CUSTOMS AND EXCISE (MUTUAL ASSISTANCE) ACT, 2001

ARRANGEMENT OF SECTIONS

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[No. 2.]  


[2001.]  

EIGHTH SCHEDULE  

NINTH SCHEDULE  

TENTH SCHEDULE  

____________
[2001.]  


[No. 2.]  

Act Referred to  

Data Protection Act, 1988  

1988, No. 25

[9th March, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:
Interpretation.

1.—(1) In this Act—

“the Agreement” means the Agreement on provisional application between certain Member States of the European Union of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes done at Brussels on the 26th day of July, 1995;

“the CIS Convention” means the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on the use of information technology for customs purposes, done at Brussels on the 26th day of July, 1995, as amended by the 1999 Protocol;

“Customs Information System” has the same meaning as it has in the CIS Convention;

“the Customs Co-operation Convention” means the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and co-operation between customs administrations, done at Brussels on the 18th day of December, 1997;

“the Minister” means the Minister for Finance;

“the 1996 Protocol” means the Protocol, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the CIS Convention, done at Brussels on the 29th day of November, 1996;

“the 1999 Protocol” means the Protocol, drawn up on the basis of Article K.3 of the Treaty on European Union, on the scope of the laundering of proceeds in the Convention on the use of information technology for customs purposes and the inclusion of the registration number of the means of transport in the Convention, done at Brussels on the 12th day of March, 1999.

(2) In this Act—

(a) a reference to a section or a Schedule is a reference to a section of or Schedule to this Act unless it is indicated that reference to some other enactment is intended;

(b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended; and

(c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any enactment including this Act.

2.—(1) Subject to the provisions of this Act, the Agreement, the CIS Convention, the 1996 Protocol, the 1999 Protocol and the Customs Co-operation Convention shall have the force of law in the State and judicial notice shall be taken of them.

(2) For convenience of reference there are set out in the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Schedules, respectively, to this Act—

(a) the text in the English language of the CIS Convention,
3.—The Revenue Commissioners are hereby designated as the national authority for the purposes of Articles 7(1) and 8(2) of the CIS Convention.

4.—The Revenue Commissioners are hereby designated as the competent customs administration for the purposes of Article 10 of the CIS Convention.

5.—(1) For the purposes of this Act, the CIS Convention and the Customs Co-operation Convention, the Data Protection Act, 1988, shall apply and have effect, with any necessary modifications, to the collection, processing, keeping, use or disclosure of personal data included in or received from the Customs Information System.

(2) Without prejudice to the generality of subsection (1), for the purposes of Article 21 of the CIS Convention, section 7 of the Data Protection Act, 1988, shall apply as regards the liability of the State for injury caused to a person through the use of the Customs Information System in the State.

(3) Without prejudice to the generality of subsection (1), for the purposes of Article 25 of the Customs Co-operation Convention, section 7 of the Data Protection Act, 1988, shall apply as regards the liability of the State for injury caused to a person through the processing of data communicated in the State.

6.—The Data Protection Commissioner is hereby designated as the national supervisory authority for the purposes of the CIS Convention and the Customs Co-operation Convention.

7.—(1) Subject to subsection (2), the State shall not be bound by Articles 20, 21 and 23 of the Customs Co-operation Convention or any part of those Articles.

(2) The Government may, by order, provide that the State shall be bound by Articles 20, 21 or 23 or any part of those Articles.
8.—(1) The Minister may make regulations for the purpose of enabling this Act and the Customs Co-operation Convention to have full effect.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(a) specify that processing of personal data by the authority in the State receiving the data shall be authorised only for the purpose of preventing and detecting infringements of national customs provisions and prosecuting and punishing infringements of Community and national customs provisions,

(b) provide that personal data may be forwarded by the authority in the State receiving the data without the consent of the authority supplying them to its customs administrations, its investigative authorities and its judicial bodies to enable them to prosecute and punish infringements of national and Community customs provisions; in all other cases consent to forward such data being necessary,

(c) provide for an individual's right to have personal data which have been communicated and found to be inaccurate, corrected or erased,

(d) provide for the recording by the communicating and recipient authorities of any personal data forwarded or received pursuant to the application of the Customs Co-operation Convention,

(e) specify that the person in respect of whom personal data have been communicated may establish what data have been communicated and the use to which they have been put as well as setting out the circumstances under which this right may be restricted,

(f) provide that personal data communicated shall be kept only for the period necessary for the purposes for which they were communicated.

(3) In this section references to personal data shall be construed as references to non-automated personal data.

(4) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to be necessary or expedient for the purposes of the regulations.

(5) Where the Minister proposes to make regulations under this section he or she shall, before doing so, consult with such other (if any) Minister of the Government as the Minister considers appropriate having regard to the function of that other Minister of the Government in relation to the proposed regulations.

9.—Without prejudice to the generality of section 5(1), any person who uses personal data from the Customs Information System other than for the purpose of the aim specified in Article 2(2) of the CIS Convention shall, save where such use is in accordance with and is subject to the conditions specified in Article 8(1) of that Convention, be guilty of an offence under the Data Protection Act, 1988.
10.—(1) For the purposes of Article 2 of the 1996 Protocol, paragraph (2)(a) of that Article shall apply in the State.

(2) (a) Where a declaration is made pursuant to Article 2 of the 1996 Protocol specifying that paragraph (2)(b) of that Article shall apply in the State, the Minister may by order declare that the declaration (the text of which shall be set out in the order) has been made.

(b) On the commencement of an order under paragraph (a), subsection (1) shall cease to have effect.

(3) For the purposes of Article 26 of the Customs Co-operation Convention, paragraph (5)(a) of that Article shall apply in the State.

(4) (a) Where a declaration is made pursuant to Article 26(4) of the Customs Co-operation Convention specifying that paragraph (5)(b) of that Article shall apply in the State, the Minister may by order declare that the declaration (the text of which shall be set out in the order) has been made.

(b) On the commencement of an order under paragraph (a), subsection (3) shall cease to have effect.

(5) Judicial notice shall be taken of any ruling or decision of, or expression of opinion by, the Court of Justice of the European Communities on any question as to the meaning or effect of any provision of the CIS Convention or the Customs Co-operation Convention.

11.—A draft of every order or regulation proposed to be made under this Act shall be laid before each House of the Oireachtas and the order or, as the case may be, regulation shall not be made unless a resolution approving of the draft has been passed by each such House.

12.—(1) This Act may be cited as the Customs and Excise (Mutual Assistance) Act, 2001.

