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ENFOCUSTOM 32

NOTE

from: Presidency
to: Working Party on Customs Cooperation
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Subject: Customs Cooperation Handbook
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1. **General presentation of the Convention**

The Convention on mutual assistance and cooperation between customs administrations, the "Naples II Convention", was signed in Brussels on 18 December 1997 (OJ C 24, 23.1 1998, p. 1, and OJ C 165, 30.5.1998, p. 24 (en)).

Based on Article K.3 (new Article 31) of the Treaty on European Union, this European Union Convention replaces the 1967 Naples Convention.

It represents a significant legal reinforcement to the fight against fraud and forms of transnational trafficking in breach of national and Community customs provisions.

Article 1 of the Convention states that: "Without prejudice to the competences of the Community, the Member States of the European Union shall provide each other with mutual assistance and shall cooperate with one another through their customs administrations, with a view to:

- preventing and detecting infringements of national customs provisions,

and

- prosecuting and punishing infringements of Community and national customs provisions." (...)

The Naples II Convention gives no new powers to the agencies responsible for applying it. They will implement the provisions of the Convention within the framework of their existing national powers.
2. Definition of the scope of customs cooperation under the Naples II Convention

Customs cooperation between Member States' customs administrations as defined in the Naples II Convention applies to:

- the prevention and detection of infringements of national customs provisions (whether laws, regulations or administrative provisions) in the following areas:
  - provisions adopted to prohibit, restrict or control the cross-border traffic in certain goods;
  - provisions on non-harmonised excise duties;

- the prosecution and punishment of the infringements referred to above and infringements of:
  - the Community Customs Code and its implementing provisions;
  - the provisions adopted on harmonised excise duties;
  - the provisions adopted on the common agricultural policy;
  - the provisions on VAT on importation.

- participation in the committing of such infringements or an attempt to commit them;

- membership of a criminal organisation that commits such infringements;

- the laundering of money deriving from all the above infringements.

Furthermore, the Convention has no effect on the more favourable provisions of bilateral or multilateral cooperation agreements in force between Member States [Article 1(2)].
In accordance with Article 25 of the Convention, the exchange of information between customs administrations must comply with the applicable provisions of the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to the automatic processing of personal data and must be effected in accordance with the relevant national provisions.

3. **Instructions for using the handbook**

This is an operational handbook intended for officers in the field.

Its purpose is to explain the main customs cooperation measures under the Convention and thereby assist customs authorities in applying them.

This handbook is intended as a guide and has no binding effect.

It falls into four parts, each made up of fact sheets.

To consult the information on a given topic, refer first to the relevant Part, then to the general fact sheet and/or to the national fact sheet(s) of the country concerned.
PART I
MUTUAL ASSISTANCE

FACT SHEET 1: Mutual assistance between customs administrations (Articles 8 to 18)

Assistance may be:

1. on request
   There are four types of assistance on request:
   - requests for information
   - requests for surveillance
   - requests for enquiries
   - requests for notification

2. spontaneous, without request
   This covers surveillance and spontaneous provision of information.
FACT SHEET 2: Assistance on request (Articles 8 to 14)

1. The principles of assistance on request

Article 8: Principles:

1. In order to provide the assistance required under this Title, the requested authority or the competent authority which it has addressed shall proceed as though it were acting on its own account or at the request of another authority in its own Member State. In so doing it shall avail itself of all the legal powers at its disposal within the framework of its national law in order to respond to the request.

2. The requested authority shall extend this assistance to all circumstances of the infringement which have any recognisable bearing on the subject of the request for assistance without this requiring any additional request. In case of doubt, the requested authority shall firstly contact the applicant authority.

2. Conditions of assistance on request

- Requests for assistance and replies to them are normally exchanged between the central coordinating units appointed within each national customs administration in a language acceptable to the requested State.
  A list of Member States' central coordinating units and the languages in which requests may be made is provided in Annex 1 to this fact sheet (page 13).

- If the request cannot be handled by the customs authority in the requested State, that State's central coordinating unit will forward it to the competent national authority and will inform the applicant authority that it has done so (Article 5(3)).

- The requested authority or the competent authority to which it has referred the request proceeds as though it were acting on its own account or at the request of another authority of its own Member State.
• Requests must be precise, in writing (Article 9(1)), using the standard form in Annex 2 to this fact sheet (page 21).

