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Annex 1 20191007 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 7th October 2019

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting had to be re-arranged due to an urgent issue requiring the KM's attention and eventually started at 11:00. However, KM was very short of time and SH said he had a few matters to update and would do so as quickly as possible.

Annual Leave

SH said he would be on Annual Leave in Edinburgh from 9th to 15th October, returning to the office on 16th October 2019. However, SH will be contactable throughout for urgent matters. It emerged KM will also be on leave during this period.

Documents

KM mentioned that both the documents, Notebook Guidance and Legislative Gaps Discussion Paper, sent prior to the meeting had not printed properly. It was thought this might be a problem associated with the font used. It was agreed SH would change the font and re-send the documents to KM's own email address k.mourtidis@aaade.gr. (NOTE: The documents were adjusted and sent immediately following the meeting.)

KOE

Notebooks

SH advised that he had a very positive and constructive meeting in Piraeus on 1st October 2019, as usual the KOE Officers were enthusiastic and helpful. All the officers were in favour of the introduction of notebooks and were able to suggest a number of instances when they could be used to replace and improve existing practices.

One remaining obstacle is obtaining actual notebooks capable of being used for the pilot exercise. However, one of the KOE Officers seemed to have a source where they could be obtained. SH suggested that, with KM's permission, the pilot could commence as soon as the notebooks had been sourced; KM agreed. SH will update KM in due course.

Updates

SH asked if there was any update on the formation of the new EYTE Directorate? He added he is aware EYTE will now be operational on 1st January 2020, rather than 15th October 2019. KM said there were no significant developments at present.

SH commented that if any assistance is required, he would be happy to help.

Legislative Gaps

Because the copy of the paper sent prior to the meeting had failed to print in a readable way and as this is a large and complex topic SH suggested it might be the subject of their next meeting. KM thought this would be a good idea, adding because it relates to legal issues Mr. Apostolou from D33 would also attend. SH thought this was a sensible suggestion.

Fuel Smuggling

At their last meeting SH and KM discussed using funding from the European Commission to fund a public awareness campaign on fuel smuggling. SH said he's prepared a tender document which he will send to KM.

KM asked who would be responsible for monitoring the campaign? SH said this would be a joint responsibility between the IAPR/Customs and SRSS.

KM said he would need to discuss the proposal with the Governor and asked that SH forward a copy of the tender document. SH said it would be sent immediately following their meeting. (NOTE: Document sent immediately after meeting.)

Returning to the process to be followed SH explained the funds would probably be available during October 2019, the tender would run during October/November 2019, with the implementation phase between January and March 2020. SH added it's likely the project will be dealt with by a company that successfully did similar work in Lithuania.

Lastly, SH said he will require an official request from the DG requesting this specific assistance. This can be done by means of an email to SH, which he would be happy to draft once the Governor's approval is secured.

Spot Fines

Again, following discussions at a previous meeting SH reported he had a constructive meeting with Mr. Katsipis, the Director General of Audits, to find out more about how direct tax colleagues operate. The initial meeting will be followed up in the near future by a meeting with officers who use the system and understand it fully. KM said he would like to have a system which would be capable of operating like a parking ticket; issued on the spot with little or no follow up required. SH said by gaining a better understanding of how direct tax operates, and amending these procedures to Customs, hopefully this could be achieved.

SH will report to KM as the work progresses.

Intelligence Working Group

SH asked that the Intelligence Working Group's Final report be considered as soon as possible? It's now been pending for some time and it would be good to implement the proposed changes. SH added this is particularly important since the Governor has recently expressed an interest in intelligence related matters. SH thought intelligence is an area where Customs can lead the rest of the IAPR as their systems are much more developed and better defined.

KM will try to find time to deal with the Report.

Following some general discussion, the meeting ended at 11:40.

Stephen J. Henderson

Stephen J. Henderson

Athens

7th October 2019

Annex 2 20191022 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 22nd October 2019

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started as arranged at 11:30.

SH explained that although the meeting was arranged primarily to discuss legislative issues there are a couple of other short topic he would like to discuss, with KM's permission, towards the end of the meeting; KM had no issue with this.

Legislative Gaps

SH explained that in his opinion there are a couple of gaps in the current Customs legislation affecting covert techniques and information sharing and their interact with the European Convention on Human Rights (ECHR), data protection, confidentiality and duty of care. SH added that robust, pragmatic legislation in these areas would provide staff with clear guidance and protection as well as allowing for the further development of Customs intelligence capacity, especially the use of human sources.

Previously, there's been some discussion about Customs being innovative, addressing these issues in a holistic way demonstrates innovation. Also, the Governor has expressed an interest in the improvement and diversification of intelligence, robust, sensible legislation will facilitate the development the Governor wants.

SH said the paper he has prepared refers to two bodies of UK legislation since these are the laws, he's familiar with. However, the paper is intended to be indicative and present an example or possible template on which future Greek legislation might be based.

Lastly, SH commented that he did not expect KM to approve anything at present, clearly some kind of consultation with the Legal Department would be essential. KM said Mrs. Apostolou would be best suited to the task. SH asked if it would be permissible for him to arrange to meet with her and for them both to report back to KM? KM thought this would be a good way to progress the issue. SH will make the necessary arrangements and ensure Mrs. Apostolou has a copy of his paper prior to the discussion.

SH then went in to outline both pieces of legislation.

1. Regulation of Investigatory Powers Act 2000 (RIPA)

SH said the RIPA legislation has two components, the legislation and the Codes of Practice. Between them they define the law surrounding all forms of covert work and how that work must be conducted.

If something similar to RIPA were to be introduced it would allow Customs to develop a comprehensive intelligence capacity, with the full range of covert techniques.

In addition, Greek Customs could address the shortcomings of the UK legislation, perhaps by introducing judicial authorisation, which is common in other Member States.

In conclusion SH indicated that "RIPA type" legislation can be found in several Member States and a number of other countries.

KM commented he thought global legislation, encompassing all law enforcement, would not be possible, however, Customs legislation might be a possibility. KM said he was concerned by the references to national security in the authorisations section of the paper and thought this would not be acceptable to Parliament. SH reiterated that RIPA need not be adopted in its entirety and suggested the wording could be adapted to suit the needs of Customs in Greece. KM suggested "to combat the smuggling of excisable goods" could be amongst the grounds for authorisation, this would appear to be sensible. SH thought only some parts were suitable for adoption, whilst other would be discarded.

As agreed, SH will meet with Mrs. Apostolou and report back to KM.

2. Commissioners of Revenue & Customs Act 2005 (CRCA 2005)

SH explained that this part of his paper covers the ability to lawfully exchange and disclose information/intelligence and the parameters which govern this, so as not to come into conflict with ECHR and data protection. He went on to say there are three quite straightforward clauses in CRCA which define this area and could be adapted for inclusion in Greek Customs legislation.

The inclusion of something like the CRCA clauses would protect Customs officers and give clear guidance on what they can, and more importantly, what they cannot do. It also represents a relatively easy fix. The result should be more confident information sharing which is important to SEK and will be important to KEF. KM agreed.

Again, SH will consult with Mrs. Apostolou.

A.O.B./Updates

- KOE

KOE Visits: As discussed previously SH will arrange to visit the KOE's in Thessaloniki and Crete, most likely in November. He asked if an order would be required from KM? KM replied no order was required but the Units could be told he has approved the visits. KM will be advised when the meetings are arranged.

Notebook Pilot Project: The Piraeus KOE is still trying to source notebooks when the problem is resolved the implementation phase can begin. SH will offer to meet the officers again to ensure they are confident with the guidance. It's possible an order from the DG may be required to start the pilot project. SH will update KM in due course.

EYTE Update: Expressions of interest have been requested and received for the Director and Sub-Director posts at EYTE, KM added only a very few officers have applied, which appeared to be a source of some disappointment. Yesterday (21st October 2019) the expressions of interest exercise for other staff was launched.

- Fuel Smuggling Public Awareness Campaign

SH asked if the Governor had approved the public awareness campaign, as discussed at their previous meeting on 7th October? KM said they discussed the campaign immediately after the meeting and the Governor is very much in favour.

The next step is an official request from KM; SH offered to draft the request on KM's behalf. KM said this would assist him greatly.

SH will follow the campaign up with SRSS and update KM in due course.

At some point a joint "committee" will need to be set up to oversee the implementation of the campaign; KM thought the Governor's Office would need to be represented, SH agreed.

- Intelligence Working Group: Final Report

SH enquired if a date for a meeting to discuss the Customs Intelligence Working Group's Final Report had been set. KM replied this has not been done. When SH suggested Ms. Bazianou should make the necessary arrangements KM revealed that she's applied for the Director of EYTE position, as such it would not be appropriate for him to meet with Ms. Bazianou until the process is completed. SH understood the problem and suggested they consider this again when the recruitment procedure ends.

- Next Meeting

SH suggested that at their next meeting they consider SH's paper on the illicit trade in tobacco products; KM agreed.

The meeting has been arranged for Thursday 7th November 2019 at 10:00.

After some general discussion the meeting ended at approximately 12:45.

Stephen J. Henderson

Stephen J. Henderson

Athens

22nd October 2019

Annex 3 20191001 Note of Meeting with KOE Piraeus

NOTE OF MEETING

Date: 1st October 2019

Location: KOE Office, Piraeus.

Present: Stephen Henderson (SH) – SRSS

Panos Koukoulomatis (PK) – Officer-in-Charge, KOE Piraeus

Maria Pagomenou (MP) – Interpreter

The meeting started shortly after 10:00 and was arranged to discuss a pilot project to introduce notebooks for the KOE Officers in Piraeus, as well as touching on a couple of other topics. During the meeting PK was accompanied by several members of his team, all of whom took part in the discussions.

Notebooks: Pilot Project

Each officer was given a copy of the Greek translation of the draft notebook guidance SH had prepared. SH explained the guidance is essentially a summary of the rules that govern how an HMRC Officer would use a notebook. It's possible that some things which are permissible in the UK may not be transferrable to the legislative framework in Greece. The most important example is that an HMRC Officer can refer to his notebook whilst giving evidence during court proceedings. This is allowable in the UK because notebooks are written at the time of the event, they are a contemporaneous record, and as such best evidence. This point was discussed at some length but it remained unclear if notebooks could be used in court without an amendment to the law. PK thought this might be a fairly simple adjustment.

SH said that some of the language he has used is deliberately loose and open to interpretation. This will allow the KOE Officers some flexibility in deciding when it's appropriate to make a notebook entry. However, SH added the notebook should become the officer's best friend and used whenever possible. This affords the officer a degree of protection.

Overall the intention is the introductions of notebooks will reduce the amount of bureaucracy and paperwork so releasing the officers for operational activity. The KOE Officers were able to think of a large number of instances where a notebook entry would replace paperwork and reporting.

SH used his HMRC notebook and the entries it contains to demonstrate how notebooks are used and the basic rules that must always be followed i.e. all spaces must be crossed through and all entries must be signed, timed and dated.

SH then went through the various part of the guidance using his personal notebook to illustrate the learning points. There was a very lively discussion

throughout with all the KOE Officers participating; the level of interest and engagement was excellent throughout.

In conclusion SH requested that the officers read and consider the draft guidance and send any feedback they think is appropriate. In the meantime, SH asked if, generally, the introduction of notebooks would be a good idea? All the officers were enthusiastically in favour.

SH said he is meeting with Mr. Mourtidis on 7th October and will share the draft guidance with him prior to the meeting. SH will report that in principle the KOE Officers in Piraeus would welcome the introduction of notebooks, initially as a pilot project; PK agreed this is indeed the case. PK went on to say that he would require an order from Mr. Mourtidis to launch the pilot project; SH will let the DG know.

SH commented that there's one very important problem he's not been able to solve, where can suitable notebooks be sourced? One of the KOE Officers said he could deal with this and took a number of photographs of SH's notebook.

Spot Fines

SH said he had a very useful meeting with Mr. Katsipis to discuss the process by which tax officers are able to impose an immediate penalty when working at business premises; very similar to the concept of Spot Fines.

Mr. Katsipis has agreed to assist SH to find out more about the processes and procedures with a view to assessing how something similar might be formulated and adopted by Customs. SH will keep the KOE Officers updated and consult with them as the work moves forward.

Again, there was universal agreement Spot Fines would save a lot of time.

Other KOE's

SH is planning to meet with the KOE's in Thessaloniki and Crete to have a similar conversation to the meeting with the Piraeus KOE in July. He explained he had prepared a short paper for Mr. Mourtidis with his conclusions, which the DG had accepted.

EYTE

SH said he hoped a KOE Working Group will be set up when the new structure is finalised and he will participate in its work.

It seems the most pressing problem in Piraeus is accommodation. The KOE want to move to Customs Office B in Piraeus, but it's not clear if the funds necessary to renovate the premises will be available. SH commented, unfortunately, this is not a problem he can assist with. On the positive side the building is State owned so there would be no rent payable.

*(**NOTE:** It later emerged that part of the planning for the Office space at Customs B is a detention facility. Apparently, it's proved very difficult to have prisoners accommodated by either the Police or Coast Guard. However, such a facility would be very expensive to build, operate, service, staff and maintain; it*

may have the effect of making the renovation work too expensive. It could be better to seek some kind of formal arrangement with another agency.)

The KOE Officers in Piraeus remain optimistic about the future and the new EYTE Directorate.

Following some general discussions, the meeting ended at approximately 12:20.

Stephen J. Henderson

Stephen J. Henderson

Athens

1st October 2019

Annex 4 20191107 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 7th November 2019

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started as arranged at 09:30.

Fuel Smuggling – Public Awareness Campaign

SH said that he and his colleagues within SRSS have spent a lot of time working on this recently. SH explained the draft tender document has been amended and provided a copy of the new document for the DG.

The adjustments made are mainly to reduce the number of steps in the process which has the effect of reducing the amount of time the contractor will spend on the project, by doing so costs can be reduced. Secondly, the new document focuses the campaign on the loss of revenue. This is because the campaign will be run by the IAPR and so is within their competence. Other issues associated with fuel smuggling such as health and the environment rest within the competence of other Ministries, as such the IAPR can't cover these with any real authority. KM accepted both points.

In addition, SH said the project will only fund the cost of formulating a strategy. The cost of actually implementing that strategy will need to be met by the IAPR. KM did not see this as a problem and thought once the strategy is developed it might be possible to get sponsorship for the implementation phase. SH agreed and commented it would be easier to attract a sponsor with a plan in hand.

Finally, SH asked if KM could send him the official request email today if possible? KM sent the email immediately.

A follow up campaign on cigarette smuggling was discussed briefly. This would be dependent on funding and whether Papastratos include such an initiative in their assistance package.

The meeting was originally arranged to discuss cigarette smuggling but quickly digressed into a number of other topics at the forefront of KM thoughts, all related to smuggling and future plans.

SEK

KM said SEK had co-ordinated a major tobacco operation this week during which a massive quantity of loose tobacco was seized and three arrests made. SH said he met with SEK yesterday afternoon and was aware of the basic facts. KM also said there are ongoing operations targeting alcohol smuggling and solvents being transported from Bulgaria for use in fuel adulteration; all have SEK involvement.