(2) This Act shall come into operation on such day or days as the Minister may fix by order either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.
CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY ON EUROPEAN UNION, ON THE USE OF INFORMATION TECHNOLOGY FOR CUSTOMS PURPOSES

THE HIGH CONTRACTING PARTIES to this Convention, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 26 July 1995,

RECALLING the commitments contained in the Convention on Mutual Assistance between Customs Administrations, signed in Rome on 7 September 1967,

CONSIDERING that customs administrations are responsible, together with other competent authorities, at the external frontiers of the Community and within the territorial limit thereof, for the prevention, investigation and suppression of offences against not only Community rules, but also against national laws, in particular those laws covered by Articles 36 and 223 of the Treaty establishing the European Community,

CONSIDERING that a serious threat to public health, morality and security is constituted by the developing trend towards illicit trafficking of all kinds,

CONVINCED that it is necessary to reinforce co-operation between customs administrations, by laying down procedures under which customs administrations may act jointly and exchange personal and other data concerned with illicit trafficking activities, using new technology for the management and transmission of such information, subject to the provisions of the Council of Europe Convention on the Protection of Individuals with Regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981,

BEARING IN MIND that the customs administrations in their day-to-day work have to implement both Community and non-Community provisions, and that there is consequently an obvious need to ensure that the provisions of mutual assistance and administrative co-operation in both sectors evolve as far as possible in parallel,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

CHAPTER I

Definitions

Article 1

For the purposes of this Convention,

1. The term ‘national laws’ means laws or regulations of a Member State, in the application of which the customs administration of that Member State has total or partial competence, concerning:
the movement of goods subject to measures of prohibition, restriction or control, in particular those measures covered by Articles 36 and 223 of the Treaty establishing the European Community;

— the transfer, conversion, concealment, or disguise of property or proceeds derived from, obtained directly or indirectly through or used in, illicit international drug trafficking.

2. The term ‘personal data’ means any information relating to an identified or identifiable individual.

3. The term ‘supplying Member State’ means a State which includes an item of data in the Customs Information System.

CHAPTER II

Establishment of a Customs Information System

Article 2

1. The customs administrations of the Member States shall set up and maintain a joint automated information system for customs purposes, hereinafter referred to as the ‘Customs Information System’.

2. The aim of the Customs Information System, in accordance with the provisions of this Convention, shall be to assist in preventing, investigating and prosecuting serious contraventions of national laws by increasing, through the rapid dissemination of information, the effectiveness of the co-operation and control procedures of the customs administrations of the Member States.

CHAPTER III

Operation and Use of the Customs Information System

Article 3

1. The Customs Information System shall consist of a central database facility and it shall be accessible via terminals in each Member State. It shall comprise exclusively data necessary to achieve its aim as stated in Article 2(2), including personal data, in the following categories:

   (i) commodities;
   (ii) means of transport;
   (iii) businesses;
   (iv) persons;
   (v) fraud trends;
   (vi) availability of expertise.

2. The Commission shall ensure the technical management of the infrastructure of the Customs Information System in accordance with the rules provided for by the implementing measures adopted within the Council.

   The Commission shall report on the management to the committee referred to in Article 16.
Article 4

The Member States shall determine the items to be included in the Customs Information System relating to each of the categories (i) to (vi) in Article 3 to the extent that this is necessary to achieve the aim of the system. No items of personal data shall be included in any event within categories (v) and (vi) of Article 3. The items of information included in respect of persons shall comprise no more than:

(i) name, maiden name, forenames and aliases;
(ii) date and place of birth;
(iii) nationality;
(iv) sex;
(v) any particular objective and permanent physical characteristics;
(vi) reason for inclusion of data;
(vii) suggested action;
(viii) a warning code indicating any history of being armed, violent or escaping.

In any case personal data listed in Article 6, first sentence of the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, hereinafter referred to as the ‘1981 Strasbourg Convention’, shall not be included.

Article 5

1. Data in categories (i) - (iv) of Article 3 shall be included in the Customs Information System only for the purpose of sighting and reporting, discreet surveillance or specific checks.

2. For the purpose of the suggested actions referred to in paragraph 1, personal data within any of the categories (i) - (iv) of Article 3 may be included in the Customs Information System only if, especially on the basis of prior illegal activities, there are real indications to suggest that the person concerned has committed, is in the act of committing, or will commit serious contraventions of national laws.

Article 6

1. If the suggested actions referred to in Article 5 (1) are carried out, the following information may in whole, or in part, be collected and transmitted to the supplying Member State:

(i) the fact that the commodity, means of transport, business or person reported has been found;
(ii) the place, time and reason for the check;
(iii) the route and destination of the journey;

(iv) persons accompanying the person concerned or occupants of the means of transport;

(v) the means of transport used;

(vi) objects carried;

(vii) the circumstances under which the commodity, means of transport, business or person was found.

When such information is collected in the course of discreet surveillance steps must be taken to ensure that the discreet nature of the surveillance is not jeopardized.

2. In the context of a specific check referred to in Article 5(1) persons, means of transport and objects may be searched to the extent permissible and in accordance with the laws, regulations, and procedures of the Member State in which the search takes place. If the specific check is not permitted by the law of a Member State, it shall automatically be converted by that Member State into sighting and reporting.

**Article 7**

1. Direct access to data included in the Customs Information System shall be reserved exclusively for the national authorities designated by each Member State. These national authorities shall be customs administrations, but may also include other authorities competent, according to the laws, regulations and procedures of the Member State in question, to act in order to achieve the aim stated in Article 2(2).

2. Each Member State shall send the other Member States and the committee referred to in Article 16 a list of its competent authorities which have been designated in accordance with paragraph 1 to have direct access to the Customs Information System stating, for each authority which data it may have access to and for what purposes.

3. Notwithstanding the provisions of paragraphs 1 and 2, Member States may, by unanimous agreement, permit access to the Customs Information System by international or regional organizations. Such agreement shall take the form of a protocol to this Convention. In reaching their decision the Member States shall take account of any reciprocal arrangements and any opinion of the Joint Supervisory Authority referred to in Article 18 on the adequacy of data protection measures.

**Article 8**

1. The Member States may only use data obtained from the Customs Information System in order to achieve the aim stated in Article 2(2); however they may use it for administrative or other purposes with the prior authorization of and subject to any conditions imposed by the Member State which included it in the system. Such other use shall be in accordance with the laws, regulations and procedures of the Member State which seeks to use it and should take into account Principle 5.5. of the Recommendation R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe.
2. Without prejudice to paragraphs 1 and 4 of this Article and Article 7(3), data obtained from the Customs Information System shall only be used by national authorities in each Member State designated by the Member State in question, which are competent, in accordance with the laws, regulations and procedures of that Member State, to act in order to achieve the aim stated in Article 2(2).

3. Each Member State shall send the other Member States and the committee referred to in Article 16 a list of the competent authorities it has designated in accordance with paragraph 2.

4. Data obtained from the Customs Information System may, with the prior authorization of, and subject to any conditions imposed by, the Member State which included it in the System, be communicated for use by national authorities other than those designated under paragraph 2, non-Member States, and international or regional organizations wishing to make use of them. Each Member State shall take special measures to ensure the security of such data when it is being transmitted or supplied to services located outside its territory. Details of such measures must be communicated to the Joint Supervisory Authority referred to in Article 18.