• Requests for assistance made electronically, using the standard form, will be accepted, subject to the express agreement of the unit concerned (that information will be found in Annex 1 to this fact sheet, in the list of contact details of central coordinating units).

• Oral requests are accepted in an emergency (Article 9(4)) but must be confirmed in writing as soon as possible.

• A request must be accompanied by all the documents necessary for its execution (Article 9(1)).

3. Procedures for assistance on request

(See the standard assistance and cooperation form in Annex 2 to this fact sheet – page 21).

3.1. Request for information (Article 10 of the Convention)

• Principle: at the request of the applicant authority, the requested authority communicates to it all the information enabling it to prevent, detect, prosecute and punish infringements of national customs provisions and to prosecute and punish infringements of Community customs provisions (Articles 4(3) and 10(1)).

• That information must be accompanied by all the documents on which it is based (Article 10(2)).
Either (a) the information is sent to the applicant State, or (b) officers authorised by the applicant State may obtain information directly from the requested State's customs offices (Article 10(3)). This covers all the information arising out of the documentation to which the staff of those offices may have access.

The latter possibility is conditional on:
– the prior agreement of the competent authority, given via the central coordinating unit in the requested State;
– the appointment of authorised officers by the applicant authority;
– the competent authority of the requested State having drawn up detailed instructions regarding access to and the obtaining of information.

3.2. Request for surveillance (Article 11 of the Convention)

Principle: at the request of the applicant authority, the requested authority keeps a special watch, or arranges for a special watch to be kept, on persons suspected of having infringed or of preparing to infringe Community or national customs provisions and on the places, means of transport and goods connected with such infringement.

3.3. Request for enquiries (Article 12 of the Convention)

Principle: at the request of the applicant authority the requested authority carries out, or arranges to have carried out, appropriate enquiries concerning operations which constitute or appear to constitute an infringement (as defined in Article 4(3)).

The results of the enquiries and all the documents pertaining to them must be communicated to the applicant authority (Article 10(1)).
- That information must be accompanied by all the documents on which it is based (Article 10(2)).

- Officers authorised by the applicant State may be present at the enquiries carried out by the requested State.

  That possibility is conditional on:
  - the prior agreement of the competent authority in the requested State;
  - the appointment of authorised officers by the applicant authority;
  - the enquiries being carried out by the requested State's own officers.

The officers of the applicant State may not assume the powers of the requested State's officers unless the competent authority of the requested State has given its express consent. However, they are allowed access to the same premises and the same documents as officers of the requested authority, through their intermediary and for the sole purpose of the enquiries in progress.

3.4. **Use of the results of assistance on request (Article 14)**

Any of the findings obtained during the above types of assistance may be used by the competent authorities in the applicant State as evidence in accordance with that State's national law.

The Naples II Convention in fact merely enables information or documents to be passed between Member States' customs administrations. The processes whereby the requested State's authorities obtain such information or documents, and their use by the applicant State's authorities, are always subject to the national law of each.
3.5. **Request for notification (Article 13 of the Convention)**

Principle: at the request of the applicant authority, the requested authority shall, in accordance with the national rules of the Member State in which it is based, notify the addressee of the act or have it notified of all the instruments and decisions which emanate from the competent authorities of the Member State in which the applicant authority is based and concern the application of the Convention.

In this respect, requests:
- must mention the subject of the act or decision;
- must be accompanied by a translation into the official language of the requested State unless that State indicates otherwise.

NB: This form of assistance does not include the recovery of duties and taxes as this area is covered by a specific text (Directive 76/308).
Part 1, FACT SHEET 2, Annex 1

Contact details of the central coordinating unit

and

languages accepted for making requests for assistance

Belgium

Contact details of the central unit

To be communicated

Languages accepted for making requests for assistance

To be communicated

Acceptance of the electronic communication of assistance requests  □ YES  □ NO

To be completed

Denmark

Contact details of the central unit

Central Customs and Tax Administration

Østbanegade 123

21000 Copenhagen Ø

To be completed

Languages accepted for making requests for assistance: Danish, Swedish, English, German