This prompted a lively discussion on the current plight of SEK. Like SH, KM finds the situation at SEK very frustrating and has tried to resolve the problem, but so far without success. SH commented that if the new administration wants to seriously challenge the illicit trade SEK must be a pivotal part of their planning.

Meeting Between Mr. Pitsillis and the Prime Minister

KM said that in the near future Mr. Pitsillis will be meeting the Prime Minister to discuss smuggling; a main topic of their discussions will be KOE.

KOE

Referring to the ongoing expressions of interest exercise SH thought the results would be disappointing because working on a mobile unit is not attractive to most Customs Officers. The KOE's work long and unsociable hours and receive no extra pay. In order to recruit new staff, the KOE posts have to be attractive and this should involve more money for the officers; KM agreed. SH is of the opinion the KOE's should receive an allowance in preference to overtime and argued this provides flexibility and makes budgeting much easier. KM disagreed adding, whilst he appreciated the point, allowances are very much out of favour. KM thinks paying overtime plus a bonus for penalties collected would be preferable. He has suggested the officers receive 3% of fines and penalties collected. Apparently, Police officer receive 20% of fines collected in connection with enforcing the smoking ban.

SH also thought the age profile of Customs Officer is an issue; again, KM agreed. He also thinks the percentage of female officer is a barrier to KOE recruitment. SH disagreed with this, adding female officer are just as capable as their male counterparts.

Intelligence & Legislative Changes

Returning to the meeting with the Prime Minister, SH said intelligence is a crucial part of combatting smuggling and KOE's results would be improved if their operations were intelligence led since success would be more likely. SH went on to say he will be meeting with Mrs. Apostolou next week to discuss amendments to the Customs Code for surveillance and human intelligence. SH asked if KM would mind if he also included controlled deliveries in the conversation. He explained he is unhappy with the recommendation that the Criminal Code be amended as this would take years and mean Customs would have to use complex procedures. In SH's opinion, controlled deliveries are simply a form of surveillance and there should be common authorisations and procedures; KM agreed to the request.

SH commented their conversation had gone full circle, in that intelligence led operations would need to be co-ordinated by a fully functioning SEK.

SH said he would be more than happy to assist KM and Mr. Pitsillis in their preparations for the meeting with the Prime Minister. They agreed it's important the Governor presents a complete, integrated well considered package to challenge illicit trade and the shadow economy. KM said he would call on SH for advice and assistance if required.

A.O.B.

As time was by now quickly running out SH said he wanted to touch on a couple of points.

1. SH asked if it would be possible for him to visit the scanner team in Piraeus to better understand how it operates and their issues? KM welcomed the idea and provided contact details for the appropriate officer.
2. SH will visit Thessaloniki on 20th November and Crete in early December. He asked if KM's Office would contact the units in advance to authorise the meeting. KM will deal with this.
3. KM suggested SH should also visit the KOE's in Xanthi and Drama. SH will make arrangements in due course.
4. A brief report will be prepared following each visit.
5. KM asked that SH update him following the meeting with Mrs. Apostolou on legislative changes, adding what SH is suggesting has his complete backing.

The meeting ended at 11:05.

Stephen J. Henderson

Stephen J. Henderson

Athens

7th November 2019

Annex 5 20191129 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 29th November 2019

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started at approximately 12:30. KM explained that he had a meeting with the Governor scheduled to start at around 13:00 and apologies for not having as much time as he wanted for their meeting. SH responded that much of what he had to say were updates and as such would not take up much time.

Fuel Smuggling – Public Awareness Campaign

SH explained the purpose of the procurement was to secure the service of a company who would formulate a strategy for a public awareness campaign on fuel smuggling. It would then be the responsibility of the IAPR to fund the implementation of that strategy. SH said he was sure they could exploit the talents of Nectarios Notis, the IAPR's Communications Officer, for the implementation phase. It might also be possible to get sponsorship for the project and this would be much easier with a strategy in hand. KM indicated that he understood and went on to say the project has been transferred to the Governor's Office and would now be handled by Antonis Pyrgiotis. SH said he would take the issue up with Antonis when they meet next week.

Future Technical Assistance

SH advised that his contract is to be extended to the end of June 2020 and not July as expected. He added this time would pass very quickly and in order to make best use of the remaining period he said, with the DG's agreement, he would like to concentrate on specific areas likely to have most impact on the future of Customs.

The suggested areas are:

1. Development of the KOE's.
2. Fuel Smuggling: Public Awareness Campaign.
3. Intelligence processes and procedures.
4. Human intelligence.

KM replied that he is disappointed SH's contract may end in June. Turning to priorities he thought the fuel smuggling campaign could be looked after by Notis and Pyrgiotis. KM would like SH to concentrate on building a solid foundation for

the development of the KOE's. In addition, he considered items 2 and 3 are link and would progress in tandem. However, he would like SH to do everything possible to bring forward the use of human sources. KM thinks this particular area of work cannot progress without SH's input. SH responded that he will be meeting with Mrs. Apostolou next week to discuss human sources and will make KM's wishes abundantly clear to her.

SEK

SH commented that he's very disappointed with the outcomes in relation to the new SEK Legislation; KM is equally disappointed. The subject was then discussed at some length.

KM mentioned the latest operational success co-ordinated by SEK.

In conclusion, SH said it's possible he will meet with the Deputy Finance Minister at some point. It was agreed he would speak with KM if a meeting is arranged.

Tobacco Supply Chain Legislation

SH said at a recent meeting with British American Tobacco the company had highlighted a problem between the domestic legislation and the agreements between the global producers and the EU. In effect, both laws are being used resulting in double work for Customs, the State Laboratory and the companies; at some point in the future this will become an issue for OLAF.

SH has reviewed the domestic legislation and thinks there's scope within it for the EU Agreements to take precedence; he prepared a short note on the subject which will be translated and sent to KM in due course.

KM said the legislation is dealt with by Mrs. Mirisidou and asked that SH arrange to meet with her. (NB: An appointment has been made for 14th December 2019).

KOE, Thessaloniki

On 19th November SH and MP had visited the KOE in Thessaloniki. SH was very impressed by the team and said that although they share the same problems as all the other KOE's the officers in Thessaloniki have worked hard to get around many of these issues; their problem-solving abilities are excellent. SH was also impressed by the good morale of the unit which he thought was due to the leadership of Mr. Poulimenos.

The officers had some very interesting ideas around training recruitment and the general development of the Mobile Units.

SH has prepared a report on the Thessaloniki visit which will be sent to KM when it's translated.

In closing SH suggested at least one member of the Thessaloniki officers should be part of the KOE Working Group when it's formed; KM thought Mr. Poulimenos would be a suitable candidate.

EYTE Directorate

SH enquired about progress with the formation of the new Directorate? KM said he's disappointed that progress in appointing senior staff has been very slow and is relieved the commencement date was extended to 1st January 2020.

KM requested that SH attend a meeting on 13th December with KM and the Officer-in-Charge of the Piraeus KOE; SH replied he would be happy to do so. No further details were disclosed.

At 13:10 KM was advised that the meeting with the Governor was about to start and the meeting with SH was brought to a close.

Stephen J. Henderson

Stephen J. Henderson

Athens

29th November 2019

Annex 6 20191119 Report Visit to KOE Thessaloniki

REPORT

VISIT TO KOE, THESSALONIKI

Date: 19th November 2019

Introduction

The KOE based in Thessaloniki comprises seven members, including the Officer-in Charge, Dimitrios Poulimenos. Although, in common with all the KOE's, the officers in Thessaloniki face many challenges on a daily basis the team has a very positive, can-do attitude. Throughout the day long meeting all seven members were present and all were active participants in the discussions clearly feeling able to speak honestly and constructively about the issues that affect KOE.

Accommodation

At the moment the KOE has good accommodation within the port area of Thessaloniki. They have sufficient office space as well as parking for their vehicles. Importantly, the accommodation is secure with the surrounding area controlled by a private security company.

Looking to the future and the formation of the new EYTE Directorate, the officers are concerned they may have to move into the office space currently occupied by ELYT which they feel is entirely unsuitable. The main problem is that the office is located in the outer suburbs of Thessaloniki and a considerable distance from the port where a lot of the KOE's work is to be found. Also, the ELYT office is smaller, which would be a serious issue when the team expands, and has only limited parking places. Lastly, the ELYT office is rented and as such carries an additional cost.

The KOE Officers have no issues in sharing accommodation with ELYT and can see the merit in this from a team building perspective. However, they think they should be co-located within the port area. Although their current office may not be available its possible other suitable office space is to be found in the port area, rent free.

Overall the team are looking forward to the formation of the new EYTE Directorate. Their main concerns are the KOE's may not be properly supported and their role not clearly defined.

Staffing

At present the Thessaloniki KOE has seven members including the Officer-in-Charge. Of these six have been together since the team was formed in 2015. The final member of the team joined about 4 months ago. The officers have different backgrounds and as such a variety of skills and experience which contributes to a very strong team spirit as well as good morale.

They've been told that a full staff complement would be 15 officers. However, it seems no studies have ever been carried out to determine if this is actually the optimal number of staff.

Working Hours etc.

The officers felt unable to accurately quantify how their time is split between operation and administrative/other duties but thought roughly 40% of their work was operational with the remaining 60% spent on administration and other duties.

On average they work about 20 hours overtime per month and have developed local practices that ensure suitable rest periods are taken following a prolonged period of operational activity.

Restrictions: The team highlighted some restrictions they feel adversely affect their efficiency:

1. They are only permitted to work 96 weekend or night hours in a 6-month period.
2. They are restricted to 120 hours overtime in a 6-month period.
3. They can only operate for 60 days-a-year outwith their designated geographical area.

Training

All six of the long serving officers have attended a one-week induction course presented by the IAPR. This training seems to have been exclusively theoretical with no practical elements; the general feeling was this could be improved. They also received a week's safety training from the Police, which was felt to be useful.

Training in the Future

It was suggested that in future training should be similar to an apprenticeship and start with a month-long induction course containing a mixture of theory and practical elements. This should be followed by a series of training modules as well as job shadowing and mentoring for new recruits. It was also suggested training should be pass/fail and senior staff should also undertake some of the training to enhance their understanding of operational work.

It was felt that KOE Officers would benefit from basic surveillance training which would enhance operational effectiveness and officer safety. Some knowledge of human sources was also thought to be beneficial with the officers trained to identify and recruit potential sources.

The officers would welcome input from Julien Autret who has practical experience of commanding a mobile unit in France.

Recruitment

When asked why the general customs population view the KOE posts as unattractive the officers had a number of interesting observations and

suggestions. Most importantly they thought it important that new recruits must actually want to join KOE and have the right mentality.

It was felt recruitment should try to target young officers or recruit youngsters directly from school/college; the Police and Coast Guard were also seen as suitable recruiting areas. It was considered un-necessary for new recruits to have a university degree as practical, comprehensive training is far more important.

However, before recruiting the KOE posts have to become more attractive and this might be achieved by introducing all or some of the following incentives:

- Better pay; either through the introduction of an allowance or guaranteed overtime.
- Benefits such as uniform, laptop, mobile 'phone and personal equipment. (at present the officers pay for most of these, although some basic uniform was supplied initially this has not been replaced when required. The latest recruit in Thessaloniki mentioned she'd paid €120 for safety work boots.)
- An exemption from re-deployment and transfer.
- A clear job description and appraisal system.

Returning to why KOE is an unattractive job option, there were a couple of interesting observations:

- It's felt that over the years the public perception of Customs, in particular law enforcement, has changed and there's been an erosion of respect for Customs Officers.
- There's a general lack of understanding within Customs about what the KOE's actually do.
- Because the units are quite new it's thought senior staff might also lack a detailed practical knowledge of KOE, this has led to a feeling that KOE is not fully supported.

Operations

All operational activity is preceded by the preparation of an Operational Order and a detailed briefing for the officers to be deployed, including the allocation of roles and responsibilities. All operations comprise at least three officers, one of whom must be a male officer. It's generally felt that deploying only two officers is not safe. When an operation is completed there's usually a short meeting to de-brief the day's activities.

It was suggested that perhaps the KOE's could be subdivided into two parts, detection and investigation. The detection part would carry out controls and deal with minor infringements. It was agreed by all that some kind of spot fine system would be very useful, possibly based on the current Article 158. Any infringements where more investigation was required would be passed to the investigation section to complete the work. It emerged during this part of the discussion that a lack of training and legal support means legal brief documents are complicated and take a great deal of time to prepare. It was considered this form of sub-division would benefit the KOE's.

A serious problem in Thessaloniki is the storage of items seized during operational activity, there's simply no suitable areas. This is especially true for fuel and solvents where there are serious health and safety concerns. Subsequent destruction is another difficult area.

As for actual types of operational activity to be carried out, the team would like this to be clarified and to focus exclusively on activities that are clearly within the sphere of influence of Customs. The example of checking petrol stations was used to highlight this point. With the advent of inflow/outflow meters this has become an almost pointless task as the KOE are not able to check the calibration of the actual meters.

All of the officers agreed the formulation of standard operating procedures (SOP's) would be very beneficial in their daily operational work. As well as ensuring that all KOE's would do the same thing in any given situation these would ensure their practices are both lawful and safe. SOP's would assist when more than one KOE is involved in a specific operation.

The discussion turned to the example of stopping a vehicle. An SOP could be prepared dealing with this step by step, starting with a standardised form of words to advise the driver why he's been stopped, followed by removing the ignition key etc. etc.

The issuing of personal notebooks was discussed very briefly. The officers felt that because they have extensively automated their processes and procedures, to the extent that a printed document is always prepared/issued, notebooks were not necessary. Each of their vehicles is fitted with an inverter that enables the officers to power laptops and printers, although the laptops run on Windows Vista.

Intelligence

As far as intelligence sources are concerned the Unit has four main sources D33, ELYT, the Police and anonymous calls from the general public. Of the four the anonymous information is generally felt to be the most valuable and provides the best results. Intelligence from the centre was relatively scarce.

The team would welcome the development of a dedicated unit to handle human sources of information and felt this could be a valuable source of operational intelligence in the future. It might allow some of the anonymous information received to be developed.

Interestingly, the Thessaloniki KOE was not aware of any recent changes to the intelligence dissemination forms used by D33 and developed by the Intelligence Working Group.

Legacy SDOE Cases: Although the team does have old legacy cases originating from SDOE these are not seen as an issue.

Reporting

Just like the Piraeus KOE monthly and half yearly statistical reports are prepared which were thought to be of limited value and only used to monitor performance

against targets; both reports are prepared from a spreadsheet maintained by the officers. It hadn't escaped the officer's attention that D33, the recipient of the reports, is capable of gathering the same data itself.

The suggestion that a short monthly narrative report as well as a year end report, both based on standardised templates, would be of more value from a tasking and co-ordination as well as highlighting problems standpoint was welcomed.

Targets

Generally, there was little criticism of targets. However, there appears to be an issue with the recording of multiple infringements arising from a single activity. It seems the system does not allow for these to be separated and consequently they are recorded as a single infringement.

The officers are very much against individual targets, preferring to work as a team towards a common goal.