Article 9

1. The inclusion of data in the Customs Information System shall be governed by the laws, regulations and procedures of the supplying Member State unless this Convention lays down more stringent provisions.

2. The use of data obtained from the Customs Information System, including performance of any action under Article 5 suggested by the supplying Member State, shall be governed by the laws, regulations and procedures of the Member State using such data, unless this Convention lays down more stringent provisions.

Article 10

1. Each of the Member States shall designate a competent customs administration which shall have national responsibility for the Customs Information System.

2. This administration shall be responsible for the correct operation of the Customs Information System within the Member State and shall take the measures necessary to ensure compliance with the provisions of this Convention.

3. The Member States shall inform one another of the competent administration referred to in paragraph 1.

CHAPTER IV

Amendment of Data

Article 11

1. Only the supplying Member State shall have the right to amend, supplement, correct, or delete data which it has included in the Customs Information System.
2. Should a supplying Member State note, or have drawn to its attention, that the data it included are factually inaccurate or were included, or are stored contrary to this Convention, it shall amend, supplement, correct or delete the data, as appropriate, and shall advise the other Member States accordingly.

3. If one of the Member States has evidence to suggest that an item of data is factually inaccurate, or was included or is stored on the Customs Information System, contrary to this Convention, it shall advise the supplying Member State as soon as possible. The latter shall check the data concerned and, if necessary, correct or delete the item without delay. The supplying Member State shall advise the other Member States of any correction or deletion effected.

4. If, when including data in the Customs Information System, a Member State notes that its report conflicts with a previous report as to content or suggested action, it shall immediately advise the Member State which made the previous report. The two Member States shall then attempt to resolve the matter. In the event of disagreement, the first report shall stand, but those parts of the new report which do not conflict shall be included in the System.

5. Subject to the provisions of this Convention, where in any Member State a court, or other competent authority within that Member State, makes a final decision as to amendment, supplementation, correction, or deletion, of data in the Customs Information System, the Member States undertake mutually to enforce such a decision. In the event of conflict between such decisions of courts or other competent authorities in different Member States, including those referred to in Article 15(4) concerning correction or deletion, the Member State which included the data in question shall delete it from the System.

CHAPTER V
RETENTION OF DATA

Article 12

1. Data included in the Customs Information System shall be kept only for the time necessary to achieve the purpose for which it was included. The need for its retention, shall be reviewed at least annually by the supplying Member State.

2. The supplying Member State may, within the review period, decide to retain data until the next review if its retention is necessary for the purposes for which it was included. Without prejudice to Article 15, if there is no decision to retain data it shall automatically be transferred to that part of the Customs Information System to which access shall be limited in accordance with paragraph 4.

3. The Customs Information System shall automatically inform the supplying Member State of a scheduled transfer of data from the Customs Information System under paragraph 2, giving one month’s notice.

4. Data transferred under paragraph 2 shall continue to be retained for one year within the Customs Information System, but, without prejudice to Article 15, shall be accessible only to a representative of the committee referred to in Article 16 or to the supervisory authorities referred to in Articles 17(1) and 18(1). During that period they may consult the data only for the purposes of checking its accuracy and lawfulness, after which it must be deleted.
CHAPTER VI

PERSONAL DATA PROTECTION

Article 13

1. Each Member State intending to receive personal data from, or include it in, the Customs Information System shall, no later than the time of entry into force of this Convention, adopt the national legislation sufficient to achieve a level of protection of personal data at least equal to that resulting from the principles of the 1981 Strasbourg Convention.

2. A Member State shall receive personal data from, or include it in, the Customs Information System only where the arrangements for the protection of such data provided for in paragraph 1 have entered into force in the territory of that Member State. The Member State shall also have previously designated a national supervisory authority or authorities in accordance with Article 17.

3. In order to ensure the proper application of the data protection provisions in this Convention, the Customs Information System shall be regarded in every Member State as a national data file subject to the national provisions referred to in paragraph 1 and any more stringent provisions contained in this Convention.

Article 14

1. Subject to Article 8(1), each Member State shall ensure that it shall be unlawful under its laws, regulations and procedures for personal data from the Customs Information System to be used other than for the purpose of the aim stated in Article 2(2).

2. Data may be duplicated only for technical purposes, provided that such duplication is necessary for direct searching by the authorities referred to in Article 7. Subject to Article 8(1), personal data included by other Member States may not be copied from the Customs Information System into other national data files.

Article 15

1. The rights of persons with regard to personal data in the Customs Information System, in particular their right of access, shall be put into effect in accordance with the laws, regulations and procedures of the Member State in which such rights are invoked.

If laid down in the laws, regulations and procedures of the Member State concerned, the national supervisory authority provided for in Article 17 shall decide whether information is to be communicated and the procedures for so doing.

A Member State which has not supplied the data concerned may only communicate data if it has first given the supplying Member State an opportunity to adopt its position.

2. A Member State, to which an application for access to personal data is made, shall refuse access if access may undermine the performance of the legal task specified in the report pursuant to Article 5(1), or in order to protect the rights and freedoms of others. Access shall be refused in any event during the period of discreet surveillance or sighting and reporting.
3. In each Member State, a person may, according to the laws, regulations and procedures of the Member State concerned, have personal data relating to himself corrected or deleted if that data is factually inaccurate, or was included or is stored in the Customs Information System contrary to the aim stated in Article 2(2) of this Convention or to the provisions of Article 5 of the 1981 Strasbourg Convention.

4. In the territory of each Member State, any person may, in accordance with the laws, regulations and procedures of the Member State in question, bring an action or, if appropriate, a complaint before the courts or the authority competent under the laws, regulations and procedures of that Member State concerning personal data relating to himself on the Customs Information System, in order to:

   (i) correct or delete factually inaccurate personal data;

   (ii) correct or delete personal data included or stored in the Customs Information System contrary to this Convention;

   (iii) obtain access to personal data;

   (iv) obtain compensation pursuant to Article 21(2).

The Member States concerned undertake mutually to enforce the final decisions taken by a court, or other competent authority, pursuant to (i), (ii) and (iii).

5. The references in this Article and in Article 11(5) to a ‘final decision’ do not imply any obligation on the part of any Member State to appeal against a decision taken by a court or other competent authority.

CHAPTER VII

INSTITUTIONAL FRAMEWORK

Article 16

1. A Committee consisting of representatives from the Customs Administrations of the Member States shall be set up. The Committee shall take its decisions unanimously where the provisions of the first indent of paragraph 2 are concerned and by a two-thirds majority where the provisions of the second indent of paragraph 2 are concerned. It shall adopt its rules of procedure unanimously.

2. The Committee shall be responsible:

   — for the implementation and correct application of the provisions of this Convention, without prejudice to the powers of the authorities referred to in Articles 17(1) and 18(1);

   — for the proper functioning of the Customs Information System with regard to technical and operational aspects. The Committee shall take all necessary steps to ensure that the measures set out in Articles 12 and 19 are properly implemented with regard to the Customs Information System. For the purpose of applying this paragraph, the Committee may have direct access to, and use of, data from the Customs Information System.
3. The Committee shall report annually to the Council, in accordance with Title VI of the Treaty on European Union, regarding the efficiency and effectiveness of the Customs Information System, making recommendations as necessary.