Acceptance of the electronic communication of assistance requests  □ YES  □ NO

To be completed
Germany
Contact details of the central unit
Customs Enquiries Office (Zollkriminalamt), Postal address: Postfach 850562, 51030 Köln;
Address for callers: Bergisch Gladbacher Straße 837, 51 069 Köln, Telephone: 0221 672-0,
Fax: 0221 672 4500, Website: www.zollkriminalamt.de, e-mail: info-pool@net

Languages accepted for making requests for assistance: German

Acceptance of the electronic communication of assistance requests  □ YES □ NO
To be completed

Greece
Contact details of the central unit
The 33rd Division of Customs Law Enforcement, 10 Karageorgi Servias Street, 101 84 Athens

Telephone: 301 72 59 324/6/9   Fax: 301 32 25 192   e-mail: d33eltel@otonet.gr

Languages accepted for making requests for assistance: Greek, English, French

Acceptance of the electronic communication of assistance requests  □ YES □ NO
To be completed
Spain

Contact details of the central unit
To be communicated

Languages accepted for making requests for assistance
To be communicated

Acceptance of the electronic communication of assistance requests  □ YES  □ NO
To be completed

France

Contact details of the central unit
Direction nationale du renseignement et des enquêtes douanières
Assistance administrative mutuelle internationale (AAMI)
18-22 rue de Charonne
Telephone: 00.33.1.49.23.36.36
Fax: 00.33.1.49.23.39.56 (AAMI)
Fax: [ ]¹ (outside office hours)

Languages accepted for making requests for assistance: French, English, German, Italian, Spanish

Acceptance of the electronic communication of assistance requests  □ YES  □ NO
To be completed

¹ Names and contact addresses of the officials mentioned deleted in order to protect their privacy.
United Kingdom

Contact details of the central unit
HM Customs and Excise, Central Intelligence Branch 27, Long Room, Customs House, Lower Thames Street, London EC3R 6EE, Telephone: 00 44 20 7665 7803, (Telephone outside office hours: [ ] 1 356 Fax: 00 44 20 7665 8127

Languages accepted for making requests for assistance
In an emergency: English
Otherwise: language of the applicant State

Acceptance of the electronic communication of assistance requests  □ YES  □ NO
To be completed

Ireland

Contact details of the central unit
Mutual Assistance Section, Office of the Revenue Commissioners, Customs & Excise Branch, Government Offices, Nenagh, Co. Tipperary
Telephone: (353-67) 33 533
Fax: (353 67) 32 381

Languages accepted for making requests for assistance: English

Acceptance of the electronic communication of assistance requests  □ YES  □ NO
To be completed

1 Names and contact addresses of the officials mentioned deleted in order to protect their privacy.
Italy

Contact details of the central unit

Ufficio centrale di coordinamento, sarà ubicato presso il Departimento delle Dogane ed II II.

D.C.S.D., Via Carucci 71, 00143 Roma

To be completed

Languages accepted for making requests for assistance: Italian, English, French, German, Spanish

Acceptance of the electronic communication of assistance requests □ YES □ NO

To be completed

Luxembourg

Contact details of the central unit

Direction des douanes et accises, Division Anti-Drogues et Produits Sensibles

B.P. 1822 LUXEMBOURG

Telephone: (+ 352) 49 88 58 515

Telephone outside office hours: [ ]

Fax: (+ 352) 48 83 66

Fax outside office hours: [ ]

Languages accepted for making requests for assistance: German, English, French

Acceptance of the electronic communication of assistance requests □ YES □ NO

To be completed

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Names and contact addresses of the officials mentioned deleted in order to protect their privacy
Netherlands

Contact details of the central unit

Douane Informatie centrum/ Customs Intelligence Centre, Westzeedijk 387, Postbus 70005, 3000 KG Rotterdam, Telephone: +31 (0) 10 244 2020,
Telephone outside office hours: [ ], Fax: +31 (0) 10 244 2006

Languages accepted for making requests for assistance: Dutch, English, German, French

Acceptance of the electronic communication of assistance requests □ YES □ NO
To be completed

Austria

Contact details of the central unit

Bundesministerium für Finanzen, Himmelpfortgasse 4, 01015 Wien, Telephone: +43 1 51433 1350,
Fax: +43 1 512 67 90, e-mail: [ ]

Languages accepted for making requests for assistance: German, English

Acceptance of the electronic communication of assistance requests □ YES □ NO
To be completed