The Thessaloniki officers were in favour of targeting infringements detected rather than the number of controls carried out. Statistically, the unit is ahead of target in detecting infringements but behind target in controls carried out. Their interpretation of this is the results indicate their work is better targeted and not the result of random controls.

Equipment

It's apparent the KOE in Thessaloniki has managed to acquire some quite useful equipment, such as the invertors mentioned earlier, also the equipment in their van. It transpired that the new recruit to the unit previously worked in procurement and has assisted the team in locating funds. It also became apparent that, mostly, these funds are not necessarily designated specifically for KOE. Predominantly the money seems to have come from some kind of general fund.

The unit has adapted their van to suit their operational needs and although the vehicle is now quite old it's been extensively re-designed to a high standard.

However, suitable equipment is an issue.

Going Forward

As mentioned earlier the team have a positive attitude to joining their colleagues in ELYT. The main source of worry is whether they will have to move to the ELYT office and to a lesser extent if they will have the necessary support from the centre.

KOE Working Group

The officers would like to have a KOE Working Group formed as soon as possible and envisage it would look carefully at the following areas:

1. Clearly defined roles and responsibilities for the KOE's detailing exactly what duties they would be expected to undertake. This would prevent any local practices evolving and potential drift away from their core functions.
2. Examine all tasks with the intention of simplification, rationalisation and standardisation.
3. Standard operating procedures for each task to ensure operations are lawful and safe.
4. Clearly define pay and conditions.
5. Determine what equipment is required.
6. Preparation of KOE Guidance, preferably electronic.
7. Preparation of a detailed and comprehensive training programme to include scheduled refresher training.
8. Arranging an annual KOE Conference where representatives of each unit could meet to exchange idea and discuss issues.

KOE, Thessaloniki

The KOE team in Thessaloniki is very impressive in a number of ways. Despite facing the same problems as all of the other KOE's their morale is good and this is fostered by a strong team spirit, enthusiasm for the job and impressive, pragmatic leadership.

The team has looked closely at the problems they're surrounded by and adopted an innovative, analytical approach to solving as many of them as they can by adopted sound local practices amongst other things. For example, they've used their collective skills to identify technology that's useful and then set about funding this.

On a daily basis their tasks are planned and executed thoughtfully and effectively, whilst at the same time recognising the impact on the individual officer's work life balance.

There are a couple of members of the Thessaloniki team who would be extremely valuable members of the KOE Working Group.

Salient Points:

- Thessaloniki KOE is a well-managed team with a positive attitude and good problem-solving skills
- Content to co-locate with ELYT, preferably within the port area.
- The team comprises six experienced officers and one new recruit.
- Restrictions on overtime and travel need to be resolved.
- In future training should be modular, a mix of practical and theory, and pass/fail.
- Recruitment could be improved by offering incentives such as enhanced pay and supply of uniform etc.
- KOE posts are unattractive because of a lack of public respect for Customs generally as well as a perceived lack of support and understanding amongst senior some managers.
- Operations are well planned and executed.

- Would like to divide into detection and investigations, spot fines would be useful.
- SOP's would be welcomed but notebooks are not needed.
- Training in surveillance and basics of human intelligence would be helpful.
- Intelligence flows could be improved, but SDOE cases are not a problem.
- Statistical reports should be replaced by a short narrative report.
- The team have shown initiative in procuring equipment.
- A KOE Working Group would be welcomed. In particular to define their role, deal with training and pay/conditions.
- An excellent example to other KOE's.

Stephen J. Henderson

Stephen J. Henderson

Athens

19th November 2019

Annex 7 20191128 Notes on Interaction Between EU Agreements and Greek Law

TOBACCO SUPPLY CHAIN

INTERACTION BETWEEN EU AGREEMENTS & GREEK LEGISLATION

At a meeting with British American Tobacco (BAT), on 21st November 2019, it was brought to my attention that there's an issue with the interaction between their EU Agreement and the Greek domestic supply chain legislation. This issue will be common to BAT, Japan Tobacco International (JTI) and Imperial Tobacco. In summary, both the Agreement and the law are being used at the same time, this is leading to double costs and double work for Customs, under two different sets of procedures.

My inclination is, that for the global manufacturers, with current EU Agreements (BAT, JTI and Imperial), the Agreements should be used in preference to the domestic legislation for no other reasons than they were in place first and are driven from the Commission. In the fullness of time these parallel systems are likely to cause a problem with OLAF, and this should be avoided.

The primary role of the domestic legislation was to challenge the behaviour of Greek cigarette manufacturers, namely Karelia, SEKAP and Real Tobacco, but included the compliant PMI (Papastratos) as their EU Agreement had lapsed.

I've carried out a review of the Greek supply chain legislation to see if it accommodates the EU agreements, and with regard to the current issue the following passages appear to have some relevance.

Article 17

My interpretation is this Article suggests there's a legal hierarchy which should be applied as follows: firstly, international law, followed by EU law and lastly domestic, Greek, law.

If this understanding is correct, and the Agreements, which are legally binding are viewed as law, then the EU Agreements would take precedence over the Greek legislation.

(NB: The wording of Article 17 is far from clear.)

Article 22

This Article appears to allow for parts of the domestic legislation to be set aside if the legislation duplicates something, not necessarily a law, that's already in place; this is obviously the case here.

Again, this would suggest the Agreements can be enforced in preference to the supply chain legislation since both have the same intention. However, it's possible some kind of amendment to the legislation may be required to reflect this.

Article 25

Dispute resolution is dealt with in this passage with the preferred option being negotiation between the Administration and the companies. If this were to fail there's scope for Judicial resolution.

Conclusions

In my interpretation of the Greek supply chain legislation it seems there is scope for the global manufacturer's Agreements with the EU to take precedence over, and therefore be used in preference to, the domestic legislation; Articles 17 and 22 are the most obvious.

If all else fails then Article 25 provides a back stop either through a negotiated settlement or a Judicial ruling.

Stephen J. Henderson

Stephen J. Henderson

Athens

28th November 2019

Annex 8 20191128 Report Scanner Operation Piraeus

REPORT

SCANNER OPERATION IN PIRAEUS

Introduction

The information below is based on a meeting with Mr. Makrodimitrakis who is the director of the Customs Office in Piraeus with responsibility for scanner operations, the meeting took place on Thursday 28th November 2019.

Operations

There's only one scanner operating in Piraeus. To put this into some context Piraeus handled 4.9million containers in 2018 an increase of 19.4% compared to 2017. In 2015 it was the 8th busiest port in Europe and the 3rd busiest in the Mediterranean; it's expected to be the busiest in the Mediterranean by the end of 2019.

The scanner presently operating in the port is one of the machines purchased a couple of years ago following a protracted procurement process. The original scanner used in Piraeus and supplied by Papastratos has now been re-located to one of the Borders.

The scanner operates from Monday to Friday between 08:30 and 15:30 since these are the standard operating hours of the associated Customs Office. It also works between 07:30 and 13:00 on Saturdays; this shift is for export containers only. Generally, the equipment is not operational in the evenings or on Sundays, but could work if required.

On average the scanner will deal with between 15 and 30 containers per day, depending on circumstances. It takes about 3 minutes to scan a container but the whole process usually takes about 20 minutes. The additional time is needed for the image to be analysed and all documentation to be checked. If an anomaly is detected then the image is also reviewed by the officer-in-charge or a colleague. Very few containers need to be unpacked, accounting for only about 2 or 3% of those dealt with.

The images generated by the scanner are stored on the X-Ray Database, but this is not connected to any central system.

Generally, the fact the scanner works standard hours is not seen as an issue. It's believed the most important time is when a suspect container is targeted or selected to be scanned, rather than the time the scanning actually takes place.

Maintenance

The scanner has a current three-year warranty which requires the equipment to have two days maintenance every second month. It seems the maintenance programme is adhered to.

There have been few breakdowns or problems in Piraeus but one of the scanners used on the border was unable to operate for a month due to technical issues.

The scanner has to be moved to and from its secure storage facility at the start and end of each shift and this takes time. Movement is by means of a diesel engine which has had problems following the use of bio-diesel; apparently resulting in fungal growth. The purchase of fuel has previously been a problem, but now seems to be resolved.

Staffing

The manufacturer of the equipment recommends it should be staffed by three trained officers; staff must be manufacturer trained to comply with the warranty conditions. However, the Piraeus scanner is normally operated by just two people, one inside the cabin and the other outside, mainly for health and safety purposes. The Customs Office in Piraeus has four or five officers authorised to operate the machine, but all of them have other duties.

Targeting & Selection

Normally selection and targeting are the result of either risk analysis (local, central and EU) or specific intelligence.

Local risk analysis considers such factors as country of origin, weight and new cases, with the bulk of the information coming from reviewing the cargo manifests. The manifests are accessed via the Port Authority Application, which Customs are able to use along with the other members of the port community, shippers, logistics companies and agents etc.

Central risk analysis uses other criteria to identify suspect containers; the understanding of these seemed to be quite vague and they were not discussed in any detail.

The last type of risk analysis was described as EU and seems to rely on entry documentation.

Lastly, the scanner team may receive specific intelligence, for example in relation to containers of illicit cigarettes. Mainly, this intelligence comes from either OLAF or HMRC. However, in recent years this has diminished considerably; in 2016 there were 42 containers of illicit cigarettes, this declined to just 8 such containers in 2017 and only one so far in 2019.

Results

Mr. Makrodimitrakis considers the scanners results to be quite good, given the equipment they have at their disposal.

However, he is of the opinion that performance could be improved with the acquisition of a gantry scanner, housed in a purpose built warehouse type structure. It seems a gantry scanner is much more appropriate to the port environment. A committee is looking into the purchase of this equipment for Piraeus and Thessaloniki and its thought it will cost in the region of €9million.

Technical specifications will be available soon and a procurement/tender process will follow.

Problems

1. Staff: This is seen as by far the biggest problem affecting the use of the scanner. The Customs Office in Piraeus has only eight officers four or five of whom are trained to use the scanner. Consequently, all the officers have a series of other tasks they have to perform, detracting from operating the equipment.
2. Costs: The Port Authority levies a charge of €80 per container to cover the cost of locating the box in question and transporting it to and from the scanner site. In Malta the Port Authority charges a €2 levy for every container entering the port and so does not charge Customs for moving containers on their behalf.

Conclusions

Initially, it's difficult to see how the results of the scanner could be improved.

I don't wholly accept that staffing is an issue, as there are five trained operators with only two needed to work the equipment at any given time. I do accept the fact the equipment works office hours only is not a significant issue, since the relevant time is when a suspect box is selected and not when it's actually scanned. Also, unless the machine is failing to scan all suspect containers, I don't understand how an expensive gantry scanner will make any difference other than eliminating the time wasted moving it in and out of storage.

Additional scanners would allow for more random scans to take place. However, there must be a question mark around whether this would be cost-effective bearing in mind the €80 charge for each container to be controlled. The €80 charge does seem to be incredibly high and suggests a lack of sympathy for what Customs are tasked with doing from the Port Authority. I wonder if there's room for some re-negotiation here? Would it be possible to have a "Malta style" levy introduced as opposed to a unit charge? A comparison of practices at other large container terminals would be useful, and a potential bargaining point.

Intelligence and better risk analysis are the clear favourites to increase the effectiveness of the scanner operation in Piraeus. Both areas are currently being worked on either by myself or Mr. Boudet.

Stephen J. Henderson

Stephen J. Henderson

Athens

28th November 2019

Annex 9 20191212 Report Visit to KOE Crete

REPORT

VISIT TO KOE, CRETE

Date: 12th December 2019

Introduction

The KOE based in Heraklion, Crete is made up of seven officers, including the Officer-in-Charge, Mr. Psomas. Unfortunately, only three members of the team were available at the time of my visit and during the course of the day it was only seldom that all three were present. However, the officers engaged and spoke about their work and the challenges faced by KOE in Crete resulting in a relatively constructive meeting.

Accommodation

None of the officers expressed any concerns about the office accommodation they currently occupy which is situated in the Customs office in the port of Heraklion. The office and the surrounding compound appeared to be relatively secure with ample parking spaces.

It's thought the KOE team will move within the building when the new EYTE Directorate is formed in the New Year, again, there were no concerns about this.

Because the Crete Unit is aligned with ELYT in Attica there's no issue of co-location.

Staffing

Currently there are seven officers in post with applicable experience ranging from three to seven years. During the lifetime of the KOE two officers have left the Unit. At present they have no dedicated support officer, but think this would be a good idea and increase operational hours. Similarly, some form of local legal support would be beneficial.

The full complement in Crete is thought to be 15 officers and Mr. Psomas intends that if this number were achieved, he would retain 12 officers in Heraklion and station the remaining three in strategically important locations around the island, basically as KOE Liaison Officers.

Working Hours etc.

The officers estimated they work about 60 hours a week with approximately 60% of the time operational and the remaining 40% taken up with administrative and other duties.

The team work no night hours but they estimated that 10 hours a week were unsociable hours, this increases during the summer, the busiest period. The Crete officers are constrained by the same cap on overtime hours and simply stop working overtime when the limit is reached.

Similarly, there are no issues with the provision of adequate rest periods which are achieved by pragmatic operational planning.

Restrictions: Because Crete is an island the KOE do not suffer from the same geographical restricts which were a major problem for the Thessaloniki unit.

Training

All of the officers had received some basic training, but this was completely classroom based with no practical element. All the officers have attended a one-week Police safety training course. In general, the impression given was that this was not adequate and most of their learning had been on the job with their skills developed as the KOE gained experience as a unit.

Training in the Future

The officers see a structured training programme as important to the future development of the KOE's. The officers thought it important that training should be like an apprenticeship with a combination of theory, practical and work experience.

Training must be structured, encompass all elements of KOE work and be supported by regular refresher training.

When asked if surveillance training would be useful the team said they rely on the Police for surveillance, adding, that because the island has a relatively small population they are well know and their vehicles readily identifiable.

Recruitment

Recruitment is a serious problem for all KOE's and the officers in Heraklion thought the most important characteristic of a new recruit is to have the proper mindset and to actually want to do the work. In addition, proper marketing and advertising of KOE posts would be helpful.

However, these points are academic as the posts are viewed by most Customs Officers as unattractive. The Crete officers thought paying KOE Officers more money was essential to creating interest, thereby enhancing recruitment. Also, the officers want less paperwork and more actual operational activity; the provision of a support officer and general simplification would assist with this. When asked if exemption from compulsory transfers would help attract personnel it emerged this is not a problem, again because of the island location.

The officers thought in addition to Customs suitable recruits could be found in the Tax Office, Municipal Police and the Financial Police. The officers were sceptical about recruiting from the general public and felt a law enforcement background was important.

Operations

When the KOE first started their work was mainly based in and around Heraklion but this has gradually expanded to cover the whole island as their experience has increased.

KOE, Crete carry out approximately 2000 controls a year, detecting about 200 infringements. Apparently, their results are amongst the best in Greece.

The main areas of interest are tobacco, alcohol, counterfeit goods, cars and fuel with targets set for each work stream.