4. The Commission shall be party to the Committee’s proceedings.

CHAPTER VIII
PERSONAL DATA PROTECTION SUPERVISION

Article 17

1. Each Member State shall designate a national supervisory authority or authorities responsible for personal data protection to carry out independent supervision of such data included in the Customs Information System.

The supervisory authorities, in accordance with their respective national laws shall carry out independent supervision and checks, to ensure that the processing and use of data held in the Customs Information System do not violate the rights of the person concerned. For this purpose the supervisory authorities shall have access to the Customs Information System.

2. Any person may ask any national supervisory authority to check personal data relating to himself on the Customs Information System and the use which has been or is being made of that data. That right shall be governed by the laws, regulations and procedures of the Member State in which the request is made. If the data has been included by another Member State, the check shall be carried out in close co-ordination with that Member State’s national supervisory authority.

Article 18

1. A Joint Supervisory Authority shall be set up, consisting of two representatives from each Member State drawn from the respective independent national supervisory authority or authorities.

2. The Joint Supervisory Authority shall perform its task in accordance with the provisions of this Convention and of the 1981 Strasbourg Convention taking into account Recommendation R (87) 15 of 17 September 1987, of the Committee of Ministers of the Council of Europe.

3. The Joint Supervisory Authority shall be competent to supervise operation of the Customs Information System, to examine any difficulties of application or interpretation which may arise during its operation, to study problems which may arise with regard to the exercise of independent supervision by the national supervisory authorities of the Member States, or in the exercise of rights of access by individuals to the System, and to draw up proposals for the purpose of finding joint solutions to problems.

4. For the purpose of fulfilling its responsibilities, the Joint Supervisory Authority shall have access to the Customs Information System.

5. Reports drawn up by the Joint Supervisory Authority shall be forwarded to the authorities to which the national supervisory authorities submit their reports.
CHAPTER IX

SECURITY OF THE CUSTOMS INFORMATION SYSTEM

Article 19

1. All necessary administrative measures to maintain security shall be taken:

(i) by the competent authorities of the Member States in respect of the terminals of the Customs Information System in their respective States;

(ii) by the Committee referred to in Article 16 in respect of the Customs Information System and the terminals located on the same premises as the System and used for technical purposes and the checks required by paragraph 3.

2. In particular the competent authorities and the committee referred to in Article 16 shall take measures:

(i) to prevent any unauthorized person from having access to installations used for the processing of data;

(ii) to prevent data and data media from being read, copied, modified or removed by unauthorized persons;

(iii) to prevent the unauthorized entry of data and any unauthorized consultation, modification, or deletion of data;

(iv) to prevent data in the Customs Information System from being accessed by unauthorized persons by means of data transmission equipment;

(v) to guarantee that, with respect to the use of the Customs Information System, authorized persons have right of access only to data for which they have competence;

(vi) to guarantee that it is possible to check and establish to which authorities data may be transmitted by data transmission equipment;

(vii) to guarantee that it is possible to check and establish a posteriori what data has been introduced into the Customs Information System, when and by whom, and to monitor interrogation;

(viii) to prevent the unauthorized reading, copying, modification or deletion of data during the transmission of data and the transport of data media.

3. The committee referred to in Article 16 shall monitor interrogation of the Customs Information System for the purpose of checking that searches made were admissible and were made by authorized users. At least 1% of all searches made shall be checked. A record of such searches and checks shall be maintained in the System, shall be used only for the abovementioned purpose by the said committee and the supervisory authorities referred to in Articles 17 and 18, and shall be deleted after six months.
The competent customs administration referred to in Article 10(1) of this Convention shall be responsible for the security measures set out in Article 19, in relation to the terminals located in the territory of the Member State concerned, the review functions set out in Article 12(1) and (2), and otherwise for the proper implementation of this Convention so far as is necessary under the laws, regulations and procedures of that Member State.

CHAPTER X

RESPONSIBILITIES AND LIABILITIES

Article 21

1. Each Member State shall be responsible for the accuracy, currency and lawfulness of data it has included in the Customs Information System. Each Member State shall also be responsible for complying with the provisions of Article 5 of the 1981 Strasbourg Convention.

2. Each Member State shall be liable, in accordance with its own laws, regulations and procedures for injury caused to a person through the use of the Customs Information System in the Member State concerned.

This shall also be the case where the injury was caused by the supplying Member State entering inaccurate data or entering data contrary to this Convention.

3. If the Member State against which an action in respect of inaccurate data is brought is not the Member State which supplied it, the Member States concerned shall seek agreement as to what proportion, if any, of the sums paid out in compensation shall be reimbursed by the supplying Member State to the other Member State. Any such sums agreed shall be reimbursed on request.

Article 22

1. The costs incurred in connection with the operation and use of the Customs Information System by the Member States on their territories shall be borne by each of them.

2. Other expenditure incurred in the implementation of this Convention, except for that which cannot be kept separate from the operation of the Customs Information System for the purpose of applying the customs and agricultural rules of the Community, shall be borne by the Member States. Each Member State’s share shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States for the year preceding the year in which the costs are incurred.

For the purpose of applying this paragraph, the expression ‘gross national product’ means the gross national product determined in accordance with Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of the compilation of gross national product at market prices or any amending or replacing Community instrument.
CHAPTER XI
IMPLEMENTATION AND FINAL PROVISIONS

Article 23

The information provided for under this Convention shall be exchanged directly between the authorities of the Member States.

Article 24

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the Secretary-General of the Council of the European Union of the completion of their constitutional requirements for adopting this Convention.

3. This Convention shall enter into force ninety days after the notification, referred to in paragraph 2, by the last Member State to fulfil that formality.

Article 25

1. This Convention shall be open to accession by any State that becomes a member of the European Union.

2. The text of this Convention in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

3. Instruments of accession shall be deposited with the depositary.

4. This Convention shall enter into force with respect to any State that accedes to it ninety days after the deposit of its instrument of accession or on the date of entry into force of the Convention if it has not already entered into force at the time of expiry of the said period of ninety days.

Article 26

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.

2. The depositary shall publish in the Official Journal of the European Communities information on the progress of adoptions and accessions, declarations and reservations, and also any other notification concerning this Convention.

Article 27

1. Any dispute between Member States on the interpretation or application of this Convention must in an initial stage be examined by the Council in accordance with the procedure set out in Title VI of the Treaty on European Union with a view to reaching a solution.

If no solution is found within six months, the matter may be
referred to the Court of Justice of the European Communities by a party to the dispute.

2. Any dispute between one or more Member States and the Commission of the European Communities concerning the application of this Convention which it has proved impossible to settle through negotiation may be submitted to the Court of Justice.

