORMATION

4. The Customs administration of a Contracting Party shall, on its own initiative, communicate to the Customs administration of another Contracting Party any reports, records of evidence or certified copies of documents, giving all available information on operations, discovered or planned, which constitute or appear to constitute a breach of the Customs law of that Contracting Party.

EEC Conv.  
Art.8

5. The Customs administration of each Contracting Party shall communicate to the Customs administration of another Contracting Party that is directly concerned, any information likely to be of material assistance to it and relating to Customs offences, particularly new means or methods of committing them; the information shall be communicated in the form of copies or extracts of reports prepared by their Investigation Service and relevant to the specific methods used.

Mod.  
Bil.Conv.  
Art.9(a)  
Rec.1953  
para.3(b)

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## ANNEX III

MUTUAL ASSISTANCE ON REQUEST

The Contracting Parties which accept this Annex\* undertake, subject to the provisions of Article 3 of this Convention, to take the following measures, at the request of another Contracting Party :

ASSISTANCE IN THE COLLECTION OF IMPORT OR EXPORT DUTIES AND TAXES\*\*

1. The Customs administrations of Contracting Parties shall communicate to each other, in the event of suspected fraud and when expressly requested in writing, all available information which may help to ensure accuracy in the collection of import or export duties and taxes and, in particular, information likely to assist in the determination of :

- (a) the dutiable value of the goods;
- (b) the tariff classification of the goods;
- (c) the origin of the goods.

EEC Conv.  
Art.4

2. The Customs administrations of the Contracting Parties have agreed that the information referred to in paragraph 1 above includes :

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\* Assistance in action against the smuggling of narcotic drugs and psychotropic substances is dealt with in Annex VI hereafter.

\*\* For the purposes of this Annex, the term "import and export duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connexion with the importation or exportation of goods but not including fees and charges which are limited in amount to the approximate cost of services rendered.

Annex E.1  
Kyoto Conv.

Doc. 15.770  
para. 79

- (a) commercial invoices presented to the Customs of the country of exportation or importation; documentation giving export or import prices; an original or copy of the declaration of value made on exportation or importation of the goods; trade catalogues, price lists, etc. published in the country of exportation or in the country of importation;
- (b) analyses carried out by their laboratory services for the purposes of determining the tariff classification of the goods; the tariff classification declared either on importation or on exportation;
- (c) the declaration of origin made on exportation, when such declaration is required, the Customs status of the goods in the country of exportation (Customs transit, bonded warehouse, temporary admission, free zone, free circulation, exported with drawback facilities, etc.).

Rec.  
22.5.63

3. On express request, the Customs administration of one Contracting Party shall communicate to the Customs administration of another Contracting Party, if appropriate in the form of an official document, information concerning the following matters :

CCE

- (a) the authenticity of any official document produced in support of a Goods declaration made to the Customs authorities of the requesting Contracting Party;
- (b) whether goods which were granted favourable treatment on departure from the territory of the requesting Contracting Party because they were declared as intended for home use in the territory of the other Contracting Party, have been duly cleared for home use in the latter Contracting Party; .

(c) whether goods imported into the territory of the requesting Contracting Party have been lawfully exported from that of the other Contracting Party;

Mod.Bil.  
Conv.  
Art.10  
para.1

(d) whether goods exported from the territory of the requesting Contracting Party have been lawfully imported into that of the other Contracting Party.

SURVEILLANCE OF PERSONS, GOODS AND MEANS OF TRANSPORT

Mod.Bil.  
Conv.  
Art.8  
Rec.53  
para.2

4. The Customs administration of a Contracting Party shall, at the express written request of another Contracting Party, maintain special surveillance, in the Customs surveillance zone\*, over :

- (a) the movements, particularly the entry into and exit from its territory, of particular persons suspected of being habitually or professionally engaged in activities contrary to the Customs law of that Contracting Party;
- (b) suspicious movements of particular goods stated by the requesting Contracting Party to be the subject of important illicit traffic towards that Contracting Party;
- (c) particular places where stocks of goods have been built up, giving reason to assume that they will be used for illicit importation into the other Contracting Party;

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\* For the purposes of this Annex, the term "Customs surveillance zone" means an area adjacent to the land frontier or the coastline, in which the Customs have special powers, e.g., in which the movement and storage of goods, or of certain classes of goods, are subject to special Customs control.