Alcohol: This is the busiest area and mainly concerns the un-invoiced sale of raki. There's also a seasonal issue with counterfeit alcohol, main during the summer, tourist months.

Counterfeit Goods: Again, there is a seasonal issue mainly affecting the tourist resorts. However, these cases can be time consuming and are often difficult to close due to a lack of co-operation from the brand holders. The officers questioned whether this is a viable use of their time and thought this may be work better suited to the Police.

Cars: Car using foreign plates are easy to find but the work can be time consuming.

Tobacco: These cases are apparently the easiest to deal with and mainly involve either shisha or so called "ant smuggling". Ant smugglers are frequently detained at the island's airports in transit to northern Europe and usually involves individuals from Ukraine, Belarus, Georgia and Armenia who have no assets so fines are rarely collected.

In general, it was felt that the fines and penalties associated with tobacco smuggling need to be modernised and are currently too high. However, the Crete officers were not in favour of spot fines which they thought were un-workable because even the smallest street vendor case has to be dealt with as smuggling, which is a criminal offence.

Fuel Products: This is another busy work area for the Cretan officers. They regularly check trucks as well as fuel stations but find it difficult to prosecute cases; it can take up to 6 months to receive laboratory results which are often inconclusive. But they do have successes particularly with bakeries and hotels who are supposed to use motor oil for their ovens but often use heating oil instead. Also, there are local problems with aviation fuel and the residue left in tanker trucks which the team also actively tackle.

Like their colleagues in Thessaloniki the officers in Crete think the advent of inflow/outflow meters has made some checks redundant.

General: The officers thought the levels of bureaucracy in their daily work was much too high and would welcome simplification. All their activities are recorded within various forms that they've developed in-house, because of this the officers did not think the introduction of notebooks would assist them.

All the KOE officers in Crete have identification cards.

Intelligence

Only between 10% and 20% of operational activity is intelligence led, most of the work done is based on experience and local knowledge. Most intelligence is

derived from anonymous calls, though these can be malicious, and some comes from the Coast Guard. They receive no intelligence from the Police despite having a good working relationship with the officers on the island.

Disappointingly the officers in Crete have had no contact with SEK and seem to have little contact with D33.

Legacy SDOE Cases: All of these cases have been closed and were dealt with by a colleague with SDOE experience.

Reporting

The Officer-in Charge in Crete did not appear to find the reports he's required to prepare very onerous and unlike the other KOE's visited thought that not all the statistics it contains are available on ICISNet, therefore could not be collated by D33. However, he did see the merit in replacing the statistical report with a short standardised narrative document. He also conceded that the ability to share best practice between the units would be a positive development.

Targets

As mentioned previously, it seems the KOE in Crete performs well against its target and as such has no issues with these.

Equipment

The Unit has three vehicles, two cars and a van. It seems the van is not fit for purpose and because of this is not used. In addition, they have managed to acquire fuel measuring equipment and storage cans, but had to buy a fuel pump. Again, the officers did not seem overly concerned by the lack of equipment, but would welcome some kind of review to identify what would amount to a basic tool kit.

The officers do not ordinarily wear uniforms, unless deployed at the airport. Generally, they are deployed in plain clothes but do occasionally wear KOE tee shirts, for identification purposes when stopping vehicles.

Like the other units they do not have body armour or handcuffs.

When asked what equipment would assist them most, they requested an x-ray scanner, it seems there are none on the island.

Going Forward

There are no concerns about the formation of the EYTE Directorate probably because the impact is minimal and the team will experience few changes.

Having said that, the KOE in Crete would welcome more staff and equipment but most of all they would like a clear definition of the KOE roles and responsibilities; it's clear that on Crete the KOE Officers are frequently drawn into other areas of Customs work. There are 71 Customs Officers on Crete 45 of whom are based in Heraklion.

KOE Working Group

After some thought the Officers would like to have a KOE Working Group tasked with defining their duties, procuring equipment and standardising training

KOE, Crete

The KOE is obviously very well run and managed in a pragmatic way. Officers in Crete, although welcoming and hospitable, were more reserved and less forthcoming than their counterparts in Thessaloniki and Piraeus. Clearly, there was a degree of suspicion about the questions being asked which resulted in some quite guarded answers. Because of this the true work state on the island and the views of the Officers are less clear.

What is abundantly clear is the staff are not full time KOE Officers. One officer is the port's dog handler, which I would imagine must be a very time-consuming role. Another officer described how she's been very successful in carrying out documentary ex post controls, mainly associated with tariff classifications; not a KOE function. Since only two officers, plus the officer-in-charge, attended the meeting it was not possible to ascertain if all the staff attached to KOE, Crete have other duties. This could be problematic when the new directorate is formed and the roles and responsibilities of the KOE's are defined. It would appear, for example, the dog handler may have to choose between KOE and dog handling work.

Operations are well planned and executed with good results achieved, but the officers are aware that better training and equipment would be useful.

The basic viability of the KOE on Crete has to be critically assessed as some unique issues came to light. Although Crete is the largest of the Greek islands it only has a total permanent population of 500,000 although this expands massively due to tourism in the summer. However, this is relatively small by comparison to Athens, 3.7million, and Thessaloniki 1.1million. Some thought must be given to the number of KOE Officers to be deployed, it's quite possible 15 may be too many. The target of 15 officers per unit should perhaps be re-visited, re-assessed and adjusted so the number of officers matches localised needs.

As mentioned previously, the officers do not carry out surveillance because they are too well known on the island; the locals recognise the officers, their vehicles (official and private) and in many instances know where they and their families live. This gives rise to some security concerns and may make future recruitment even more difficult.

Lastly, it was inferred that because the population is quite small, as is the number of businesses of interest to the Unit, that these businesses are visited on a more regular basis than elsewhere in Greece. Is there enough work to sustain 15 officers?

Three other island KOE's are planned for the future and it may be sensible to delay their formation until the information gathered in Crete is fully assessed and solutions found. One possible answer could be the formation of a multifunctional team dealing with both Customs and tax issues. Its important local officers are engaged in these types of location as their knowledge can be very valuable.

Salient Points

- Crete is a well-managed and successful KOE comprising seven experienced officers.
- There are no accommodation issues and few concerns about the formation of the new EYTE Directorate.
- The work is 60% operational and 40% administration. Operational activity focuses on alcohol, counterfeit, cars, tobacco and fuel, with good results achieved.
- In future training should be made up of practical, theory and work experience.
- Recruitment could be improved by offering better pay.
- The team would welcome simplification and less paperwork as well as more/standardised equipment.
- Most intelligence comes from anonymous calls with little contact with D33 and no contact with SEK.
- No issues with reporting or targets.
- The officers in Crete clearly have other, non-KOE, tasks; they are not full-time KOE Officers.
- A full complement of 15 KOE Officers may be too many for Crete.
- Officer safety is a concern due to the islands relatively small population.
- Other planned island KOE's may require fewer than 15 officers.

Stephen J. Henderson

Stephen J. Henderson

Athens

12th December 2019

Annex 10 20191220 Note of Meeting with DG ECFIN

NOTE OF MEETING

Date: 20th December 2019

Location: IAPR, 2nd Floor, 10 Karagiorgi Servias, Athens

Present: Stephen Henderson (SH) – SRSS

Chris Allen (CA) – DG ECFIN

Vasilis Nikitas (VN) – DG ECFIN

The meeting started later than intended at approximately 13:00.

CA explained the issue of cigarette smuggling had been highlighted at a meeting with the Finance Minister recently. It seems the Minister knows very little about the issue so this could be an opportunity for Customs to put their case for extra resources. SH explained there are a number of initiatives he working on with Customs but even if they're all completed successfully Customs would still need people.

SH then summarised the work he's involved with that impacts on cigarette smuggling – SEE NOTES BELOW.

In conclusion, CA thought a briefing from the Governor followed by a meeting with the Finance Minister would be the ideal way to proceed following today's meeting.

The meeting concluded at 13:35.

Stephen J. Henderson

Stephen J. Henderson

Athens

20th December 2019

SMUGGLING: ONGOING TECHNICAL ASSISTANCE

Intelligence

- Developing intelligence is the way forward (HMRC 1.6billion sticks)
- Intelligence Working Group.

- New dissemination form with assessment and handling codes – will replace long reports.
- Based on Police system and similar to five-eyes.
- Better targeted dissemination – need to know.

Legislative Changes

- Investigating amending the Customs Code to facilitate pragmatic covert legislation – similar to RIPA.
- Balances the need to use covert techniques with ECHR.
- Would include surveillance (including electronic tagging), intercept, controlled deliveries and CHIS.

KOE

- Working Group to be formed in New Year.
- Will look at:
 1. Roles & responsibilities
 2. Pay & Conditions
 3. Training
 4. Develop SOP's
 5. Simplification (Spot Fines)

Analysts

- Proper analysis of intelligence offers better intervention possibilities.
- Can expose criminal finances and OCG's.
- Can be used strategically and tactically.
- PMI will supply an i2 analyst software licence costing €15,000 (more would be better).
- HMRC will fund and run an analyst foundation course in Athens & possibly analyst training in the UK.

SEK

- An effective SEK is crucial to ongoing work.
- As a co-ordination centre it would make an ideal Source Handling Unit (must be separated from investigations).
- Also, to co-ordinate controlled deliveries and surveillance.
- Dissemination/co-ordination of intelligence to partner agencies.

Satellite Imagery

- Negotiating Greece's inclusion in JTI's satellite monitoring programme of tobacco growth – successful in Spain & Serbia.
- All costs will be met by JTI, approximately €175,000 in year one.

Assistance & Contacts

- Developed good contacts with Liaison Officers, particularly France and UK, as well as TM's
- Should develop better interaction with EU bodies (CCWP & CELBET)

Public Awareness

- Video prepared but needs public release.
- Possible campaign to follow fuel smuggling.

Many are long term & complex.

Investment needed & suitable staff.

Annex 11 20191220 Note of Meeting with Gov DG Customs and DG ECFIN

Date: 20th December 2019

Location: IAPR, 8th Floor, 10 Karagiorgi Servias, Athens

Present: George Pitsilis (GP) – Governor IAPR

Konstantinos Mourtidis (KM) – DG Customs, IAPR

Stephen Henderson (SH) – SRSS

Chris Allen (CA) – DG ECFIN

Vasilis Nikitas (VN) – DG ECFIN

Sivylla Gregou (SG) – IAPR

Chris Lamprou (CL) – IAPR

The meeting started later than arranged at approximately 14:00 and was arranged to discuss preparing a briefing note for the Minister of Finance.

GP opened the meeting by saying that coincidentally he has received a report on staffing that indicates Customs is between 1,000 and 1,200 officers under complement when compared to 14 other countries. As such the preparation of the briefing under discussion is an opportunity not just to promote the work being done but to secure more officers. SH commented that the new government is keen on law enforcement having hired 3000 additional Police officer and many of the post under discussion are law enforcement orientated.

GP said he wants a 10-page report with an executive summary highlighting the work being done by Customs to combat cigarette smuggling. He thought the document should include the following:

1. Work done to date.
2. Plans for the future and development.
3. Current state of play.
4. Challenges and needs.
5. Infrastructure.
6. Legal issues.
7. Penalties.

GP added that he would like headlines by the end of the day and a first draft for discussion at another meeting on the issues to take place on Monday 23rd December at 12:30. The finalised document is to be delivered to GP by 10th January 2020. At this point it emerged the briefing note will also be sent to the Prime Minister for his consideration.

There was then some discussion on TA and the work SH has in hand in particular around intelligence/analysts and KOE.

To assist KM and CL with the preparation of the headline document SH provide them with a copy of his notes on areas he's currently working on.

Following some general discussion, the meeting ended at approximately 14:45.

Stephen J. Henderson

Stephen J. Henderson

Athens

20th December 2019

Annex 12 20191223 Notes for Meeting with Governor and DG

23rd December 2019

SMUGGLING: TECHNICAL ASSISTANCE

Previous Technical Assistance

Over the years the Customs General Directorate has embraced Technical Assistance (TA) and benefited from the expertise available in a number of different ways.

- Structural re-organisation to form three regions.
- Formulation and implementation of Management Indicators.
- Introduction of tobacco supply chain legislation.
- Setting up of Mobile Units (KOE).
- Simplification of Ex-Post Controls.
- Assistance with the setting up of SEK.
- Assistance with the procurement of scanning equipment.
- Assistance with the ongoing procurement of fuel markers.
- Setting up and assisting the Intelligence Working Group.

In addition, a number of training seminars and study visits have been arranged covering, for example:

- Ex-Post Controls.
- Intelligence.
- Use and management of human sources of intelligence.
- Commodity based intelligence.
- The work of intelligence analysts.
- Media and communications
- Mobile Units

Cigarette Smuggling and Future Technical Assistance

Going forward, to improve efficiency in challenging the illicit trade it's essential to develop a viable intelligence capacity. Operations targeted by the use of intelligence have a much better chance of success. Although cigarette smuggling has been specified these changes would address issues with the smuggling of all excisable goods.

The Intelligence Working Group (IWG)

The IWG has recommended the adoption of a new intelligence dissemination form that includes an easily assimilated assessment of the intelligence as well as handling codes. The form is very similar the form used by Police Intelligence as well the forms used by the UK and USA. Intelligence would be targeted and disseminated on a strict need to know basis.

Intelligence Analysis

Proper analysis of intelligence on a tactical and strategic level offer better more numerous intervention opportunities and can expose not only organised crime groups but also their finances.

PMI will supply one i2 software licence at a cost of €15,000 and HMRC will provide training initially in Athens, hopefully, followed by training in the UK. Clearly, more licences and training will be required as this resource evolves.

Legislative Changes

Changes are required to the domestic Customs Code to introduce pragmatic legislation to facilitate the use of covert techniques. These changes will balance the Administrations need to use such techniques against the individual's rights flowing from the European Convention on Human Rights, specifically Articles 6 and 8.

Specifically, such legislative changes would cover:

1. Surveillance (including the electronic tracking of vehicles).
2. Controlled deliveries.
3. Use of human sources of intelligence (informants).
4. Intercept.

SEK

An effective fully functioning SEK is essential to the use of these new powers. As a co-ordination centre SEK is ideally place to become a source handling unit, dealing directly with human sources. In addition, it's co-ordination role could be expanded to control surveillance operations and controlled deliveries.

Controlled deliveries are especially important in developing seizures to identify the structures and finances that lie behind smuggling.

SEK would remain as the centre for intelligence sharing amongst the partner agencies.

KOE

KOE as the operational branch would act on intelligence in targeted operations and would also have basic knowledge allowing potential source recruitment.

However, before any of this can be achieved the Units need to be brought up to strength and properly equipped to fulfil their role. In the New Year a KOE Working Group will be constituted tasked with examining the following:

1. Roles and responsibilities.
2. Pay and conditions.
3. Training.
4. Develop standard operating procedures.
5. Simplification (spot fines for very minor infringements).

Satellite Imagery

It's hoped Greece can be included in a project run by Japan Tobacco International which monitors tobacco grower's production to ensure its in

keeping with pre-declared amounts. The project has been successful in Serbia and Spain.

This should be progressed early in the New Year.