Done at Brussels on the twenty-sixth day of July in the year one thousand nine hundred and ninety-five in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.
AGREEMENT ON PROVISIONAL APPLICATION BETWEEN CERTAIN MEMBER STATES OF THE EUROPEAN UNION OF THE CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY ON EUROPEAN UNION ON THE USE OF INFORMATION TECHNOLOGY FOR CUSTOMS PURPOSES

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Member States of the European Union and signatories of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes, of 26 July 1995, hereinafter referred to as the ‘Convention’,

HAVING REGARD to the importance of early application of the Convention;

WHEREAS, pursuant to Article K.7 of the Treaty on European Union, the provisions of Title VI of that Treaty do not prevent the establishment or development of closer cooperation between two or more Member States insofar as such cooperation does not conflict with, or impede, that provided for in Title VI of the said Treaty;

WHEREAS provisional application between certain Member States of the European Union of the Convention would not conflict with, or impede, the cooperation provided for in Title VI of the Treaty on European Union,
HAVE AGREED AS FOLLOWS:

**Article 1**

For the purposes of this Agreement:

— ‘Convention’ means the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes;

— ‘High Contracting Parties’ means the Member States of the European Union, parties to the Convention;

— ‘Parties’ means the Member States of the European Union, parties to this Agreement.

**Article 2**

The Convention shall apply provisionally between the High Contracting Parties parties to this Agreement as of from the first day of the third month following the deposit of the instrument of approval, acceptance or ratification of this Agreement by the eighth High Contracting Party to do so.

**Article 3**

The transitional provisions necessary for provisional application of the Convention shall be adopted by common accord amongst the High Contracting Parties between which the Convention is to apply provisionally and in consultation with the other High Contracting Parties. During this period of provisional application, the functions of the Committee provided for in Article 16 of the Convention shall be exercised by the High Contracting Parties acting by common accord in close association with the Commission of the European Communities. Article 7(3) and Article 16 of the Convention shall not be implemented during that period.

**Article 4**

1. This Agreement shall be open for signing by the Member States signatories of the Convention. It shall be subject to approval, acceptance or ratification. It shall enter into force on the first day of the third month following the deposit of the instrument of approval, acceptance or ratification by the eighth High Contracting Party to do so.

2. For any High Contracting Party depositing its instrument of approval, acceptance or ratification at a later date, this Agreement shall enter into force on the first day of the third month following such deposit.

3. Instruments of approval, acceptance or ratification shall be deposited with the Secretary-General of the Council of the European Union, who shall act as depositary.
Article 5

This Agreement, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, shall be deposited with the Secretary-General of the Council of the European Union, who shall transmit a certified copy to each of the Parties.

Article 6

This Agreement shall expire upon entry into force of the Convention.

Done at Brussels on the twenty-sixth day of July in the year one thousand nine hundred and ninety-five in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.
THE TEXT IN THE ENGLISH LANGUAGE OF THE 1996 PROTOCOL

PROTOCOL DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY ON EUROPEAN UNION, ON THE INTERPRETATION, BY WAY OF PRELIMINARY RULINGS, BY THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES OF THE CONVENTION ON THE USE OF INFORMATION TECHNOLOGY FOR CUSTOMS PURPOSES

THE HIGH CONTRACTING PARTIES,

HAVE AGREED on the following provisions, which shall be annexed to the Convention:

Article 1

The Court of Justice of the European Communities shall have jurisdiction, under the conditions laid down in this Protocol, to give preliminary rulings on the interpretation of the Convention on the use of information technology for customs purposes.

Article 2

1. By a declaration made at the time of the signing of this Protocol or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention on the use of information technology for customs purposes under the conditions specified in either paragraph 2(a) or paragraph 2(b).

2. A Member State making a declaration under paragraph 1 may specify that either:

   (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the use of information technology for customs purposes if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment, or

   (b) any court or tribunal of that State may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the use of information technology for customs purposes if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

Article 3

1. The Protocol on the Statute of the Court of Justice of the European Communities and the Rules of Procedure of that Court of Justice shall apply.
2. In accordance with the Statute of the Court of Justice of the European Communities, any Member State, whether or not it has made a declaration pursuant to Article 2, shall be entitled to submit statements of case or written observations to the Court of Justice of the European Communities in cases which arise under Article 1.

Article 4

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol and communicate to him any declaration made pursuant to Article 2.

3. This Protocol shall enter into force ninety days after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the act drawing up this Protocol, is the last to fulfil that formality. However, it shall at the earliest enter into force at the same time as the Convention on the use of information technology for customs purposes.

Article 5

1. This Protocol shall be open to accession by any State that becomes a member of the European Union.

2. Instruments of accession shall be deposited with the depositary.

3. The text of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respect to any State that accedes to it ninety days after the date of deposit of its instrument of accession, or on the date of the entry into force of this Protocol if the latter has not yet come into force when the said period of ninety days expires.

Article 6

Any State that becomes a member of the European Union and accedes to the Convention on the use of information technology for customs purposes in accordance with Article 25 thereof shall accept the provisions of this Protocol.

Article 7

1. Amendments to this Protocol may be proposed by any Member State, being a High Contracting Party. Any proposal for an amendment shall be sent to the depositary, who shall forward it to the Council.

2. Amendments shall be established by the Council, which shall recommend that they be adopted by the Member States in accordance with their respective constitutional requirements.
3. Amendments thus established shall enter into force in accordance with the provisions of Article 4.

Article 8

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the Official Journal of the European Communities the notifications, instruments or communications concerning this Protocol.

Done at Brussels, this twenty-ninth day of November in the year one thousand nine hundred and ninety-six, in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.
THE TEXT IN THE ENGLISH LANGUAGE OF THE CUSTOMS COOPERATION CONVENTION

CONVENTION DRAWN UP ON THE BASIS OF ARTICLE K.3 OF THE TREATY ON EUROPEAN UNION, ON MUTUAL ASSISTANCE AND COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS

THE HIGH CONTRACTING PARTIES to this Convention, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 18 December 1997;

RECALLING the need to strengthen the commitments contained in the Convention on Mutual Assistance between Customs Administrations, signed in Rome on 7 September 1967;

CONSIDERING that customs administrations are responsible on the customs territory of the Community and, in particular at its points of entry and exit, for the prevention, investigation and suppression of offences not only against Community rules, but also against national laws, in particular the cases covered by Articles 36 and 223 of the Treaty establishing the European Community;

CONSIDERING that a serious threat to public health, morality and security is constituted by the developing trend towards illicit trafficking of all kinds;

CONSIDERING that particular forms of cooperation involving cross-border actions for the prevention, investigation and prosecution of certain infringements of both the national legislation of the Member States and Community customs regulations should be regulated, and that such cross-border actions must always be carried out in compliance with the principles of legality (conforming with the relevant law applicable in the requested Member State and with the directives of the competent authorities of that Member State), subsidiarity (such actions to be launched only if it is clear that other less significant actions are not appropriate) and proportionality (the scale and duration of the action to be determined in the light of the seriousness of the presumed infringement);

CONVINCED that it is necessary to reinforce cooperation between customs administrations, by laying down procedures under which customs administrations may act jointly and exchange data concerned with illicit trafficking activities;

BEARING IN MIND that the customs administrations in their day-to-day work have to implement both Community and national provisions, and that there is consequently an obvious need to ensure that the provisions of mutual assistance and cooperation in both sectors evolve as far as possible in parallel;

HAVE AGREED ON THE FOLLOWING PROVISIONS:
TITLE I — GENERAL PROVISIONS

Article 1

Scope

1. Without prejudice to the competencies of the Community, the Member States of the European Union shall provide each other with mutual assistance and shall cooperate with one another through their customs administrations, with a view to:

— preventing and detecting infringements of national customs provisions, and

— prosecuting and punishing infringements of Community and national customs provisions.

