Customs cooperation: use of information technology for customs purposes. Initiative France

2009/0803(CNS) - 20/01/2009 - Legislative proposal

PURPOSE: to present a proposal on the use of information technology for customs purposes, and replacing the CIS Convention.

PROPOSED ACT: Council Decision (French Initiative).

BACKGROUND: experience gained since the Convention of 26 July 1995 on the use of information technology for customs purposes ("the CIS convention") entered into force has shown that the use of the Customs Information System for the sole purposes of sighting and reporting, discreet surveillance or specific checks does not make it possible to achieve fully the system's objective, which is to assist in preventing, investigating and prosecuting serious contraventions of national laws.

CONTENT: this initiative proposes that the customs administrations of the Member States shall set up and maintain a joint automated information system for customs purposes, (the "Customs Information System"). The aim of the Customs Information System shall be to assist in preventing, investigating and prosecuting serious contraventions of national laws by making information available more rapidly, thereby increasing the effectiveness of the cooperation and control procedures of the customs administrations of the Member States.

The provisions of the proposal make a distinction between strategic and operational analysis. A strategic analysis should help those responsible at the highest level to determine projects, objectives and policies for combating fraud, to plan activities and to deploy the resources needed to achieve the operational objectives laid down. An operational analysis of the activities, resources and intentions of certain persons or businesses that do not comply or appear not to comply with national laws should help the customs authorities to take the appropriate measures in specific cases to achieve the objectives laid down as regards the fight against fraud.

The Customs Information System will consist of a central database facility, accessible via terminals in each Member State. It shall comprise exclusively data necessary to achieve its aim including personal data, in the following categories: (a) commodities; (b) means of transport; (c) businesses; (d) persons;(e) fraud trends; (f) availability of expertise; (g) items detained, seized or confiscated.

Data in these categories shall be included in the Customs Information System only for the purpose of sighting and reporting, discreet surveillance, specific checks, or operational analysis.

For the purpose of these suggested actions, namely sighting and reporting, discreet surveillance, specific checks, or operational analysis, personal data within any of these categories may be included in the Customs Information System only if, especially on the basis of prior illegal activities, there are real indications to suggest that the person concerned has committed, is in the act of committing, or will commit serious contraventions of national laws.

The proposal lays down the bodies who might have direct access to the data and the purposes for which data may be used. Subject to the provisions of the Decision, the European Police Office (Europol) shall, within its mandate, have the right to have access to the data entered into the Customs Information System, to search those data directly, and to enter data into the system.