Contacts

Greece would benefit from full participation in the EU backed Customs Co-Operation Working Party and possibly having a Liaison Officer within Europol.

Public Awareness

Although a video has been produced it still requires a platform to reach the biggest audience possible.

A full public awareness campaign is needed to bring illicit cigarettes firmly into the public domain. First, it's necessary to find the triggers that would make buying illicit cigarettes unacceptable. For example:

- Bring criminals into neighbourhoods.
- Cheap cigarettes are affordable to children.
- The proceeds fund criminal gangs.

There are many others, but it important to isolate what triggers are effective in Greece.

All of the above would require both investment and recruitment of more staff to strategic areas such as intelligence, SEK and KOE.

Stephen J. Henderson

Stephen J. Henderson

Athens

23rd December 2019

Annex 13 20191223 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 23rd December 2019

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Chris Lamprou – IAPR, Customs Adviser (CL)

Maria Pagomenou – Interpreter (MP)

The meeting started later than arranged at around 11:20.

CL has prepared a draft submission for the Governor that includes extracts from notes compiled by SH earlier in the morning. Most of the early discussion was between KM and CL on details of the draft not related to SH's work.

SH said, having read CL draft, that he was disappointed by the lack of detail surrounding his work areas. In particular intelligence is mentioned only in vague terms. KM replied there would need to some consultation to isolate specific areas, such as legislative changes that are achievable, before finalising the briefing for the Minister of Finance and the Prime Minister, but there would be more detail in the final document.

Turning to fines and penalties, KM conceded the current system is far from ideal but is of the opinion there's no political will to make changes; as such this topic may not be worth further pursuit.

The discussion then moved on to the enhanced role for SEK SH has suggested. KM said he would envisage intelligence would flow from the new call centre (KEF) directly to Customs, probably D33, and to operational units from there. If a source handling unit is developed it will be in the EYTE Directorate, this appears to leave no room for SEK.

KM said early in the New Year it will be necessary for a detailed Business Plan to be prepared; SH offered to assist in any way possible.

As an aside KM said the new Directors have been appointed but no announcements have made as they will not take up their positions until the end of January; no further detail was forthcoming.

The meeting ended at approximately 12:15.

Stephen J. Henderson

Stephen J. Henderson

Athens

23rd December 2019

Annex 14 20191223 Note of Meeting with Gov and DG Customs

NOTE OF MEETING

Date: 23rd December 2019

Location: IAPR, 8th Floor, 10 Karagiorgi Servias, Athens

Present: George Pitsilis (GP) – Governor IAPR

Konstantinos Mourtidis (KM) – DG Customs, IAPR

Stephen Henderson (SH) – SRSS

Antonis Pyrgiotis (AP) - IAPR

Chris Lamprou (CL) – IAPR

The meeting started later than the scheduled time of 12:30 at 13:10.

GP read the draft of the brief for the Minister of Finance and commented that it focused too much on what had been done to date. He wants a document that summarises work done in the past but very much concentrates on the future of Customs. The forward look must constitute the bulk of the document.

In particular he wants a draft detailing the plans for 24/7 operational activity and specifically asked for more detail of what is envisaged in setting up a much better intelligence capacity. In addition, the document must consider:

- Staffing.
- Challenges to achieving what's needed.
- Potential results and how these will be achieved.
- Structure and infrastructure.
- Existing resources and problems.

Problem such as over complex systems should be highlighted, since these are thought to a source of non-compliance, potential simplifications should be suggested.

It's important the briefing demonstrates a clear understanding of the issues facing Customs especially where smuggling is concerned. In doing so those attending the meeting were encouraged to be ambitious and think big.

The finished product is to be delivered to GP by 10th January 2020.

It emerged during a conversation after the main discussion had finished that the briefing will also be required in PowerPoint form. The Governor intends to include it in a presentation for the Prime Minister which seems to be scheduled for 15th January 2020.

The meeting ended at approximately 13:45.

Stephen J. Henderson

Stephen J. Henderson

Athens

20th December 2019

Annex 15 20191211 Note of Meeting with D33 Legal Issues

NOTE OF MEETING

Date: 11th December 2019

Location: IAPR, Custom D33, 4th Floor, Ypsilanti 16, Kolonaki, Athens

Present: Stephen Henderson (SH) – SRSS

Mrs. Loula Apostolou (LA) – D33, Legal Department

Maria Pagomenou (MP) – Interpreter

The meeting started as arranged at 13:30. LA was accompanied by one of her colleagues, a fellow lawyer.

Tobacco Supply Chain & EU Agreements

SH outline the conversation he'd had with British American Tobacco (BAT) and said he was concerned there was duplication of work and costs. In addition, SH said he is concerned this might cause friction with OLAF.

During the course of a long and detailed conversation it emerged that BAT may have slightly mis-represented the situation. Briefly, the interaction between the two bodies of legislation is quite legitimate and was a subject of a legal opinion from the Council of State prior to the supply chain legislation being passed. The companies are now unhappy and want either the legislation of their agreements set aside. SH said, this being the case, the problem does not lie within the remit of Technical Assistance.

Human Sources of Intelligence

SH said rather than concentrating on all covert techniques he would like to concentrate on human sources of intelligence in isolation during their meeting.

He then went on to say he'd carefully considered the comments made by LA and her colleagues at the last meeting and wanted to comment on these individually by way of starting and framing their discussions.

Amending the Customs Code: LA initial contention had been that there's no legal definition of intelligence. SH said, in reality, intelligence is simply information and as such this should not be an obstacle. The other issue highlighted by LA and her colleagues is that by amending the Customs Code the legislation would be specific to smuggling. SH commented this is actually the problem they are seeking to challenge. He added it's not necessary to include the IAPR as a whole at this stage and, in fact, this would simply amount to an identical amendment to the Tax Code. Lastly, there had been a comment that amending the Customs Code alone would be a pilot project; in some ways this is correct, in so far as a start has to be made somewhere.

Incompatible with Current Processes: Actually, this comment made previously, is correct because the purpose of the meeting is to explore a new area of Customs work, the use of human intelligence. Because it's new there is no pre-existing legislation or processes Customs can use. The object of the exercise is to arrive at a modern, pragmatic legal framework which operational officers can readily understand and use.

A Useful Precedent: At the last meeting there was some discussion about an amendment to the Customs Code, which had never been used, allowing for a person supplying information to be paid a portion of the fines collected. However, any payments would be delayed by several years, as such the process is simply not practical. However, it does provide a valuable precedent; it demonstrates informants can be dealt with via the Customs Code. Although there are differences the rationale is similar in that information is received, actioned and an operational result achieved. In effect, the current objective is legislation that would allow for a more rapid payment, not necessarily from fine collected, to the individual once results are verified.

Referral to the Ministry of Justice: Throughout the last meeting this was the only option offered by the D33 team. However, it's an option that could take a considerable length of time. Amending the Customs Code offers comparatively quick resolution and demonstrates the innovative thinking of Customs.

LA responded by saying the use of the Customs Code could be seen as a piecemeal approach and universal legislation, through the Penal Code, and encompassing all law enforcement would be better. SH responded that he entirely agreed with this view, but this is not possible within a realistic timescale because of the number of ministries involved and Customs must develop a full range of covert skills, designed to combat smuggling, sooner rather than later. This point was discussed in a circular debate for some time.

Moving on, SH said he had not had an opportunity to fully brief the DG, but Mr. Mourtidis remains in favour of amending the Customs Code. SH then asked if a report had been sent to Mr. Mourtidis following the last meeting? LA said a report was sent but no response has been forthcoming. SH cannot be allowed to have a copy of the report.

The discussion moved back to legislative amendments. It then emerged that, although amending the Penal Code remains the preferred option for D33 changes to the Customs Code are possible. But LA said neither she, nor any of her colleagues have any experience of drafting law enforcement amendments, they don't know what to do and have never dealt with amendments remotely similar to what is now being suggested. SH asked if there's another department within the IAPR which has the necessary legal expertise and could either take on the work or assist D33 with the drafting process? LA said, that as far as she is aware, there are no officers within the IAPR with the necessary experience. However, she did suggest a meeting with Mr. Raptis.

Clearly, this is a very serious obstacle to progress and SH said he would report back to Mr. Mourtidis and thought a meeting attended by the DG, SH and LA was the best way forward; this is unlikely to happen until the New Year. In the

meantime, SH requested that the D33 team give the issues raised some thought with a view to finding an innovative solution.

Following some general discussion, the meeting ended at approximately 14:45.

Stephen J. Henderson

Stephen J. Henderson

Athens

13th November 2019

Annex 16 20200115 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 15th January 2020

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started on schedule at 11:00.

KOE

KM asked about SH's visit to the KOE in Crete. SH replied it was an interesting visit and helped him to understand the different challenges facing the KOE's in the different part of the country. KM mentioned the Officer-in-Charge of KOE, Crete has changed, the previous commander wanted to stay with Ex-Post Controls. SH said he's prepared reports on his visits to Thessaloniki and Crete which he will send to KM in due course.

KM went on to say that all the KOE's Officers-in-Charge have not yet been appointed due to issues with the IAPR's HR Department. However, the Governor intends to intervene if the matter is not resolved quickly. When the officers are all in post KM intends to invite them all to Athens for a meeting and asked if SH would attend and contribute to the discussion? SH responded he would more than happy to contribute in any way possible. The meeting is a good opportunity to talk about the plans for the KOE's and the difficulties they have.

Also, and without prompting, the Governor has said the KOE Officers need to be paid more to retain those in post and encourage others to apply. No further details were forthcoming.

Apart from the new KOE's planned in a number of locations around Greece it's been decided the KOE's in Piraeus and Thessaloniki should have a staff complement of 30, rather than the standard 15. SH remarked that this seems very sensible, especially in Piraeus, the busiest container terminal in the Mediterranean (it handled 5 million containers last year).

With the exception of Patras, which has 15 officers, all the other KOE's remain dramatically understaffed.

SH said he will visit the KOE's in Drama and Xanthi in the coming weeks. The Drama meeting should be particularly interesting as the officer there did not apply for their own posts. KM said none will be leaving in the near future as compulsory transfer orders to KOE have been put in place; obviously, this is a short-term fix.

The Foreign Affairs and Defence Committee of the Parliament are in the process of approving around 500 new Customs Officers to help with Brexit issues.

Cigarette Smuggling – Briefing for Finance Minister

SH asked if the briefing document requested by the Governor just before Christmas had been delivered by 10th January 2020? KM said the document was delivered but he has received no feedback. He does not know if it's been sent to the Finance Minister.

Customs Presentation for Meeting Between the Governor and the Prime Minister

KM said the briefing document had been used to prepare the Customs presentation for the Governor to use during his meeting with the Prime Minister, which is scheduled for today (15th January 2020). KM had a copy of the Customs presentation and went through it with SH. Customs will be bidding for almost 1700 new posts. An analysis in the presentation shows Greece has proportionately fewer Customs Officers, around 2000, than most other Member States and the age profile of the officers is very high.

Generally, the presentation is impressive, very detailed and comprehensive

Turning to the areas of work covered by SH, these are all mentioned within the presentation: legislative changes, controlled deliveries, intelligence development, intelligence analysts, development of SEK and developing the KOE's. In particular, the presentation highlights the technical assistance, advice and guidance from SRSS (now DG REFORM).

SH commented the interest in cigarette smuggling shown by the Minister of Finance and the Governor's meeting with the Prime Minister could be an opportunity to actually ensure the plans KM and SH have discussed are actually implemented. KM was sceptical, and said the problem lies in convincing politicians to invest and back the plans. SH said it's possible DG ECFIN might be able to assist since this is their area of expertise. After some discussion, KM asked if it would be possible to meet with Chris Allen and Vasilis Nikitas; SH will try to make the necessary arrangements.

KM remarked that the Governor is to have a new five-year contract, but he has been given some very hard targets by the Finance Ministry. It seems the Ministry did not consult with the IAPR before formulating the targets and KM said he found some quite illogical.

Legislative Gaps

SH advised he has now had a second meeting with Mrs. Apostolou and her colleagues to discuss potential changes to the Customs Code to facilitate covert techniques. Although not their preferred option, it now seems such changes are possible. However, there's a problem in that Mrs. Apostolou and her colleagues do not have the necessary experience to draft this type of law enforcement legislation. SH suggested a meeting between SH, KM and Mrs. Apostolou. KM thought it would be best if Mrs. Apostolou consulted with the Police and Coast Guard to find out more about their legislation. Having done so she should then

combine this with the suggestions made by SH based on the UK legislation. SH said he would meet with Mrs. Apostolou and explain the way forward.

Intelligence Working Group – Final Report

SH expressed his concern that the Group's Final Report has still not been presented, discussed and adopted. He added the Report is actually the starting point which will initiate all the intelligence-based reforms they've discussed. KM said the Director appointment process has still not been completed, however, the exams and interviews are scheduled to take place between 20th and 24th January. Therefore, a meeting to discuss the Report could take place during the week commencing 10th February. After some discussion a meeting was provisionally arranged for Friday 14th February 2020.

The meeting ended at 12:15.

Stephen J. Henderson

Stephen J. Henderson

Athens

15th January 2020

Annex 17 20200213 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 13th February 2020

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – SRSS (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started on schedule at 10:00.

New Legislation

KM announced that new HR legislation was passed by the Parliament yesterday concerning pay and staff appraisals. One important consequence of the new law is that the Governor will have the power to change pay arrangements by issuing a Governor's Decision. Clearly, this is very important to Customs in particular the plans to challenge smuggling which include improved pay for units such as the KOE.

Cessation of Technical Assistance

SH advised he's been told there are no funds to finance his work after his current contract ends on 30th June 2020. This being the case it's very important to plan and priorities the work SH will concentrate on during the remaining months.

KM said he is very disappointed that SH's contract will not be renewed and said he intends to take the matter up with the Governor. He added, this is a crucial time for Customs, in particular their plans to combat smuggling, and KM is concerned that without SH's assistance the plans may fail to be implemented properly and the results will be disappointing. SH thanked KM for his kind words and commented that he is also very disappointed.

Turning to planning and prioritisation, SH will concentrate on the following areas of work:

1. **KOE:** It emerged during the introduction to the meeting that the new EYTE Director has not finished appointing officers-in-charge for all the northern KOE's. Because of this it's not possible to constitute the KOE Working Group at present. However, in preparation for the Group starting work, it was agreed that SH should prepare a discussion document of the various topics the Group must address detailing the problems and some possible alternatives courses of action.
2. **Intelligence Working Group:** It was agreed the Group's Final Report will be presented as soon as the director selection process is completed. This will also be a priority.

3. Legislation: As soon as the Director of D33 is known SH will arrange a meeting with Mrs. Apostolou and re-start the work on the amendments to the Domestic Customs Code.

SEK

KM said there is a suggestion the data collected from the inflow/outflow meters on fixed and mobile fuel tanks should be monitored by SEK. Neither SEK nor KM are in favour of this since it would represent a dilution of SEK's core functions. KM would prefer if the monitoring was based in the new EYTE Directorate as part of their risk and intelligence efforts. SH remarked EYTE would make sense as the KOE's will be responsible for investigating any serious alerts. By basing the monitoring in EYTE the lines of communication would be short and action could be taken relatively quickly.