2. Without prejudice to Article 3, this Convention shall not affect the provisions applicable regarding mutual assistance in criminal matters between judicial authorities, more favourable provisions in bilateral or multilateral agreements between Member States governing cooperation as provided for in paragraph 1 between the customs authorities or other competent authorities of the Member States, or arrangements in the same field agreed on the basis of uniform legislation or of a special system providing for the reciprocal application of measures of mutual assistance.

Article 2

Powers

The customs administrations shall apply this Convention with the limits of the powers conferred upon them under national provisions. Nothing in this Convention may be construed as affecting the powers conferred under national provisions upon the customs administrations within the meaning of this Convention.

Article 3

Relationship to mutual assistance provided by the judicial authorities

1. This Convention covers mutual assistance and cooperation in the framework of criminal investigations concerning infringements of national and Community customs provisions, concerning which the applicant authority has jurisdiction on the basis of the national provisions of the relevant Member State.

2. Where a criminal investigation is carried out by or under the direction of a judicial authority, that authority shall determine whether requests for mutual assistance or cooperation in that connection shall be submitted on the basis of the provisions applicable concerning mutual assistance in criminal matters or on the basis of this Convention.

Article 4

Definitions

For the purposes of this Convention, the following definitions shall apply:

1. ‘National customs provisions’: all laws, regulations and administrative provisions of a Member State the application of which comes
wholly or partly within the jurisdiction of the customs administration of that Member State concerning:

— cross-border traffic in goods subject to bans, restrictions or controls, in particular under Articles 36 and 223 of the Treaty establishing the European Community;

— non-harmonised excise duties;

2. ‘Community customs provisions’:

— the body of Community provisions and associated implementing provisions governing the import, export, transit and presence of goods traded between Member States and third countries, and between Member States in the case of goods that do not have Community status within the meaning of Article 9(2) of the Treaty establishing the European Community or goods subject to additional controls or investigations for the purposes of establishing their Community status;

— the body of provisions adopted at Community level under the common agricultural policy and the specific provisions adopted with regard to goods resulting from the processing of agricultural products;

— the body of provisions adopted at Community level for harmonised excise duties and for value-added tax on importation together with the national provisions implementing them;

3. ‘infringements’: acts in conflict with national or Community customs provisions, including, inter alia:

— participation in, or attempts to commit, such infringements,

— participation in a criminal organization committing such infringements,

— the laundering of money deriving from the infringements referred to in this paragraph;

4. ‘mutual assistance’: the granting of assistance between customs administrations as provided for in this Convention;

5. ‘applicant authority’: the competent authority of the Member State which makes a request for assistance;

6. ‘requested authority’: the competent authority of the Member State to which a request for assistance is made;

7. ‘customs administrations’: Member States’ customs authorities as well as other authorities with jurisdiction for implementing the provisions of this Convention;

8. ‘personal data’: all information relating to an identified or identifiable natural person; a person is considered to be identifiable if he or she can be directly or indirectly identified, inter alia by means of an identification number or of one or more specific elements which are characteristic of his or her physical, physiological, psychological, economic, cultural or social identity;

9. ‘cross-border cooperation’: cooperation between customs administrations across the borders of each Member State.

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Article 5

Central coordinating units

1. Member States shall appoint in their customs authorities a central unit (coordinating unit). It shall be responsible for receiving all applications for mutual assistance under this Convention and for coordinating mutual assistance, without prejudice to paragraph 2. The unit shall also be responsible for cooperation with other authorities involved in an assistance measure under this Convention. The coordinating units of the Member States shall maintain the necessary direct contact with each other, particularly in the cases covered by Title IV.

2. The activity of the central coordinating units shall not exclude, particularly in an emergency, direct cooperation between other services of the customs authorities of the Member States. For reasons of efficiency and consistency, the central coordinating units shall be informed of any action involving such direct cooperation.

3. If the customs authority is not, or not completely, competent to process a request, the central coordinating unit shall forward the request to the competent national authority and inform the applicant authority that it has done so.

4. If it is not possible to accede to the request for legal or substantive reasons, the coordinating unit shall return the request to the applicant authority with an explanation as to why the request could not be processed.

Article 6

Liaison officers

1. Member States may make agreements between themselves on the exchange of liaison officers for limited or unlimited periods, and on mutually-agreed conditions.

2. Liaison officers shall have no powers of intervention in the host country.

3. In order to promote cooperation between Member States’ customs administrations, liaison officers may, with the agreement or at the request of the competent authorities of the Member States, have the following duties:

   (a) promoting and speeding up the exchange of information between the Member States;

   (b) providing assistance in investigations which relate to their own Member State or the Member State they represent;

   (c) providing support in dealing with requests for assistance;

   (d) advising and assisting the host country in preparing and carrying out cross-border operations;

   (e) any other duties which Member States may agree between themselves.

4. Member States may agree bilaterally or multilaterally on the terms of reference and the location of the liaison officers. Liaison officers may also represent the interests of one or more Member States.
TITLE II — ASSISTANCE ON REQUEST

Article 8

Principles

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

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

Article 9

Form and content of the request for assistance

1. Requests for assistance shall always be made in writing. Documents necessary for the execution of such requests shall accompany the request.

2. Requests pursuant to paragraph 1 shall include the following information:

(a) the applicant authority making the request;

(b) the measure requested;

(c) the object of, and the reason for, the request;

(d) the laws, rules and other legal provisions involved;

(e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;

(f) a summary of the relevant facts, except in cases provided for in Article 13.

3. Requests shall be submitted in an official language of the Member State of the requested authority or in a language acceptable to such authority.
4. When required because of the urgency of the situation, oral requests shall be accepted, but must be confirmed in writing as soon as possible.

5. If a request does not meet the formal requirements, the requested authority may ask for it to be corrected or completed; measures necessary to comply with the request may be commenced in the meantime.

6. The requested authority shall agree to apply a particular procedure in response to a request, provided that that procedure is not in conflict with the legal and administrative provisions of the requested Member State.

**Article 10**

*Requests for information*

1. At the request of the applicant authority, the requested authority shall communicate to it all information which may enable it to prevent, detect and prosecute infringements.