- (d) particular vehicles, ships, aircraft or other means of transport suspected of being used to commit Customs offences in the other Contracting Party;

and shall communicate the results to the Customs administration of that Contracting Party.

5. At the express written request of another Contracting Party the Customs administration of a Contracting Party shall make special provision for the control of goods which are known to be the subject of illicit traffic. This control may be exercised, for example, by means of a special document issued by the Customs authorities of the country of exportation for surrender to the Customs authorities of the country of importation in order that they may certify that the goods were lawfully imported.

Mod.Bil.  
Conv.  
Art.10  
para.2

#### COMMUNICATION OF INFORMATION

6. The Customs administration of one Contracting Party shall communicate to the Customs administration of another Contracting Party, on express request, any available information regarding :

Mod.Bil.  
Conv.  
Art.9(b)

- (a) operations which it is suspected will give rise to Customs offences in the other Contracting Party;
- (b) persons, and vehicles, ships, aircraft and other means of transport, suspected of being engaged in, or of being used to commit, Customs offences in the other Contracting Party;
- (c) new means or methods of committing Customs offences;
- (d) goods known to be the subject of illicit traffic.

7. The Customs administration of one Contracting Party shall communicate to the Customs administration of another Contracting Party, on express request, any available information :

(a) contained in Customs documents relating to exchanges of goods between the two countries, which are suspected of being contrary to the Customs law of the requesting Contracting Party;

Mod.Bil.  
Conv.  
Art.9(c)

(b) enabling false declarations to be detected, in particular with regard to dutiable value;

(c) concerning certificates of origin, invoices, or other documents, known to be, or suspected of being false.

8. The Customs administration of a Contracting Party shall, on request, communicate to the Customs administration of another Contracting Party any reports, records of evidence or certified copies of documents, giving all available information on operations, discovered or planned, which constitute, or appear to constitute, a breach of the Customs law of that Contracting Party.

EEC Conv.  
Art.8

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## ANNEX IV

MUTUAL ASSISTANCE IN INVESTIGATIONS

The Contracting Parties which accept this Annex undertake, subject to the provisions of Article 3 of this Convention, to take the following measures :

INVESTIGATIONS AND NOTIFICATIONS ON BEHALF OF ANOTHER CONTRACTING PARTY

Mod.Bil.  
Conv.  
Art.11

1. At the express request of the Customs administration of another Contracting Party, the Customs administration of a Contracting Party shall :

(a) make enquiries, with due respect for the regulations prevailing in its territory, to obtain evidence concerning a Customs offence under investigation in the requesting Contracting Party, and take statements from any persons connected with that offence, or from witnesses or experts;

(b) permit the duly authorized Customs officials of the requesting Contracting Party to be present at any enquiries made under paragraph (a) above

and communicate the results of the enquiry, as well as any documents or other evidence, to the Customs administration of the requesting Contracting Party.

2. At the request of the Customs administration of a Contracting Party, that of another Contracting Party shall notify the persons concerned or have them notified by the competent authorities, with due respect for the regulations prevailing in that Contracting Party, of any action or decisions taken by administrative authorities in connexion with the application of Customs law.

Mod.Bil.  
Conv.  
Art.12

ACTION BY CUSTOMS OFFICIALS OF ONE CONTRACTING PARTY IN  
THE TERRITORY OF ANOTHER CONTRACTING PARTY

Mod.Bil.  
Conv.  
Art.13  
para.1

3. In the investigation of a specific Customs offence, officials specifically designated by one Contracting Party may, on written request by that Contracting Party and after being duly authorized by the other Contracting Party, consult in the offices of the Customs administration of the other Contracting Party the relevant books, registers and other documents or evidence held in those offices and extract any information or particulars relating to the offence.

4. The officials designated under paragraph 3 above may take copies from the books, registers and other documents referred to in that paragraph.

Mod.Bil.  
Conv.  
Art.13  
para.3

5. In the application of the provisions of paragraph 3 above, all possible assistance and co-operation shall be afforded to the officials of the requesting Contracting Party to facilitate their investigation.

Mod.Bil.  
Conv.  
Art.14  
EEC Conv.  
Art.12

6. Upon the request of the competent authority of one Contracting Party, the Customs administration of another Contracting Party may authorize its officials to appear before a court or tribunal in the requesting Contracting Party, as witnesses or experts, in the matter of a Customs offence. Such officials shall, within the limits of their authorization, give evidence regarding facts established by them in the course of their duties. The request for appearance must clearly indicate in what case and in what capacity the official is to be heard.