KM went on to say the process to procure an integrated computer system is just starting and KM asked if SH could get involved and assist. SH replied he would be happy to assist and said he would try to gather some information and draw up a short document detailing what the system should be capable of in an ideal world. SH suggested he might start by speaking to Shell as they have their own monitoring system, and asked if KM would have any objection to this. KM thought Shell would be a good starting point since there are no experts currently within the IAPR.

SH suggested calibration of the meters is an important starting point. KM said a security study has been done and it's been with the Deputy Finance Minister for the last month.

The budget for the procurement is approximately €1.5 Million with implementation start in 2023. KM has some concerns that the budget may not be sufficient and therefore not attract the companies best suited to the project.

Fuel Smuggling: Public Awareness Campaign

SH said he will be attending a video conference on the campaign on Monday (17th February 2020) and will update KM in due course.

Risk Management

KM attended a meeting with visiting Bulgarian expert on risk management and felt that some of the suggestions did not accord entirely with the needs of Customs. In future KM would like Customs to have a Risk and Intelligence Directorate which would work on a commodity-based approach. These are both suggestions previously put forward by SH, as such he would fully support this initiative.

After some general discussion meeting ended at 11:15.

Stephen J. Henderson

Stephen J. Henderson

Athens

13th February 2020

Annex 18 20200217 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 17th February 2020

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – DG REFORM (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

Following a meeting with the Deputy Finance Minister's staff SH called at KM office at approximately 11:30 to provide an update on the earlier meeting.

SH explained that although the meeting had been requested to discuss the proposed SEK legislation it had developed into a more general discussion on all the measures required to combat the smuggling of excisable goods. SH said these were discussed in quite broad terms adding he was reluctant to speak in detail without KM also being present.

SH went on to say he was pleased the Deputy Minister's staff seemed to be suggesting all the initiatives SH and KM had discussed in recent months. SH commented that he felt hopeful the current political will may be beneficial for Customs.

SH said the Deputy Minister's staff will send an email to Antonis Pyrgiotis, in the Governor's Office, requesting detailed proposals covering how Customs would like to tackle smuggling. It seems the previous response of last December was not detailed enough. Also, there seems to be some confusion about how the work is progressing. Whereas SH and KM were under the impression the process would start following a meeting between Mr. Pitsilis and the Prime Minister, this is obviously not the stance of the Ministry of Finance. It's clear the Ministry has been working hard on a smuggling strategy the entire time. The net result is the Minister has become very impatient by what he sees as inactivity on the part of the IAPR. It's therefore very important the response to the new email is comprehensive.

As far as the legislative aspects are concerned SH thought it may be helpful if an amended version of his paper on the subject was sent as part of the IAPR's response. KM said he would support any measures SH felt were necessary in compiling a response for the Ministry of Finance. SH replied that before he submits anything for inclusion in the reply to the Ministry's request, he would want to discuss it with KM.

The earlier meeting was discussed in general terms with SH commenting that he felt optimistic about progressing the anti-smuggling strategy but felt it's very important that Customs and the wider IAPR are seen to be fully engaged and exploit this unique opportunity.

Following some discussion about how the issue should be progressed, the meeting ended at approximately 12:10.

Stephen J. Henderson

Stephen J. Henderson

Athens

17th February 2020

Annex 19 20200226 Shell Monitoring System Notes for DG

SHELL HELLAS

CONTROL SYSTEMS

- System is known as Station Manager.
- It was developed by Singular Logistics.
- Receives data from 332 petrol stations and 2172 fixed fuel tanks.
- Continuous 24/7 monitoring.
- Cost of development was modest.
- Data display is clear, easy to understand and user friendly.
- System is easy to navigate.
- Information in Greek or English.
- Data can be presented as graphs, tables or both.
- Data is updated every 3 minutes.
- Any site off line is highlighted.
- Capable of showing data for individual sites or individual tanks.
- Data includes volumes, transactions and deliveries.
- System has a working tolerance of 0.5% (this is the accepted tolerance for fuel pumps).
- Government accepted tolerance is 1.5%
- Any tank not within the company's tolerance is highlighted in red.
- Calibration is checked regularly.
- Sites are closed if there's a breakdown in communications.
- All tanker trucks have meters, are electronically sealed and fitted with GPS.
- Truck routes and time taken to complete tasks are monitored.
- Un-scheduled stops are queried.
- Meters in the trucks are capable of quantifying residual product.
- Data is sent to the Government's server at midnight each evening.
- This data includes alarms, deviations and balances in excess of the accepted 1.5% tolerance.
- Aside from compliance, the Shell system is a management tool with a number of uses such as stock control and purchasing.
- In addition, all Shell sites also have a CCTV system.

Stephen J. Henderson

Stephen J. Henderson

Athens

26th February 2020

Annex 20 20200217 Note of Meeting with Min Fin

NOTE OF MEETING

Date: 17th February 2020

Location: 3rd Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – DG REFORM (SH)

Maria Pagomenou – Interpreter (MP)

Mr. Angelidakis – Ministry of Finance (MA)

Stella Lefkou – Ministry of Finance (SL)

Despina Deligiannaki – Ministry of Finance (DD)

The meeting started on schedule at 10:00.

SEK Legislation

It emerged through the course of the opening remarks that the legislation being proposed by the Ministry of Finance will include all of the following:

1. The SEK President will have the grade of Director.
2. The secondment period will be for three years with the option of an additional three years.
3. The Ministry would like to find SEK permanent accommodation.
4. SEK will be fully staffed and equipped.

SH commented if all of these components were incorporated into the legislation it would give SEK the stability required to develop.

DD remarked there are potential problems in having suitably qualified staff released from the partner agencies. SH accepted the comment adding it essential to have high calibre officers at SEK. He added it may be advantageous to introduce a simple selection process for officers to be seconded. He suggested the partner agencies should put forward three candidates with CV's and the SEK Board could then choose the most suitable candidate. DD agreed this would be of assistance.

(It seems the SEK legislation will not progress as a distinct piece of legislation but rather will be encompassed into a much larger comprehensive anti-smuggling bill. – Covered in greater detail later in this note.)

Steering Committee

DD said the intention is for the Steering Committee to be elevated to Deputy Minister level. In addition, the remit of the Committee will change from only dealing with SEK issues to having responsibility for co-ordinating anti-smuggling activity. It will primarily be comprised of officials from the Ministry of Finance and will be chaired by either the Finance Minister or the Deputy Finance Minister.

It was unclear whether the Steering Committee would be constituted by legislation or a Prime Minister's Decision.

SH asked how the IAPR, as the authority with responsibility for excisable goods, would be represented on the Steering Committee? DD replied the Governor of the IAPR will be a member as well as having the function of secretary to the Committee.

Intelligence

SH had noted during the conversation that SEK would be at the centre of future efforts to combat smuggling, its results to date demonstrate that intelligence led operations have much better success rates.

DD said she is aware of proposed changes in intelligence and asked when these would be implemented? SH explained the Intelligence Working Group's Final Report remains to be adopted. This will happen as soon as the current exercise to appoint new directors is completed.

SH commented the new systems replicate those used by the Police as well as several foreign intelligence services and are much more efficient than the current system. The principle changes are shorter reports and better, targeted dissemination.

Anti-Smuggling Strategy

The conversation then developed into a much wider conversation about what's actually required to effectively combat smuggling. SH said whilst he was happy to speak in general terms about what changes he feels are required he added he was uncomfortable to go into detail without Mr. Mourtidis, the DG Customs, being present. SH expanded on this by saying he has discussed this matter in detail with Mr. Mourtidis and AP on several occasions but thought it was inappropriate for him to speak on behalf of the DG. SH provides technical assistance to Customs, but is not the DG's spokesperson.

AP said useable legislation is needed for controlled deliveries and surveillance as well as the use, management and payment of human sources.

It would appear the background to the meeting is rooted in the discussions about smuggling during December 2019. It seems the Ministry of Finance asked for proposals to combat smuggling but are concerned the response is not detailed enough and the Minister of Finance appears to have become impatient.

The Ministry of Finance, on direct instruction from the Finance Minister, is in the process of drafting a large, comprehensive body of legislation designed to combat smuggling and plug any legislative gaps. At present they are consulting with a number of interested parties.

DD said she requires the IAPR to produce detailed proposals covering the following:

1. Legislative issues.
2. Controlled deliveries.
3. Surveillance and human sources.

4. Intelligence and intelligence analysis.

It was agreed that DD would send an email outlining what's required to AP. It was suggested the detailed response would be required within 10 days to allow the Ministry to maintain the tight timeline put forward by the Finance Minister. The intention is for a single, comprehensive body of legislation covering SEK, controlled deliveries, surveillance, human sources, etc. This is to be delivered by mid-March.

Commenting on the timescale, SH said it's important to harness the current interest in smuggling, but equally important to ensure the resulting legislation is not just comprehensive, but understandable and useable by operational officers; DD accepted the point.

There was some general discussion about UK legislation covering covert techniques which SH thought could be a good starting point since it balances the States need to use covert techniques against the individual rights under ECHR, mainly Articles 6 and 8.

In broader terms, combating smuggling would require the development of an analyst capacity to ensure law enforcement are able not only to seize smuggled goods but identify the gangs, individuals and their assets behind the criminal activity. By embarking on this strategy SH thought HMRC would be willing to help develop the necessary skills.

As the meeting drew to a close SH said he would be happy to assist in any way possible as the project progresses. DD said at some point in the near future the Deputy Finance Minister would like to meet with SH to discuss the matter further, SH replied he would be happy to meet the Deputy Minister.

The meeting ended at 11:15.

Stephen J. Henderson

Stephen J. Henderson

Athens

17th February 2020

Annex 21 20200219 Short Version Legislative Improvements Discussion Paper

DISCUSSION PAPER

POTENTIAL LEGISLATIVE IMPROVEMENTS

UK LEGISLATION

The purpose of this discussion paper is to explore the extant UK legislation in relation to firstly, surveillance and other covert techniques and secondly, legal gateways designed for the lawful exchange or disclosure of information. By understanding these bodies of UK law, it may be possible to adopt some of their principles for inclusion in future amendments to the Greek Customs legislation with the intention of remedying perceived legislative gaps in these very important areas.

PART 1

The Regulation of Investigatory Powers Act 2000

Introduction

Although the UK was a founding signatory to the European Convention on Human Rights (ECHR) the Convention was not brought into UK law until 2000 with the introduction of the Human Rights Act 1998. In October 2000 in preparation for that Act the government tabled the Regulation of Investigatory Powers Act 2000 (RIPA). RIPA was to balance the use of surveillance and covert techniques with ECHR, in particular Article 6, the right to a fair trial, and Article 8, the right to a private and family life.

The fundamental purpose of RIPA is to regulate the interaction between covert and sensitive techniques and Article 8.2 which states "*There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the rights and freedoms of others*".

Jack Straw, the Home Secretary, when RIPA went before Parliament said "*Covert surveillance by police and other law enforcement officers is as old as policing itself. What is new is that for the first time the use of these techniques will be properly regulated by law*".

Essential Considerations

RIPA provides a statutory framework that governs the use of active surveillance and other activities that interfere with an individual's right to privacy (Article 8) and would normally be illegal if carried out by a private individual. Any such activity must take into account the following:

- It Must be Proportionate; in accordance with the law, as required by Article 8.2.
- It Must be Necessary; that is to say, other techniques or actions would not give the same results.
- It Must Consider Collateral Intrusion; the impact on other people, not targeted by the activity, has to be carefully managed to insure it's controlled and minimised.

Types of Surveillance

RIPA is divided into two parts and introduces five distinct categories of surveillance activity.

Part 1.

1. Use of covert human intelligence sources.
2. Accessing communications data.
3. Intercepting communications data.

Part 2.

4. Directed surveillance.
5. Intrusive surveillance.

Covert Human Intelligence Source

A Covert Human Intelligence Source (CHIS) is defined as a person who establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within the following paragraphs:

- he covertly uses such a relationship to obtain information or to provide access to any information to another person;
- or
- he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

Accessing Communications Data

This allows for access to private communications data, 'phone calls, emails, text messages, letters, faxes etc. and provides information about the communication but, importantly, not the content of that communication. For example, records from the service provider show that a telephone number was called at a specific time on a particular day, is communications data; what was actually said during that call would be covered by intercept – see below.

Intercepting Communications Data

This allows for the contents of the communications data 'phone calls, emails, text messages, letters, faxes etc. to be retrieved, read or listened to.

This is viewed as the most intrusive form of surveillance, as such it's only used in the most serious of cases. The intercept material cannot be used as evidence in court, its existence cannot be referred to during the judicial process.

Directed Surveillance

This is covert but is not intrusive. It's surveillance that's conducted as part of a specific investigation and carried out in such a manner as is likely to result in the obtaining of private information about a person. It would include following an individual, photographing and videoing.

Directed surveillance would cover the use of a tracking device attached to a vehicle; for example, during a controlled delivery. Installation and retrieval of the device would also require authorisation under the Police Act 1997, to cover any property interference.

Intrusive Surveillance

This is Directed Surveillance carried out in relation to anything taking place in residential premises or any private vehicle. For example, the deployment of an audio and/or visual device, as such the grounds for the authorisation of intrusive surveillance are narrower than for directed surveillance.

Codes of Practice and Authorisation

RIPA is supported by five Codes of Practice (COP):

1. Interception of Communications.
2. Equipment Interference.
3. Codes of Practice for the Acquisition, disclosure and Retention of Communications Data.
4. Covert Surveillance and Covert Human Intelligence Sources ((i) Covert Surveillance & Property Interference, (ii) Covert Human Intelligence Sources).
5. Codes of Practice for Investigation of Protected Electronic Information.

The purpose of the COP's is to provide a robust framework, guidelines, processes and procedures that must be strictly obeyed if the activities governed by RIPA are to be properly authorised and therefore carried out lawfully.

Authorisation is a vital part of the legislation and must be precisely in accordance with the rules set out in the COP's; the types of surveillance, reasons for use and levels of authorisation etc. are detailed in the table below.

Any application for surveillance must justify the proposed activity taking account of the three pillars detailed earlier: proportionality, necessity and collateral intrusion. The authorising officer must be certain these criteria are either satisfied, in the cases of proportionality and necessity, or adequately managed in the case of collateral intrusion.

Almost all activity is authorised, by varying levels of senior officers, within the agency with the reasoning available becoming more restricted as the level of intrusion increases. Interception of communications is clearly the most intrusive

activity and reserved for only the most serious of crimes; it is not available to all agencies included within the Act. It's also the only activity requiring external authorisation and a warrant. Under the COP's just a very small number of senior officials are authorised to make applications for intercept warrants, which must be personally authorised by the Home Secretary (or equivalent Scottish Minister).