2. The information communicated is to be accompanied by reports and other documents, or certified copies or extracts of the same, on which that information is based and which are in the possession of the requested authority or which were produced or obtained in order to execute the request for information.

3. By agreement between the applicant authority and the requested authority, officers authorised by the applicant authority may, subject to detailed instructions from the requested authority, obtain information pursuant to paragraph 1 from the offices of the requested Member State. This shall apply to all information derived from the documentation to which the staff of those offices have access. Those officers shall be authorized to take copies of the said documentation.

**Article 11**

*Requests for surveillance*

At the request of the applicant authority, the requested authority shall as far as possible keep a special watch or arrange for a special watch to be kept on persons where there are serious grounds for believing that they have infringed Community or national customs provisions or that they are committing or have carried out preparatory acts with a view to the commission of such infringements. At the request of the applicant authority, the requested authority shall also keep a watch on places, means of transport and goods connected with activities which might be in breach of the abovementioned customs provisions.

**Article 12**

*Requests for enquiries*

1. The requested authority shall at the request of the applicant authority carry out, or arrange to have carried out, appropriate enquiries concerning operations which constitute, or appear to the applicant authority to constitute, infringements.

The requested authority shall communicate the results of such enquiries to the applicant authority. Article 10(2) shall apply mutatis mutandis.
2. By agreement between the applicant authority and the requested authority, officers appointed by the applicant authority may be present at the enquiries referred to in paragraph 1. Enquiries shall at all times be carried out by officers of the requested authority. The applicant authority’s officers may not, of their own initiative, assume the powers conferred on officers of the requested authority. They shall, however, have access to the same premises and the same documents as the latter, through their intermediary and for the sole purpose of the enquiry being carried out.

Article 13

Notification

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

2. Requests for notification, mentioning the subject of the instrument or decision to be notified, shall be accompanied by a translation in the official language or an official language of the Member State in which the requested authority is based, without prejudice to the latter’s right to waive such a translation.

Article 14

Use as evidence

Findings, certificates, information, documents, certified true copies and other papers obtained in accordance with their national law by officers of the requested authority and transmitted to the applicant authority in the cases of assistance provided for in Articles 10 to 12 may be used as evidence in accordance with national law by the competent bodies of the Member State where the applicant authority is based.

TITLE III — SPONTANEOUS ASSISTANCE

Article 15

Principle

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

Article 16

Surveillance

Where it serves the prevention, detection and prosecution of infringements in another Member State, each Member State’s competent authorities shall:

(a) as far as is possible keep, or have kept, the special watch described in Article 11;
Sch.4 (b) communicate to the competent authorities of the other Member States concerned all information in their possession and, in particular, reports and other documents or certified true copies or extracts thereof, concerning operations which are connected with a planned or committed infringement.

Article 17

Spontaneous information

The competent authorities of each Member State shall immediately send to the competent authorities of the other Member States concerned all relevant information concerning planned or committed infringements and, in particular, information concerning the goods involved and new ways and means of committing such infringements.

Article 18

Use as evidence

Surveillance reports and information obtained by officers of one Member State and communicated to another Member State in the course of the spontaneous assistance provided for in Articles 15 to 17 may be used in accordance with national law as evidence by the competent bodies of the Member State receiving the information.

TITLE IV — SPECIAL FORMS OF COOPERATION

Article 19

Principles

1. Customs administrations shall engage in cross-border cooperation in accordance with this Title. They shall provide each other with the necessary assistance in terms of staff and organizational support. Requests for cooperation shall, as a rule, take the form of requests for assistance in accordance with Article 9. In specific cases referred to in this Title, officers of the applicant authority may engage in activities in the territory of the requested State, with the approval of the requested authority.

Coordination and planning of cross-border operations shall be the responsibility of the central coordinating units in accordance with Article 5.

2. Cross-border cooperation within the meaning of paragraph 1 shall be permitted for the prevention, investigation and prosecution of infringements in cases of:

(a) illicit traffic in drugs and psychotropic substances, weapons, munitions, explosive materials, cultural goods, dangerous and toxic waste, nuclear material or materials or equipment intended for the manufacture of atomic, biological and/or chemical weapons (prohibited goods);

(b) trade in substances listed in Tables I and II of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and intended for the illegal manufacture of drugs (precursor substances);
illegal cross-border commercial trade in taxable goods to evade tax or to obtain unauthorised State payments in connection with the import or export of goods, where the extent of the trade and the related risk to taxes and subsidies is such that the potential financial cost to the budget of the European Communities or the Member States is considerable;

any other trade in goods prohibited by Community or national customs rules.

3. The requested authority shall not be obliged to engage in the specific forms of cooperation referred to in this Title if the type of investigation sought is not permitted or not provided for under the national law of the requested Member State. In this case, the applicant authority shall be entitled to refuse, for the same reason, the corresponding type of cross-border cooperation in the reverse case, where it is requested by an authority of the requested Member State.

4. If necessary under the national law of the Member States, the participating authorities shall apply to their judicial authorities for approval of the planned investigations. Where the competent judicial authorities make their approval subject to certain conditions and requirements, the participating authorities shall ensure that those conditions and requirements are observed in the course of the investigations.

5. Where officers of a Member State engage in activities in the territory of another Member State by virtue of this Title and cause damage by their activities, the Member State in whose territory the damage was caused shall make good the damage, in accordance with its national legislation in the same way as it would have done if the damage had been caused by its own officers. That Member State will be reimbursed in full by the Member State whose officers have caused the damage for the amounts it has paid to the victims or to other entitled persons or institutions.

6. Without prejudice to the exercise of its rights vis-à-vis third parties and notwithstanding the obligation to make good damages according to the second sentence of paragraph 5, each Member State shall refrain, in the case provided for in the first sentence of paragraph 5, from requesting reimbursement of the amount of damages it has sustained from another Member State.

7. Information obtained by officers during cross-border cooperation provided for in Articles 20 to 24 may be used, in accordance with national law and subject to particular conditions laid down by the competent authorities of the State in which the information was obtained, as evidence by the competent bodies of the Member State receiving the information.

8. In the course of the operations referred to in Articles 20 to 24, officers on mission in the territory of another Member State shall be treated in the same way as officers of that State as regards infringements committed against them or by them.

Article 20

Hot pursuit

1. Officers of the customs administration of one of the Member States pursuing in their country, an individual observed in the act of committing one of the infringements referred to in Article 19(2) which could give rise to extradition, or participating in such an
infringement, shall be authorized to continue pursuit in the territory of another Member State without prior authorisation where, given the particular urgency of the situation, it was not possible to notify the competent authorities of the other Member State prior to entry into that territory or where these authorities have been unable to reach the scene in time to take over the pursuit.