1 Names and contact addresses of the officials mentioned deleted in order to protect their privacy.
Portugal

Contact details of the central unit

Directorate of Fraud Prevention and Suppression Services (DSPRF)

To be completed

Languages accepted for making requests for assistance: Spanish, Portuguese, French, English

Acceptance of the electronic communication of assistance requests □ YES □ NO

To be completed

Finland

Contact details of the central unit

National Board of Customs, Enforcement and audit, PO Box 512, 00101 Helsinki

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<tr>
<th>[ ], Director of Unit:</th>
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Languages accepted for making requests for assistance: Finnish, Swedish, English, German, French

Acceptance of the electronic communication of assistance requests □ YES □ NO

To be completed

1 Names and contact addresses of the officials mentioned deleted in order to protect their privacy
Sweden

Contact details of the central unit
Swedish Customs Head Office, Customs Investigation, Box 12 854, 112 98 STOCKHOLM
Telephone: + 46 771 520 520

Languages accepted for making requests for assistance: Sweden, English and, subject to case-by-case agreement from Swedish Customs, any other language the use of which is considered most appropriate to the case in point (subject to translation).

Acceptance of the electronic communication of assistance requests □ YES □ NO
To be completed
Standard assistance and cooperation form

1. General information concerning the request

Name and address of applicant authority:
Telephone:
Fax:
e-mail
Name of contact person.
File number:
Date and place form completed.

Name and address of requested authority:
Telephone:
Fax:
e-mail

List of other authorities possibly concerned:
This document is written confirmation of a request made by telephone □ YES □ NO

Urgent □ YES □ NO
If YES, grounds for urgency:

Has judicial assistance also been triggered □ YES □ NO
If YES, give file references:

2. Type of request
   – Request for assistance

At the initiative of the judicial authority □ YES □ NO
Form of request: □ Request for information □ Request for surveillance □ Request for enquiries
□ Request for notification

   – Special forms of cooperation under Title IV of the Convention

□ Hot pursuit □ Cross-border surveillance □ Controlled delivery □ Covert investigations
□ Joint special investigation teams.

3. Purpose of and reason for the request

Presentation of the purpose of and the reasons for the request.
Steps taken in the requesting Member State and results obtained.
Measures requested:
Number of annexes:

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4. Legal or natural person(s) and/or vehicle(s) that is/are the subject of the assistance or cooperation

(The same data may also be communicated regarding persons accompanying the one)

➢ NAME: surname, maiden name, first name, etc.
➢ BUSINESS NAME: name of the company, VAT number, excise reference, etc.
➢ IDENTITY DOCUMENT PRESENTED: type and number, date and place of issue.
➢ DATE AND PLACE OF BIRTH.
➢ ADDRESS (number, road, postal code, town):
➢ PROFESSION (or field of activity):
➢ VEHICLE (type, registration number, chassis number, colour, name of owner):
➢ GOODS SMUGGLED®: kind and quantity, have goods been seized
➢ YE possible means of concealment and packaging, country of origin, destination.
# Part I, FACT SHEET 2, Annex 3

## Standard form for the communication of information

1. **Spontaneous assistance**
   - Spontaneous communication of information (Article 17 of the Convention)
   - Communication of information obtained in the course of spontaneous surveillance (Article 16(a) of the Convention)

   **Purpose of and reasons for the communication:**

2. **Response by the authority requested** to a request for assistance or cooperation
   - Communication of information in response to a request (Articles 10 and 11 of the Convention)
   - Communication of the results of enquiries requested (Article 12 of the Convention)
   - Communication of information in response to a request for a special form of cooperation (Title IV of the Convention)

   **Reference of the request for assistance or cooperation:**

   **Name and address of the requesting authority:**

   **File number of the request:**

   **Name and address of the authority entrusted with the enquiries:**

   **Number of the requested authority’s file:**

   **Name of contact person:**

   **Names, registered offices and/or residence of the parties to the proceedings:**

   **Where evidence was discovered or communicated:**

   **Other relevant information that may be of interest the requesting authority:**

3. **Information and/or results**

   **Steps taken and results obtained**

   **Number of annexes:**

   **Other useful information:**

4. **Legal or natural person(s) and/or vehicle(s) that is/are the subject of the request for assistance or cooperation**

