NOTE
from: Presidency

to: Customs Cooperation Working Party

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7386/1/97 ENFOCUSTOM 23 REV 1 + COR 1,
10933/97 ENFOCUSTOM 50, 9299/98 ENFOCUSTOM 35

Subject: External frontier strategy
- Guide for the application of risk analysis in combating smuggling in the field of general aviation under the third pillar

INTRODUCTION

The Council Resolution of 18 December 1997 laying down the priorities for cooperation in the field of justice and home affairs for the period from 1 January 1998 to the date of entry into force of the Treaty of Amsterdam refers, under Section I, point 4(g), to risk analysis in the customs field (OJ C 11, 15.1.1998, p. 1).

Preparatory work was already carried out under the Netherlands Presidency on drawing up guidelines for the application of risk analysis in general (ENFOCUSTOM 11) and risk analysis applied to air freight in particular (ENFOCUSTOM 23 REV 1). The Luxembourg Presidency continued the work on risk analysis by concentrating on express mail as a specific aspect of air freight (ENFOCUSTOM 50).

The Austrian Presidency intends to proceed with work on the subject of a guide for the application of risk analysis in combating fraud in the field of general aviation.
DESCRIPTION OF GENERAL AVIATION

General aviation encompasses both private and business air travel and private flying and leisure trips. In general aviation medium-sized and small aircraft are used both for leisure trips and to carry goods or passengers in exchange for or without payment.

When goods are brought into the Community, they are subject to certain transportation requirements (Article 38 of the Customs Code) at a customs office or any other approved place, which allow Member States to supervise more detailed implementation.

As a result, aircraft are able to take off from and land at international airports which provide customs facilities. However, charges made for the use of airports are usually relatively high.

For this reason and owing to the intensive use of international airports, there is a tendency in general aviation to use small airports (airfields). A number of such airfields do not provide permanent customs facilities. Official air transport regulations allow departures to and direct landings from third countries to take place at such airfields. To simplify matters, customs authorities may — either as a general rule or in specific instances — authorise passengers who are only carrying goods in respect of which the customs declaration may be made in another form of statement under Article 233 of the Regulation implementing the Customs Code, and goods which are not subject to prohibitions, restrictions or other formalities, to land at or depart from certain such airfields. Prior notification of any intention to fly to or land from a third country must be given to the appropriate customs authorities in good time. In such cases, random customs controls are carried out only on certain flights. As prior notice of a departure or a landing is relatively short, there is generally little time in which to decide whether a customs inspection should be carried out.

In the case of many airfields which do not provide permanent customs facilities, the customs authorities may also allow goods which require (written or verbal) customs clearance to be brought in and taken out. In these cases, applications for clearance must be submitted beforehand to the appropriate customs office.
Cross-border flights in the field of general aviation naturally require flight plans. However, the information which must be given to the authorities responsible for flight safety in the field of general aviation is not available to customs authorities in the same way as for civil aviation. In general aviation, the flight control authorities are in each case informed only of the point of departure and the next place of landing, as given in the flight plan (the principle of flight stages). This means that in the case of a flight from a third country to the Community, only the point of departure in the third country and the airport used for the first landing in a Member State need be stated. If the flight continues as a connecting flight within the Community, it is no longer possible for the next airport to deduce that the flight originally came from a third country. The danger with general aviation flights within the European Union is also that such flights normally take place between small, remote airfields without customs inspection and previous notification of arrival is not required.

Thanks to technical progress, aircraft now have considerable range, thus making possible - depending on a Member State’s geographical location - direct flights to and landings from remoter third countries which are sensitive in respect of certain goods. It is also important to bear in mind that aircraft are able to land illegally on makeshift strips of land or in open country and that smuggled goods may be dropped from the air.

Given the characteristics of general aviation, it is clear that effective control of goods transported in such circumstances can be exercised only on the basis of a detailed risk analysis which examines the particularities of this kind of transport.

The Austrian Presidency therefore intends to produce a guide for the application of risk analysis with regard to smuggling in general aviation along the lines of the guide drawn up for risk analysis in air freight and express courier services.
A. RISK AREAS

By identifying the risk areas it should be possible to establish the threats which the circumstances surrounding general aviation represent.

• Airfields

  - In many cases there is no permanent customs presence.
  - Customs authorities are given relatively short notice of landings and take-offs.
  - When an aircraft from a third country touches down in one Member State and then flies on to another there is no automatic way of telling that the flight actually originated in a third country.
  - Documents on which to base a decision whether to make a spot check on a small aircraft are not available at airfields where there is no permanent customs presence.