EEC Conv.  
Art. 14

7. Customs officials of a Contracting Party who have authority to investigate Customs offences may, with the agreement of the competent officials of the Customs administration of another Contracting Party, be present in the territory of that Contracting Party when those officials are investigating Customs offences which are of concern to their own administration.

EEC Conv.  
Art. 15

8. The Customs administrations of Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, cite any information obtained and documents consulted in accordance with the provisions of this Annex. The weight to be attached to such information and documents as evidence and the use made thereof in the courts shall be determined in accordance with national legislation.

EEC Conv.  
Art. 16

9. When, in the circumstances provided for by this Annex, Customs officials of a Contracting Party are present in the territory of another Contracting Party, they must at all times be able to furnish proof of their official capacity. They shall, while there, enjoy the protection accorded to Customs officials of that other Contracting Party in accordance with national laws and regulations. They shall be treated in the same way as those officials as regards penal sanctions for offences committed against them or by them.

EEC Conv.  
Art. 18

10. The Contracting Parties shall renounce all claims upon each other for the reimbursement of expenses incurred pursuant to this Annex, except for fees paid to experts.

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## ANNEX V

POOLING OF INFORMATION\*

The Contracting Parties which accept this Annex undertake, subject to the provisions of Article 3 of this Convention, to participate in a system for the pooling of information concerning certain aspects of Customs fraud and, to this end, to take the following measures :

COMMON PROVISIONS

- Rec.1975  
para.2
1. Customs administrations of Contracting Parties shall communicate to the Secretary General of the Council, to the extent that such information is of interest from the international point of view, the information specified hereafter.
  2. The Secretary General of the Council shall institute and keep up to date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in Customs fraud and fraudulent practices.
  3. The Secretary General of the Council shall circulate to the officials whom the Contracting Parties have designated by name 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 2 above.

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\* The pooling of information concerning the smuggling of drugs and psychotropic substances is dealt with in Annex VI hereafter.

4. The Secretary General of the Council shall, upon request, supply Contracting Parties with any other information available to him concerning this Annex.

5. The Secretary General of the Council shall honour any restrictions that a Contracting Party having provided information may have placed on its circulation.7

6. A Contracting Party having communicated information shall be entitled to require that it be subsequently deleted from the central index and from any registers established by Contracting Parties to which it has been communicated and that no further use shall be made of it.

7. Any information received by a Contracting Party under this Annex shall be afforded the same protection in respect of professional secrecy as is in force in that Contracting Party with regard to information of the same nature the circulation and use of the information being restricted in accordance with the directions of the Contracting Party which provided it7.

CENTRAL INDEX

PART I : PERSONS

Section I : Smuggling

8. Notifications under this Section of the Annex shall provide information concerning :

(a) persons finally convicted of smuggling; and

Rec.1975  
Annex 1  
para.1

- (b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Contracting Party making the notification, even though no legal processes have been completed, it being understood that when Contracting Parties 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.

Rec.1975  
para.2

9. 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

(1) Physical description

- (1) Race
  - (2) Sex
  - (3) Height
  - (4) Weight
  - (5) Build
  - (6) Hair
  - (7) Eyes
  - (8) Complexion
  - (9) Distinctive marks or peculiarities
- (m) Brief particulars of offence (including particulars of type, quantity and origin of goods involved in the offence, manufacturer, shipper, and consignor)
- (n) Nature and amount of penalty and/or sentence imposed
- (o) Other observations, including languages spoken and (if available) any previous convictions recorded
- (p) Contracting Party 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) - (1).
- (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) Contracting Party furnishing the information (including reference number).

Rec.1975  
para.3

10. As a general rule, the Secretary General of the Council 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.

Section II : Customs fraud other than smuggling

11. 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 Contracting Parties 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.

12. 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) Contracting Party furnishing the information (including reference number).

PART II : METHODS OF SMUGGLING AND OTHER FRAUD,  
INCLUDING FRAUD BY FORGERY, FALSIFICATION  
AND COUNTERFEITING

Annex V

Rec. 1975  
Annex II  
(amended)

13. Notifications under this Annex shall provide information relating to methods of smuggling and other fraud, including methods of concealment, fraud by forgery, falsification or counterfeiting, in all significant cases. Contracting Parties 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.