   (The same data may also be communicated regarding persons accompanying the offender)

   - **NAME:** surname, maiden name, first name, etc.
   - **BUSINESS NAME:** name of the company, VAT number, excise reference, etc.
   - **IDENTITY DOCUMENT PRESENTED:** type and number, date and place of issue
   - **DATE AND PLACE OF BIRTH:**
   - **ADDRESS (number, road, postal code, town):**
   - **PROFESSION (or field of activity):**
   - **VEHICLE (type, registration number, chassis number, colour, name of owner, etc.):**
   - **GOODS SMUGGLED:** kind and quantity, have goods been seized  □ YES □ NO, possible means of concealment and packaging, country of origin, destination.
Please keep sentences short, succinct and straightforward. Avoid using abbreviations or local expressions. State the national legislation or regulations which are being breached. If the request is made subsequent to a customs report, give at least the following details: date, place and time of seizure, type of control. This information does not have to be provided for a request for notification.

Preferably in the form of a list numbered according to priority rating, state whether any documents required must be certified or not. If the request is for surveillance, state the location, means of transport or goods concerned.

Group the annexes according to subject-matter, number them and supply a contents page for them. The annexes may contain reports, certified true copies of or extracts from procedural acts, and copies of commercial or other records. For requests for notification, mention the purpose of the act or of the decision to be notified and attach a complete translation into one of the official languages of the requested Member State.

In the case of a request for one of the special forms of cooperation, please mention the kind of goods specifically covered by such cooperation (Article 19(2) of the Convention).

In accordance with the Handbook on Joint Customs Operations (11563/99 ENFOCUSTOM 49).

Please keep sentences short, succinct and straightforward. Avoid using abbreviations or local expressions. State the national legislation or regulations which are being breached. If the request is made subsequent to a customs report, give at least the following details: date, place and time of seizure, type of control. This information does not have to be provided for a request for notification.

Group the annexes according to subject-matter, number them and supply a contents page for them. The annexes may contain reports, certified true copies of or extracts from procedural acts, and copies of commercial or other records. For requests for notification, mention the purpose of the act or of the decision to be notified and attach a complete translation into one of the official languages of the requested Member State.

In the case of a request for one of the special forms of cooperation, please mention the kind of goods specifically covered by such cooperation (Article 19(2) of the Convention).
FACT SHEET 3: Spontaneous assistance (Articles 15 to 18)

1. The principles of spontaneous assistance

   Article 15. "The competent authorities of each Member State shall, as laid down in Articles 16 and 17, subject to any limitations imposed by national law, provide assistance to the competent authorities of the other Member States without prior request."

2. Conditions for spontaneous assistance

   Recourse to spontaneous assistance is restricted to the remit and powers of the authority affording this kind of assistance.

   The issue of whether or not a written record must be made of when information is communicated under spontaneous assistance is not as yet settled.

   Where all of the elements communicated under spontaneous assistance may be used as evidence in the State of destination, France believes that there should be a written record of the fact that they have been communicated.

   France therefore proposes including a heading on spontaneous assistance in the standard form for the communication of information set out on page 22 (Part I, Fact sheet 2, Annex 3).

3. Practical arrangements for spontaneous assistance

   3.1 Surveillance (Article 16 of the Convention)

   Special surveillance may be decided on spontaneously by the competent authorities of each Member State.
The purpose of such special surveillance must be to enable the customs authorities of the State receiving information to prevent, detect and prosecute infringements (even if only inchoative) of national or Community customs regulations as well as the laundering of the proceeds from these infringements.

When special surveillance is conducted, the competent authorities of each of the Member States concerned may also be provided with all information available to the originating customs authorities: reports and other documents or certified true extracts from or copies of such reports and documents obtained after spontaneous surveillance relating to a planned infringement or to one that has been committed.

3.2. Spontaneous information (Article 17 of the Convention)

The competent authorities of each Member State shall spontaneously and immediately provide the Member State concerned with all the information it has concerning infringements planned or committed (hidden means, smuggling methods, etc.) in its territory.

4. Use of the results of spontaneous assistance (Article 18 of the Convention)

All of the elements gathered in the course of the above assistance may be used as evidence by the competent authorities of the recipient State, in accordance with its national law.