TYPE OF POWER	TYPICAL USE	REASON FOR USE	LEVEL OF AUTHORISATION
Directed Surveillance	Following a person by means of a surveillance team but would include the use of an electronic tracking device attached to a vehicle.	In the interests of national security, <u>for the purpose of preventing or detecting crime</u> or of preventing disorder, in the interests of the economic well-being of the United Kingdom, in the interests of public safety, for the purpose of protecting public health and <u>for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.</u>	Senior member of HMRC.
Intrusive Surveillance	Use of an electronic audio or video device in a private property or vehicle.	In the interests of national security, <u>for the purpose of preventing or detecting serious crime</u> and in the interests of the economic	Any Customs Officer designated for the purpose by the Commissioners of Revenue & Customs.

		wellbeing of the United Kingdom.	
Covert Human Intelligence Sources.	Use of CHIS (Covert Human Intelligence Source) and undercover officers	In the interests of national security, <u>for the purpose of preventing or detecting crime</u> or of preventing disorder, in the interests of the economic well-being of the United Kingdom, in the interests of public safety, for the purpose of protecting public health and <u>for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.</u>	Senior member of HMRC.
Use of Communications Data.	Information about a communication, but not the contents of that communication (e.g. phone numbers, subscriber details).	In the interests of national security, <u>for the purpose of preventing or detecting crime</u> or of preventing disorder, in the interests of the economic well-being of the United	Senior member of HMRC.

		Kingdom, in the interests of public safety, for the purpose of protecting public health and <u>for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department</u> and for the purpose, in an emergency, of preventing death or injury or damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health.	
Interception of Communications	Interception of telephone communication and reading emails and post.	In the interests of national security, <u>for the purpose of preventing or detecting serious crime</u> and in the interests of the economic wellbeing of the United Kingdom.	By means of a Warrant from the Home Secretary, Cabinet Secretary for Justice or equivalent Scottish Ministers (this power is NOT available to all agencies).

Oversight & Governance

Part 4 of RIPA provides for three commissioners: The Interception of Communications Commissioner, the Intelligence Services Commissioner and the

Chief Surveillance Commissioners. There's also an Investigatory Powers Tribunal, established to hear surveillance related complaints.

The Commissioners are a completely independent body, ordinarily made up of retired judges. They are tasked with carrying out regular, rigorous in-depth inspection visits to the relevant agencies, these ensure the processes they use adhere to the rules, as laid down by the legislation and famed in the relevant COP.

Weaknesses and Criticisms

Availability: Many are of the opinion that RIPA powers are too widely available, for example they can be used by local councils; this is seen as very damaging to principles of necessity and proportionality. When the law was passed in 2000 only nine organisations, including the police, security services and HMRC were allowed access to communications data. By 2008 a total of 121 councils revealed they had used the legislation in the previous 12-month period.

Judicial Authorisation: Generally speaking, surveillance is largely self-authorised by a senior member of the agency concerned. The more intrusive forms of surveillance require involvement of the Surveillance Commissioner but no prior judicial authorisation is needed.

In virtually every other common law country, e.g. USA, Canada, South Africa, etc. law enforcement agencies are required to obtain a judicial warrant from an independent judge before they can carry out surveillance. It's a widely held belief, particularly amongst civil liberties groups, that the system would be strengthened if authorisations were issued by an independent judicial authority rather than an elected, or more commonly, an unelected public official; this is common practice in several EU Member States.

An additional issue is the after-the-fact scrutiny and oversight afforded by current system through the Commissioners. With the exception of Interception of Communications Warrants signed by the Home Secretary, following an application by a senior official, there's no external influence during the authorisation process. This only takes place after the event when the appropriate Commissioner carries out an inspection visit.

Because of this lack of judicial oversight, the UK is considered to have one of the weakest systems of surveillance regulation of any EU or common law country.

PART 2

Commissioner of Revenue & Customs Act 2005

Introduction

HMRC is a statutory department created by the Commissioners of Revenue and Customs Act 2005 (CRCA 2005) through the merger of Her Majesty's Commissioners of Customs and Excise and the Inland Revenue. HMRC has extensive statutory powers with the powers afforded to the Commissioners

generally delegated to Officers of HMRC. A large and complex body of statute applies to HMRC and controls the disclosure of information both internally and externally.

HMRC takes its duty of confidentiality very seriously indeed, with confidentiality considered to be a fundamental operating principle of the Department to the extent that HMRC is often viewed as reluctant to use the statutory powers it has at its disposal to disclose.

HMRC Officers are strictly prohibited from sharing information except in the very limited circumstances set out in CRCA 2005; these are detailed below.

Strict Confidentiality Protections

CRCA 2005 contains a strict confidentiality provision at Section 18(1), in relation to the external sharing of HMRC data. Section 18(1) provides that HMRC officials must not disclose information held by HMRC, in connection with a function of HMRC, unless one of the exceptions detailed in Section 18(2) applies.

Section 18(2) has the effect of detailing the circumstances when Section 18(1) does not apply. For example, when the disclosure is made for the following reasons:

- for a function of HMRC.
- doesn't contravene any restriction imposed by the Commissioners.
- for the purpose of civil or criminal proceedings.
- in pursuance of an order of a court.
- with the consent of each person to whom the information relates.
- in accordance with Section 20 or Section 21.

This is not an exhaustive list and there are other circumstances when Section 18(1) can be set aside, but these are possibly the most relevant examples.

Very importantly, as a whole Section 18 only defines the scope of the prohibition on the disclosure of HMRC data. However, it does not, in itself, give HMRC the underlying legal authority to disclose information. Therefore, if disclosure is not prohibited HMRC must then identify a legal power to facilitate disclosure.

Lawful Disclosure

Under Section 20 CRCA 2005 HMRC has the power to disclose information when such a disclosure is in the public interest.

Disclosure is permitted when it's made on the general or specific instructions of the Commissioners, the Commissioners are satisfied disclosure is in the public interest or one of a number of criteria are fulfilled. For example:

- for the prevention or detection of crime.
- for the regulation of a profession and relates to misconduct.
- relating to the movement of persons or goods.

Again, the list is not exhaustive, but does define some of the most relevant instances where disclosure is permissible.

Similarly, Section 21 CRCA 2005 governs the disclosure of information to a prosecuting authority, broadly speaking, for the purpose of enabling that authority to consider whether criminal proceedings are appropriate or to advise on an existing investigation.

In summary, Section 18(1) provides the overarching duty of care and confidentiality surrounding HMRC data; Section 18(2) acknowledges there are exceptions to this rule and Sections 20 and 21 provide the vehicle for these exceptions to be utilised and the circumstances when this is lawful, if disclosure is in the public interest.

Wrongful Disclosure

It is an offence to contravene the above confidentiality provisions by disclosing HMRC information. HMRC information means information about, acquired as a result of, or held in connection with the exercise of a function of HMRC but, for these purposes, does not include information about the internal administrative arrangements of HMRC.

The offence is punishable by up to two years' imprisonment, a fine or both.

In addition, there's also the potential for a parallel offence to have been committed under Section 55 of the Data Protection Act as well as a possible breach of the European Convention on Human Rights; most likely Articles 6 and or 8 could be at risk.

Other Legal Gateways Available

HMRC also has the option of utilising gateways outside of its primary legislation of CRCA 2005, for example by using Section 68 of the Serious Crime Act 2007, Section 19 of the Anti-Terrorism, Crime and Security Act 2001 or Sections 19 & 20 of the Counter Terrorism Act 2008.

Lastly, HMRC can also be compelled to disclose information by the use of a statutory instrument such as an order under Sections 345 and 350 of the Proceeds of Crime Act 2002. A Proceeds of Crime Act production order may be made in relation to material in the possession or control of an authorised government department and may require any officer of the department who may be for the time being in possession or control of the material to comply with it.

CONCLUSIONS

From Part 1, which deals with the Regulation of Investigatory Powers Act 2000, it's clear this is a comprehensive body of legislation, which when used in conjunction with the appropriate Code of Practice, is capable of managing the delicate interaction between the States need to carry out surveillance and an individual's rights flowing from the European Convention on Human Rights.

However, it's not without its problems. The number of bodies with access to RIPA type powers and the use made of these would not be an issue in Greece since the intention would be to amend the Customs legislation.

The major criticism of RIPA is the lack of judicial involvement in the authorisation process which gives rise to after the event scrutiny. This could be easily remedied in any potential Greek legislation by including an application to a judge in the authorisation pathway. This is already the case in several other EU Member States and countries with a common law system.

I would suggest that a Customs Officer of a suitable rank and experience should be capable of making such an application directly, rather than relying on a prosecutor; this appears to be an unnecessary inclusion in current procedures.

Part 2 deals with the disclosure provisions in the Commissioners of Revenue and Customs Act 2005 and illustrates that for the purposes of lawful disclosure of information, and this includes intelligence, HMRC predominantly relies on its own legislation. It's entirely possible this rationale could successfully be applied in the Customs General Directorate, and conceivably across the wider IAPR.

In common with HMRC the IAPR is risk averse and needs to deal with the lawful disclosure of information. The issue could be resolved by amending the Customs legislation to include a number of clauses similar to parts of CRCA 2005; namely Sections 18, 20 and 21. By doing so Customs Officers would be able to disseminate and share information and intelligence safely and legitimately by simply quoting the appropriate legal gateway on any intelligence forms used.

Potentially harmful gaps in the current legislation need to be addressed if the intelligence units and SEK are to progress and develop. More importantly, new laws would ensure compliance with ECHR and Data Protection legislation.

Firstly, RIPA type legislation would allow Customs to evolve and develop a surveillance and human source capacity within a robust legislative framework bringing structure, security and peace of mind to the staff, as well as safety for any human sources.

Similarly, CRCA 2005 style legislation making it clear when it's permissible to share information, including intelligence, offers protection to all staff but particularly those dealing with and sharing intelligence.

A new legislative framework could be introduced as an amendment to the National Customs Code. This course of action would have the effect of protecting Customs Officers and providing them with much needed security and the legal confidence to expand into new areas of work i.e. surveillance, intercept and using human sources of intelligence. At the same time affording them protection from possible ECHR and Data Protection breaches. It's possible this could be achieved within a reasonable time frame.

The amount of work required should not be underestimated. Whilst CRCA 2005 type law could be relatively straightforward the same cannot be said of any Greek version of RIPA, since Code of Practice, or something similar, would also need to be prepared.

As far as information sharing is concerned it's likely that within the body of a vast plethora of legislation, memorandums of understanding, decisions and decrees is scattered little pieces of law that would allow information to be shared,

however, much of this is open to interpretation. This ambiguity and the dispersal factor mean it's virtually impossible for an operational officer to locate the required authorising legislation quickly. This has the knock-on effect of inhibiting the sharing of intelligence as it's hopelessly difficult for staff to find the legal reassurance they need. Overarching legislation drawing together all the little bits of law, creating gateways and formalising information sharing would alleviate the problem.

Stephen J. Henderson

Stephen J. Henderson

Athens

19th February 2020

Annex 22 20200220 Notes in Reponse to Min Fin Email

Note on Email from the Deputy Finance Minister's Office

Intelligence

The bulk of the changes envisaged to improve the ways in which intelligence received is handled and disseminated do not require any new legislative amendments. The alterations relate to more efficient processes and procedures.

The principle difference will be the introduction of a new intelligence form which is based on procedures used by the Hellenic Police and similar, in practical terms, to forms used by the Five Eyes Community (USA, UK, Canada, Australia and New Zealand) to exchange information.

The new form introduces simple coding systems. The first, evaluates the accuracy of the information based on previous experience, or indeed lack of experience, of the source. This may influence how the intelligence is subsequently used.

The second coding system dictates who the owner of the intelligence believes would benefit from receiving the material. This is targeted dissemination, and introduces a strict "need to know" principle. Only officers who will action the intelligence will be aware of its existence. This concept is vital to security and safety.

The same type of form will also be used to report information gathered during operational activity and enhance the intelligence database; this will assist analysis.

Generally, the new reporting is short and concise, as such it's quick and easy for the recipient to assimilate and decide what action, if any, is required. This will replace the much longer reporting currently in use.

Human Intelligence

As noted above legislation is not required to assist in the changes to intelligence processes. However, there is one important exception, and that's some distinct sources of human intelligence.

There are two types of human intelligence sources. The first is relatively easy to deal with; these are people who provide information to Customs, often anonymously, with no expectation of repeating the experience or, importantly, any reward. Essentially, they simply provide information they think might be helpful. Although a clear framework is required to ensure these sources of information are dealt with correctly, no legislation is required. In essence, all that's needed is to ensure all the information is extracted, properly recorded and disseminated. Importantly, it's essential the person is not asked to get more information, this is tasking, it changes their status and should normally be avoided.

Legislation is definitely required for the second type of human source, known as CHIS (Covert Human Intelligence Source). A CHIS will often have knowledge or be able to access information about the functioning of a criminal organisation. In return for maintaining a covert relationship with the criminal gang and providing specific information the CHIS may receive a monetary reward; the payment is only one difference between a CHIS and other human sources. What actually defines a CHIS is that they can be tasked to gather information. The relationship with the CHIS may be maintained over a prolonged period of time.

Clearly, this is a high-risk area of work which requires robust, secure structures and procedures to protect not just the CHIS but the officers who manage and control the source.

In addition, the activity of the CHIS quite clearly compromises the human rights of their target, probably Article 8 of ECHR. The balance between the States need to gather information by means of covert techniques, in this case the CHIS, and the individual's human rights needs pragmatic, useable legislation.

Benefits of New Legislation

The fundamental purpose of the new legislation is twofold.

Firstly, legislation is essential to ensure the Customs use of covert techniques is lawful, regulated and controlled. That is to say, their use does not breach Data Protection and privacy laws. Equally important is that the use of such techniques must not breach an individual's human rights (ECHR Articles 6 & 8); this could result in serious consequences in the future.

Secondly, the legislation will allow the lawful development of a surveillance capacity as well as the use of controlled deliveries and human sources of intelligence. These are important to increase Customs' ability to generate and gather intelligence vital to combating the smuggling of excisable goods by opening up new channels. Increasing the amount of intelligence gathered, especially when coupled with the planned intelligence analyst resource, will allow Customs to formulate a clearer picture of the criminal organisations who are responsible for smuggling.

Whilst seizures of cigarettes, alcohol and oils are clearly good, and damage the criminal gangs, the seized goods can be expensive to process, store and eventually destroy. By improving Customs' intelligence and analysis capacity it will be possible to target the organisations and individuals responsible leading to successful prosecutions and the seizure of their assets. This will have a deterrent effect, but more importantly generates funds for the State rather than being an expense.

Similarly, the use of controlled deliveries allows individuals and locations to be easily and specifically identified leading to arrests, prosecutions, seizure and confiscation.

The new legislation, resulting in improved intelligence techniques, directly impacts on the following:

1. KOE
 - Would be trained in basic techniques to recruit human sources.
 - Also trained in surveillance; their geographical spread makes them a vital frontline component.
 - Operational activity will be targeted and intelligence led, providing better results.
2. Analysts
 - Can be tactical and strategic.
 - Build on intelligence gathered and prepare detailed intelligence bundles to investigators.
 - Capable of identifying organised crime groups.
 - Isolate criminal finances.
 - Use analysed intelligence to identify good quality intervention opportunities.
3. SEK
 - Would have an enhanced co-ordination role.
 - Could develop into a centre for handling human sources.
 - Could centrally monitor controlled deliveries.