14. The information to be furnished shall, so far as possible, include the following :

- (a) Description of methods of smuggling and other fraud, including fraud by forgery, falsification or counterfeiting. If possible 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) Nature and description of forgery, falsification or counterfeiting; use to which the forged, falsified or counterfeited documents, Customs seals, registration plates, etc. were put;
- (e) other observations, including the circumstances which led to detection;
- (f) Contracting Party furnishing the information (including reference number).

PART III : VESSELS INVOLVED IN SMUGGLING

15. 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.
16. 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) Contracting Party furnishing the information (including reference number).

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## ANNEX VI

ASSISTANCE IN ACTION AGAINST THE SMUGGLING  
OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Rec.  
8.6.71

The Contracting Parties which accept this Annex undertake to take the following measures, subject to the provisions of Article 3 of this Convention and having regard to the provisions in force at the national level in the matter of co-ordination of the activities of the various authorities competent to take action against the abuse of narcotic drugs and psychotropic substances :

SPONTANEOUS EXCHANGE OF INFORMATION

- Rec.  
8.6.71
1. The Customs administrations of Contracting Parties shall spontaneously and without delay communicate to other Customs administrations which may be directly /or indirectly<sup>7</sup> concerned, any available information concerning :
- (a) operations which are known or suspected to constitute, or which seem likely to give rise to, smuggling of narcotic drugs or psychotropic substances;
  - (b) persons known to be engaged in or suspected of engaging in operations referred to in paragraph (a) above, and vehicles, ships, aircraft and other means of transport used, or suspected of being used, for such operations;
  - (c) new means or methods used for smuggling narcotic drugs or psychotropic substances;
  - (d) products which are newly developed or used as narcotic drugs or psychotropic substances and which are the subject of smuggling.

SURVEILLANCE OF OPERATIONS, PERSONS AND MEANS OF TRANSPORT

Mod.Bil.  
Conv.  
Art. 8  
R. 1953  
para. 2  
Rec. 1971

2. The Customs administrations of Contracting Parties shall spontaneously maintain special surveillance, in the Customs surveillance zone\*, over :

- (a) operations which are known or suspected to constitute, or which seem likely to give rise to, smuggling of narcotic drugs or psychotropic substances;
- (b) the movements, particularly the entry into and exit from its territory, of persons known to be engaged in or suspected of engaging in operations referred to in (a) above, and vehicles, ships, aircraft and other means of transport used, or suspected of being used, for such operations;

and shall communicate the results to the Customs administration of the Contracting Party concerned.

3. The Customs administration of one Contracting Party shall, at the express request of another Contracting Party, maintain the special surveillance referred to in paragraph 2 above and communicate the results thereof to the Customs administration of the requesting Contracting Party.

INVESTIGATIONS ON BEHALF OF ANOTHER CONTRACTING PARTY

4. The Customs administration of one Contracting Party shall, at the express request of that of another Contracting Party :

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\* For the purposes of this Annex, the term "Customs surveillance zone" means an area adjacent to the land frontier or the coastline, in which the Customs have special powers, e.g., in which the movement and storage of goods, or of certain classes of goods, are subject to special Customs control.

(a) make enquiries, with due respect for the regulations prevailing in its territory, to obtain evidence concerning any smuggling of narcotic drugs or psychotropic substances under investigation in the requesting Contracting Party, and take statements from any persons connected with that smuggling or from witnesses or experts;

(b) permit the duly authorized Customs officials of the requesting Contracting Party to be present at any enquiries made under (a) above;

Mod.Bil.  
Conv.  
Art.11

and communicate the results of the enquiry, as well as any documents or other evidence, to the Customs administration of the requesting Contracting Party.

ACTION BY CUSTOMS OFFICIALS OF ONE CONTRACTING PARTY IN THE TERRITORY OF ANOTHER CONTRACTING PARTY

Mod.Bil.  
Conv.  
Art.14

5. Upon the request of the competent authority of a Contracting Party, the Customs administration of another Contracting Party may authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party, as witnesses in a case relating to the smuggling of narcotic drugs or psychotropic substances. Such officials shall, within the limits of their authorization, give evidence regarding facts established by them in the course of their duties. The request for appearance must clearly indicate in what case and in what capacity the official is to be heard.

EEC Conv.  
Art.14

6. Officials of the Customs administration of one Contracting Party who have authority to investigate the smuggling of narcotic drugs and psychotropic substances may, with the agreement of the competent officials of the Customs administration of another Contracting Party, be present in the territory of that Contracting Party when those officials are investigating such smuggling operations where these are of concern to their own administration.