• Medium-sized and small aircraft (planes and helicopters)

  - Can fly long distances.
  - Can land on makeshift runways or open ground.
  - Air Traffic Control has difficulty in tracking low-flying aircraft.
  - Goods can be dropped from the air.
  - Customs authorities are sometimes ill-equipped and trained to search hiding-places in aircraft — liability issues arise.
• Goods
Given the high cost of shipment by air and the restricted cargo capacity, the potential threat may be assumed to be confined to the following goods:

- narcotics;
- weapons and ammunition;
- expensive, low-bulk items (e.g. gems, jewellery, high-tech goods, cigarettes, etc.);
- cultural goods;
- CITES goods;
- nuclear materials;
- cash;
- the actual aircraft.

B. SOURCES OF INFORMATION

To gain advance warning of possible irregularities/fraud, it is important to make use of national data banks and information sources, international/European (Commission) data banks and administrative cooperation.

• National level
  - customs data banks;
  - cooperation with the security services and police;
  - cooperation with the aviation (including civil aviation) services (owners are registered with the registration agency);
  - information from companies which maintain and service aircraft;
  - information from local flying clubs and companies providing aircraft rental and other air services (i.e. on-board cleaning and catering services, etc.) or involved with public air transport;
  - information from insurance companies;
  - information from private individuals observing unusual activity involving aircraft.
• International/European level
  - AFIS/CIS;
  - information on irregularities under the first pillar (UCLAF);
  - WCO (Electronic Bulletin board, Central Information System);
  - RILO-Western Europe;
  - administrative cooperation;
  - information from Europol and Interpol.

C. RISK FACTORS TO BE CONSIDERED IN SELECTING AIRCRAFT FOR SPOT-CHECKS BY CUSTOMS

When an aircraft is known to be arriving from or taking off in a third country, the following factors may be used to help determine whether or not to make a customs check.

• There is information (notification) that the aircraft may be being used for illegal purposes, or that it has been so used in the past. In any case, an eye should be kept on aircraft which have previously been used for smuggling. There are many instances of smuggling by occupants of rented aircraft.

• There is information to suggest that the owner, the pilot or a passenger may be committing irregularities/fraud, or have done so in the past.

• The flight comes from a country classified as sensitive.

• The flight plan is unusual.

• The flight time is unusual (e.g. night flight); analysis of flight movements: frequency, destinations, duration, etc.
D. RISK FACTORS WHICH MAY SUGGEST THE NEED FOR MORE THAN JUST A ROUTINE CHECK

Positive results from the X-raying of articles of luggage and other goods may suggest the need for closer examination.

When actually inspecting the aircraft, customs may notice circumstances which indicate the need for closer examination.

- **External appearance of the aircraft**
  - The registration number on the aircraft is not of the regulation size. The size of registration numbers on aircraft is dictated by the speed rating. Smugglers may use smaller characters than prescribed to make the number more difficult to read at a distance.
  - The registration number is removable (stick-on figures and letters used).
  - The registration number has been altered (colour does not match the original, number takes the wrong form).
  - The colour used for the registration number offers little contrast with the background and is therefore difficult to decipher.
  - The windows are screened, making it difficult to see into the aircraft.
  - The undercarriage has been altered to enable the aircraft to land on makeshift runways or open country (e.g. oversized tyres).
  - There are visual indications of off-runway landings (paintwork scratched, traces of vegetation clinging, heavily streaked with mud, sand, etc.).
  - There are indications that body panels have been removed and put back (access to structural or artificially-created cavities).
• Appearance of the aircraft inside
  - Seats removed to leave more room for smuggled goods;
  - Fuel tanks, pumps and fuel hose in the cabin or hold possibly serving as hiding places or carried for the purposes of greater flight independence, attachments for mounting tanks inside the aircraft possibly indicating illegal alterations to the fuel system;
  - Fuel tanks almost empty on landing;
  - Maps and drawings indicating intermediate landings or a different flight path from the one arranged;
  - Bills indicating that fuel or other goods have been paid for in cash;
  - The presence of several different flight plans;
  - Unusual quantities of packing material in the cabin or hold or sheets of plastic laid down to prevent contamination, possibly indicating drug smuggling;
  - Unexplained traces of powder or crumbs on the carpeting possibly suggesting drug smuggling, such as a strong smell in the aircraft (of drugs themselves or of sprays used to hide the smell);
  - Interior panels, sections of flooring or rear seats altered or removed;
  - The cabin doors altered so that they can be opened in flight.

• Papers
  - The aircraft registration document and airworthiness certificate must be carried on every flight. The pilot must carry his pilot’s licence. A logbook of the pilot or pilots, if carried, gives a good idea of the aircraft’s past movements.

  - Lack of uniformity in the typescript or handwriting in a document, corrections and spelling mistakes all suggest possible falsification of the papers.
• Passengers
  - The results of an investigation into the background of the pilot and of the aircraft owner (financial situation, previous customs or other convictions, etc.);
  - Odd behaviour, refusal to leave the aircraft, attempts to obstruct customs checks or contradictory statements by passengers, all of which may be indicative of smuggling;
  - Statements by passengers or the pilot regarding the purpose of the flight or hire of the aircraft which cannot be proved or disproved.