EC/Switzerland agreement: administrative and judicial cooperation agreement with a view to counter financial fraud

2004/0187(CNS) - 16/08/2004 - Legislative proposal

PURPOSE : to provide a more effective legal basis for administrative and judicial cooperation with Switzerland against EC-fraud, including VAT and excise fraud and money laundering of relevant proceeds.

PROPOSED ACT : Council Decision.

CONTENT : the negotiations for an Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, to combat fraud and all other illegal activity to the detriment of their financial interests were conducted by the Commission following the authorisation given by the Council on 14 December 2000.

The Commission respected fully the negotiating directives attached to the Council decision by taking into account, in particular, the current acquis communautaire and its future development in the area of co-operation.

Concerning the Cooperation Agreement against fraud, both sides will grant each other full judicial co-operation and administrative assistance on fraud and all other illegal activities, including customs and indirect tax offences in connection with the trade of goods and services. Co-operation against money laundering will be improved considerably, covering in particular also serious cases of fraud and smuggling.

Administrative cooperation will be granted in accordance with the standards of the Convention on mutual assistance and cooperation between customs administrations (the Naples II Convention). Judicial cooperation by means of coercive measures (search and seizure) will be subject to the dual criminality requirement as set out in Article 3 of the Agreement, a provision corresponding to Article 51 of the Convention Implementing the Schengen Agreement (SIC). Should dual criminality for letters rogatory for search and seizure be abandoned in Schengen in the future, the new Schengen rules will fully apply in areas covered by the present Agreement. According to the summit conclusions referred to above, Switzerland has been granted in the Agreement between the European Union, the European Community and the Swiss Confederation concerning the latter's association with the implementation, application and development of the Schengen Acquis a derogation concerning the acceptance of future acquis related to letters rogatory for search and seizure only in the field of direct taxation.

Cooperation on matters of money laundering will be granted in line with the material scope of Directive 91 /308/EEC on prevention of the use of the financial system for the purpose of money laundering as amended by Directive 2001/97/CE, which refers in its Article 1 to the concept of serious fraud as defined in Article 2 of the Convention on the protection of the European Communities' financial interests (fraud punishable by penalties involving deprivation of liberty which can give rise to extradition).