EEC Conv.  
Art. 15

7. The Customs administrations of Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, cite any information obtained and documents consulted in accordance with the provisions of this Annex. The weight to be attached to such information and documents as evidence, and the use made thereof in the courts, shall be determined in accordance with national legislation.

EEC Conv.  
Art. 16

8. When, in the circumstances provided for by this Annex, Customs officials of a Contracting Party are present in the territory of another Contracting Party, they must at all times be able to furnish proof of their official capacity. They shall, while there, enjoy the protection accorded to Customs officials of that other Contracting Party in accordance with national laws and regulations. They shall be treated in the same way as those officials as regards penal sanctions for offences committed against them or by them.

EEC Conv.  
Art. 18

9. The Contracting Parties shall renounce all claims upon each other for reimbursement of expenses incurred pursuant to paragraphs 5, 6, 7 and 8 above.

#### POOLING OF INFORMATION

10. The Contracting Parties shall participate in a system for the pooling of information concerning the smuggling of narcotic drugs and psychotropic substances. This system shall operate as follows :

Rec. 1975  
para. 2

11. Each Contracting Party shall communicate to the Secretary General of the Council, to the extent that such information is of interest from the international point of view, the information specified hereafter.

- Rec. 1975  
para. 3
12. The Secretary General of the Council shall institute and keep up to date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in the smuggling of narcotic drugs or psychotropic substances.
- Rec. 1975  
para. 4
13. The Secretary General of the Council shall circulate to the officials named by the Contracting Parties 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 12 above.
- Rec. 1975  
para. 5
14. The Secretary General shall, unless advised to the contrary by the Contracting Party furnishing the information, also circulate to the officials named by the other Members of the Council and to International Organizations with which arrangements have been made in this respect, any information concerning the smuggling of 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 12 above.
- Rec. 1975  
para. 6
15. The Secretary General shall, upon request, provide a Contracting Party having accepted this Annex with any other information available to him concerning a part of an Annex which that Contracting Party has agreed to apply.
- Rec. 1975  
para. 7
16. The Secretary General of the Council shall honour any restrictions that a Contracting Party having provided information may have placed on its circulation.7

CENTRAL INDEX, PART I : PERSONS

17. Notifications under this part of the central index 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 Contracting Party making the notification, even though no legal processes have been completed, it being understood that when Contracting Parties 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.

Rec. 1975  
Annex I  
para. 1

18. The information to be furnished shall, so far as possible, include the following :

- (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

Annex I  
Rec. 1975  
para. 2

## (1) Physical description

- (1) Race
  - (2) Sex
  - (3) Height
  - (4) Weight
  - (5) Build
  - (6) Hair
  - (7) Eyes
  - (8) Complexion
  - (9) Distinctive marks or peculiarities
- (m) Brief particulars of offence (including particulars of type, quantity and origin of goods involved in the offence, manufacturer, shipper, and consignor)
- (n) Nature and amount of penalty and/or sentence imposed
- (o) Other observations, including languages spoken and (if available) any previous convictions recorded
- (p) Contracting Party furnishing the information (including reference number).

19. As a general rule, the Secretary General shall circulate information relating to Part I of the Central Index at least to the countries of citizenship/nationality and residence and to the countries visited by the person concerned during the past 12 months.

Rec.1975  
Annex I  
Part I  
para.3

CENTRAL INDEX, PART II : METHODS

20. Notifications under this Part of the central index shall provide information concerning methods of smuggling narcotic drugs and psychotropic substances, including methods of concealment, in all significant cases.

Annex II  
para.1

Contracting Parties shall report each use of a known method of smuggling as well as new, unusual or possible methods so that current trends in this field can be detected.

21. The information to be furnished shall, so far as possible, include the following :

- (a) description of methods of smuggling. 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) Contracting Party furnishing the information (including reference number).

CENTRAL INDEX, PART III : VESSELS INVOLVED IN SMUGGLING

Rec.1975  
Annex III  
para.1

22. Notifications under this part of the central index shall provide information relating to vessels, of all types, that have been involved in the smuggling of narcotic drugs or psychotropic substances, but should be limited, in principle, to cases which are considered to be of international interest.

Annex III  
para.2

23. 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) Contracting Party furnishing the information (including reference number).
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