Stephen J. Henderson

Stephen J. Henderson

Athens

20th February 2020

Annex 23 20200227 Note of Meeting with Min Fin

NOTE OF MEETING

Date: 27th February 2020

Location: 3rd Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – DG REFORM (SH)

Stella Lefkou – Ministry of Finance (SL)

Despina Deligiannaki – Ministry of Finance (DD)

The meeting started at 11:00.

SH said in order to assist and advise Mr. Mourtidis he would like to have a clear understanding of the timeline the Ministry has in mind as well as some details of their expectations of the IAPR's response following the meeting on 17th February 2020.

DD replied that by the end of the following week (by 6th March 2020) the Ministry expects the IAPR/Customs to have prepared detailed legislative proposals and, if possible, to have drafted the legislative provisions and articles. She added the Ministry does not have the capacity to deal with this type of legal work. The IAPR/Customs proposals will be examined and discussed, initially with the Deputy Finance Minister and then the Finance Minister. In addition, it may be necessary to consult with the Ministry of Justice and the Ministry of Economics.

SH commented that a new Director had only recently been appointed to D33 and has not yet taken up post.

DD suggested their preference would be for legislation to be introduced by amendments to the Customs Code as this would be targeted and specific to Customs. It was thought that amending the Criminal Proceeding legislation would have implications for all law enforcement agencies, adding a layer of complexity and possible delay.

It was conceded the time constraint may result in not all the required provisions being presented in a single body of law. However, it seems the Finance Minister would like to see some results in the short term. SH remarked that "quick wins" may not be possible since success is wholly depended on increasing the number of officers within Customs, training and re-organising to build a modern intelligence capacity to include intelligence analysts; this is a long-term project. DD said the Minister of Finance is willing to invest in Customs and this spending would be increased if the results were positive. SH thought some careful management of expectations would be prudent.

At some point in the future DD thought a meeting with Mr. Mourtidis and Antonis Pyrgiotis would be requested to discuss the way forward. The intention is for SH to attend this meeting.

SH thanked DD for taking the time to meet with him and added that if she, or any of her team, require assistance, he would be happy to help.

The meeting ended at approximately 11:30.

Stephen J. Henderson

Stephen J. Henderson

Athens

27th February 2020

Annex 24 20200228 Note of Meeting with DG Customs

NOTE OF MEETING

Date: 28th February 2020

Location: IAPR, 5th Floor, Karagiorgi Servias 10, Athens

Present: Stephen Henderson – DG REFORM (SH)

Mr. Mourtidis – IAPR, DG Customs (KM)

Maria Pagomenou – Interpreter (MP)

The meeting started at a re-scheduled time of 11:45.

D33 Proposals

SH asked if he would be allowed to have a copy of the proposals to be made by D33 when they are received? KM said he had no issue with this and would welcome SH's input. SH replied he would analyse the suggestions and prepare a short report.

SH said he's concerned D33 may not suggest amending the Customs Code.

Reply to Deputy Finance Minister's Office

KM said he has received a very long list of smuggling related headlines and that Customs is expected to prepare draft legislation on every topic. KM thinks this simply cannot be achieved within a reasonable timescale. SH replied that he met with Antonis Pyrgiotis earlier in the morning and they had discussed the list.

In SH's opinion, a meeting with the Deputy Minister's staff is required to negotiate a better way of working together. Obviously, both parties want the same thing, but currently the relationship is not functioning in a sensible way. There are clearly time constraint issues and a method must be found to manage this pressure. For example, SH suggested the smuggling legislation could be broken down into manageable chunks to be worked on jointly in turn. The SEK and covert techniques legislation could probably be delivered quite quickly.

In any event a meeting should be arranged as soon as possible. KM agreed a meeting is a good idea but will wait until he has a basic draft response. KM thought the notion of breaking the bill down was workable and certainly worth suggesting to the Deputy Minister's staff. SH said he would like to attend the meeting when it's arranged.

This topic was then discussed at some length.

Shell Control System

SH said he had visited Mr. Thomaidis at Shell recently and seen a demonstration of how their control systems monitor petrol station, fuel tanks and tanker trucks.

SH said he was very impressed by the simplicity of the system which appeared to be very user friendly.

SH provided KM with a list of bullet point of his observations and suggested KM visit Shell to see the system for himself. KM asked that SH provide the necessary contact details and he will arrange a visit. KM thought a visit to BP may also be useful. (Contact details sent.)

Fuel Smuggling Awareness Campaign

SH advised the contract for the project has been sign which will last for nine months. SH will meet with Nectarios Notis in 2nd March 2020, with the kick-off meeting taking place on 9th March 2020. SH asked if the DG would like to be represented at the kick-off meeting? KM said he would like representation and will consider who should attend. SH thought a representative from the Governor's Office would also be a good idea; KM agreed.

KOE

SH will start work on a template for the KOE Working Group in the near future and send this to KM.

It seems, with the exception of one unit, all the commanders have now been appointed.

The expressions of interest exercise will finish today, 28th February 2020. KM and SH have low expectations, since the post remain unattractive. However, on 3rd March a transfer exercise will commence which it's hoped will attract civil servants from other government departments; it will target young officers and those with a high school education.

Lastly, the Finance Minister has told KM directly that staffing the KOE's will be a priority task.

The meeting ended at 13:45.

Stephen J. Henderson

Stephen J. Henderson

Athens

28th February 2020

Annex 25 20200313 Draft CHIS Legislation AP

SUGGESTED AMENDMENT TO PARAGRAPH 4, ARTICLE 148, L.2960/01

Intelligence provided by individuals to the Customs Authorities or the Operational Coordination Center (SEK) that result to the discovery of customs or smuggling offenses shall be rewarded within sixty days after the preparation of the customs offense protocol with an amount of:

- a. 300 to 2,000 euro for customs infringements, depending on their severity and
- b. 500 to 20,000 euro for smuggling or criminal offenses, depending on their severity.

A Finance Minister Decision shall specify the Customs Authorities, the terms, requirements, procedures, severity of the offenses and any necessary detail for the implementation of this paragraph and the protection measures for the intelligence and the human sources.

Annex 26 20200310 Bazianou CHIS Legislation Paper

HUMAN SOURCE OF INTELLIGENCE

Introduction

Development of a comprehensive legal and regulatory framework for human sources of intelligence would be a great benefit for the Greek Customs, as this would specify the organization and functioning of the procedure both for the citizens and the central administration. Because of the current lack of such a framework, citizens do not want to disclose unlawful conduct; they either fear eventual retaliation, or they do not know how, where and under what circumstances to do it. Furthermore, it is not possible for businesses and law enforcement authorities to swiftly detect corruption behaviors, while the agencies have a limited capacity to investigate and uncover cases of corruption threatening the public interest. Consequently, establishment of a comprehensive legal and regulatory framework for human sources of intelligence and their protection may trigger the development of both an irregularity disclosure mindset, where citizens would feel safe to disclose wrongful behaviors, and voluntary compliance of economic operators.

Current legal framework

The National Customs Code (art. 158 par. 4) stipulates that «A decision of the Finance Minister shall specify the terms and conditions for paying monetary rewards to those who contribute in the seizure of smuggled goods or to anti-smuggling informants. The same decision shall also lay down the payment rates, on the multiple charges collected or the auction proceeds, up to twenty per cent (20%), depending on the circumstances of uncovering each specific smuggling act.»

Suggestions for the creation of a new legal framework

The first step is to form a legal framework for surveillance and human sources of intelligence, which is suggested to include provisions on the following, among others:

1. Lawfulness of surveillance
2. Acquisition and sharing of communication data
3. Authorization for surveillance
4. Authorization for covert human intelligence sources
5. Persons who have the right to grant authorization for surveillance and covert human intelligence sources
6. Grounds for granting authorization for human intelligence sources (e.g. collection of duties and taxes, protection of public health and public safety)
7. Authorization for intrusive surveillance
8. Authorization requiring judicial approval
9. Procedure for judicial approval

Thereafter, once the general provision is in place, a decision should be issued, including the following:

- Covert human intelligence sources
 - Definition of the human intelligence source, i.e. when someone is considered a human intelligence source and how the relation of the Service with this source is delineated
 - Scope of authorizations for “use” or “tasking”
 - Cases where it would be appropriate to allow the use or tasking of a human intelligence source
 - Establishing, maintaining and using a relation of the Service with the human intelligence source
 - Creating a covert profile for the human intelligence source
 - Activity of human sources not falling within the definition of human intelligence source
 - Whistleblowers, with no reward or expectation of reward for this work
 - Professional or legal obligation of IAPR staff to provide information in the context of their powers
 - Tasks executed but not entailing relations with the Agency
 - Defining when a human source becomes a covert human intelligence source
1. General rules on authorizations
 - The unit designated as the authorizing unit
 - Necessity and proportionality of granting authorization on specific lawful grounds
 - Scope of authorizations
 - Collateral intrusion (considering the risk of intrusion into the private or family life)
 - Review and renewal of authorizations (examination of later renewals and other relevant safety and well-being matters)
 - Local assessments and impact assessments of the area of operation (knowledge of particular conditions in the area where the human intelligence source operates or similar actions by other law enforcement authorities)
 - Combined authorizations for surveillance.
 - Operational actions involving several human intelligence sources
 - Covert surveillance of human intelligence sources
 - Use of technical equipment by human intelligence sources
 - Use of human intelligence sources by local authorities
 2. Authorisation procedure for human intelligence sources
 - Human intelligence source authorisation criteria
 - Jointly competent public authorities
 - Authorisation procedures (designation of authorizing officer in each unit)
 - Information to be provided in authorisation applications
 - Duration of authorisations
 - Reviews, Renewals of authorisations
 - Cancellations of authorisations
 - Rejection of approval for long-term authorisation
 3. Management of human intelligence sources
 - Tasking

- Operators and controllers of human intelligence sources
 - Joint actions where the benefit from the use of human intelligence sources is diffused to more Units
 - Safety and security of human intelligence sources
4. Keeping a registry of human intelligence sources
 - Centrally retrievable records of authorisations
 - Individual records of approval and use of human intelligence sources
 - Further documents in record (e.g. renewal of authorization and documentation, risk assessment for human intelligence sources, conditions for tasking of human intelligence sources etc.)
 5. Safeguards (including privileged or confidential information)
 - Use of material of human intelligence sources as evidence
 - Reviewing authorisations
 - Handling material (dissemination, copying, storage, destruction)
 - Dissemination of information
 - Copying material obtained from human intelligence sources
 - Storage of material obtained from human intelligence sources
 - Destruction of material obtained from human intelligence sources
 - Protection, non-disclosure of the identity of human intelligence sources
 - Confidential or privileged material
 - Confidential personal information
 - Applications to acquire material relating to confidential journalistic material and journalist sources
 - Authorisations to use or task human intelligence sources in order to obtain, grant access or contain information on matters subject to special legal framework
 - Authorisations to use or task human intelligence sources in order to obtain information on matters subject to legal privilege, if they were not created/held with the intention of furthering a criminal purpose
 - Unintended acquisition of knowledge of matters subject to legal privilege by human intelligence source
 - Lawyers' material
 - Handling, retention and deletion of legally privileged material
 6. Responsible persons and senior officers for overseeing the human intelligence sources
 7. Complaints about the use of powers by investigation Units

Conclusion

The legislation on human intelligence sources must motivate disclosures via a clearly defined process and available channels. The Customs must provide protection and safety and develop a sense of trust with human intelligence sources so that they report their suspicions. The recipients of disclosures must also safeguard confidentiality, i.e. non-disclosure and protection of the identity of human intelligence sources.

In any case, we believe the following should be taken into consideration: the European Convention on Human Rights, the General Data Protection regulation and the current legal framework on the European and national level.

Annex 27 20200310 Review Notes EB CHIS Paper
NOTES OF HUMAN SOURCES OF INTELLIGENCE PAPER

The paper is the work of Eleni Bazianou who works at D33, intelligence and was the chairperson of the Intelligence Working Group. By way of some background Eleni is acutely aware of the current shortcomings of Customs Intelligence and very keen to see comprehensive, innovative changes introduced.

Generally, the paper is reasonably short and mostly in the form of bullet points, which considering the number of aspects it addresses, is a good format.

Introduction

The introduction covers the benefits to law enforcement of having a robust structure within which human sources would feel confident to come forward to provide valuable intelligence and where they could be handled and tasked safely.

Current Legal Framework

The paper then goes on to describe the current legislation, Article 158, paragraph 4 of the Customs Code, where a person providing information would, eventually, receive a percentage of the fines etc. collected. As already well documented, this piece of law has never actually been used and lacks the necessary backing of a Ministerial Decision to bring it into law.

Unfortunately, Eleni's paper does not go on to provide an opinion on where suitable legislation on covert techniques, including human sources should be placed. However, given the overall scope, quality and level of detail in the paper as a whole this is a very minor issue.

Suggestions for the Creation of a New Legal Framework

This passage is in fact the vast bulk of the paper where Eleni goes on to describe in detail all the requirements essential to successfully handling, managing and tasking human sources of intelligence. At the same time other associated covert techniques are touched upon:

- Directed Surveillance.
- Intrusive Surveillance.
- Lawful intercept.

The mention of other covert techniques is sensible since often these are all linked and all used as an operation develops.

Although clearly based on the paper I prepared on the UK legislation, the Regulation of Investigatory Powers Act (RIPA), Eleni has very cleverly moved this on to another level by putting it into the context of Greece.

She has taken the opportunity to introduce measures designed to address the shortcomings of the law in the UK. She mentions there would have to be grounds for deploying a human source and these would be put forward as part of an authorisation process. Very wisely Eleni advocates judicial authorisation

thereby remedying a problem with RIPA. The lack of independence in the authorisation process and contemporaneous judicial input are serious criticisms of the British system.

Included in the subsequent bullet points are inclusions which cover all the essential components of covert work and shows a clear understanding of not only the concept but also the hurdles that have to be overcome to use these methods lawfully.

Interestingly, Eleni has introduced the notions of necessity, proportionality and collateral intrusion, which must be mitigated or managed to limit the impact on the target's human rights as well as respecting data protection legislation. These must be dealt with along with grounds for deployment as part of the application process.

Lastly, Eleni has recognised that not all human sources are the same. A Humint will provide information with no expectation of a reward, but cannot be tasked. On the other hand, a CHIS will be paid and can be specifically tasked. Clearly, the danger is so called status drift where a source begins to move from one category of human source to the other, this is very dangerous; Eleni has recognised the danger.

Conclusion

The conclusion is glaringly obvious; Greece needs legislation, processes and procedures as soon as possible.

Comments

This is an important piece of work because it's the first time the purpose of my paper on the UK legislation has been grasped. The paper was never intended to suggest UK law is applicable in Greece, the idea was the principles RIPA introduces are transferrable to Greek law. Eleni has clearly understood every aspect of the management of covert techniques and then gone on to address and rectify the perceived shortcomings in RIPA.

The paper is detailed in understanding the issues and strong on procedures, all it lacks is draft legislation, but this is not Eleni's area of expertise.

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Athens

10th March 2020