The pursuing officers shall, not later than when they cross the border, contact the competent authorities of the Member State in whose territory the pursuit is to take place. The pursuit shall cease as soon as the Member State in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the competent authorities of the said Member State shall challenge the pursued person so as to establish his identity or to arrest him. Member States shall inform the depositary of the pursuing officers to whom this provision applies; the depositary shall inform the other Member States.

2. The pursuit shall be carried out in accordance with the following procedures, defined by the declaration provided for in paragraph 6:

(a) the pursuing officers shall not have the right to apprehend;

(b) however, if no request to cease the pursuit is made and if the competent authorities of the Member State in whose territory the pursuit is taking place are unable to intervene quickly enough, the pursuing officers may apprehend the person pursued until the officers of the said Member State, who must be informed without delay, are able to establish his identity or arrest him.

3. Pursuit shall be carried out in accordance with paragraphs 1 and 2 in one of the following ways as defined by the declaration provided for in paragraph 6:

(a) in an area or during a period, as from the crossing of the border, to be established in the declaration;

(b) without limit in space or time.

4. Pursuit shall be subject to the following general conditions:

(a) the pursuing officers shall comply with the provisions of this Article and with the law of the Member State in whose territory they are operating; they shall obey the instructions of the competent authorities of the said Member State;

(b) when the pursuit takes place on the sea, it shall, where it extends to the high sea or the exclusive economic zone, be carried out in conformity with the international law of the sea as reflected in the United Nations Convention on the Law of the Sea, and, when it takes place in the territory of another Member State, it shall be carried out in accordance with the provisions of this Article;

(c) entry into private homes and places not accessible to the public shall be prohibited;

(d) the pursuing officers shall be easily identifiable, either by their uniform or an armband or by means of accessories fitted to their means of transport; the use of civilian
clothes combined with the use of unmarked means of transport without the aforementioned identification is prohibited; the pursuing officers shall at all times be able to prove that they are acting in an official capacity;

(e) the pursuing officers may carry their service weapons, save (i) where the requested Member State has made a general declaration that weapons may never be carried into its territory or (ii) where specifically decided otherwise by the requested Member State. When officers of another Member State are permitted to carry their service weapons, their use shall be prohibited save in cases of legitimate self-defence;

(f) once the pursued person has been apprehended as provided for in paragraph 2(b), for the purpose of bringing him before the competent authorities of the Member State in whose territory the pursuit took place he may be subjected only to a security search; handcuffs may be used during his transfer; objects carried by the pursued person may be seized;

(g) after each operation mentioned in paragraphs 1, 2 and 3, the pursuing officers shall present themselves before the competent authorities of the Member State in whose territory they were operating and shall give an account of their mission; at the request of those authorities, they must remain at their disposal until the circumstances of their action have been adequately elucidated; this condition shall apply even where the pursuit has not resulted in the arrest of the pursued person;

(h) the authorities of the Member State from which the pursuing officers have come shall, when requested by the authorities of the Member State in whose territory the pursuit took place, assist the enquiry subsequent to the operation in which they took part, including legal proceedings.

5. A person who, following the action provided for in paragraph 2, has been arrested by the competent authorities of the Member State in whose territory the pursuit took place may, whatever his nationality, be held for questioning. The relevant rules of national law shall apply mutatis mutandis.

If the person is not a national of the Member State in whose territory he was arrested, he shall be released no later than six hours after his arrest, not including the hours between midnight and 09.00 hours, unless the competent authorities of the said Member State have previously received a request for his provisional arrest for the purposes of extradition in any form.

6. On signing this Convention, each Member State shall make a declaration in which it shall define, on the basis of paragraphs 2, 3 and 4, the procedures for implementing pursuit in its territory.

A Member State may at any time replace its declaration by another declaration, provided the latter does not restrict the scope of the former.

Each declaration shall be made after consultations with each of the Member States concerned and with a view to obtaining equivalent arrangements in those States.
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7. Member States may, on a bilateral basis, extend the scope of paragraph 1 and adopt additional provisions in implementation of this Article.

8. When depositing its instruments of adoption of this Convention, a Member State may declare that it is not bound by this Article or by part thereof. Such declaration may be withdrawn at any time.

Article 21

Cross-border surveillance

1. Officers of the customs administration of one of the Member States who are keeping under observation in their country persons in respect of whom there are serious grounds for believing that they are involved in one of the infringements referred to in Article 19(2) shall be authorized to continue their observation in the territory of another Member State where the latter has authorized cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorization.

Member States shall inform the depositary of the officers to whom this provision applies; the depositary shall inform the other Member States.

On request, the observation shall be entrusted to officers of the Member State in whose territory it is carried out.

The request referred to in the first subparagraph shall be sent to an authority designated by each of the Member States empowered to grant the requested authorization or pass on the request.

Member States shall inform the depositary of the authority designated for this purpose; the depositary shall inform the other Member States.

2. Where, for particularly urgent reasons, prior authorization of the other Member State cannot be requested, the officers conducting the observation shall be authorized to continue beyond the border the observation of persons in respect of whom there are serious grounds for believing that they are involved in one of the infringements referred to in Article 19(2), provided that the following conditions are met:

(a) the competent authorities of the Member State in whose territory the observation is to be continued shall be notified immediately of the crossing of the border, during the observation;

(b) a request submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorization shall be submitted without delay.

Observation shall cease as soon as the Member State in whose territory it is taking place so requests, following the notification referred to in (a) or the request referred to in (b), or where authorization has not been obtained five hours after the border was crossed.
3. The observation referred to in paragraphs 1 and 2 shall be carried out only under the following general conditions:

(a) the officers conducting the observation shall comply with the provisions of this Article and with the law of the Member State in whose territory they are operating; they must obey the instructions of the competent authorities of the said Member State;

(b) except in the situations provided for in paragraph 2, the officers shall, during the observation, carry a document certifying that authorization has been granted;

(c) the officers conducting the observation shall be able at all times to provide proof that they are acting in an official capacity;

(d) the officers conducting the observation may carry their service weapons during the observation save (i) where the requested Member State has made a general declaration that weapons may never be carried into its territory or (ii) where specifically decided otherwise by the requested Member State. When officers of another Member State are permitted to carry their service weapons, their use shall be prohibited save in cases of legitimate self-defence;

(e) entry into private homes and places not accessible to the public shall be prohibited;

(f) the officers conducting the observation may neither challenge nor arrest the person under observation;

(g) all operations shall be the subject of a report to the authorities of the Member State in whose territory they took place; the officers conducting the observation may be required to appear in person;

(h) the authorities of the Member State from which the observing officers have come shall, when requested by the authorities of the Member State in whose territory the observation took place, assist the enquiry subsequent to the operation in which they took part, including legal proceedings.

4. The Member States may, at bilateral level, extend the scope of this Article and adopt additional measures in implementation thereof.

5. When depositing its instruments of adoption of this Convention, a Member State may declare that it is not bound by this Article or by part thereof. Such declaration may be withdrawn at any time.

Article 22

Controlled delivery

1. Each Member State shall undertake to ensure that, at the request of another Member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.
2. The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Member State, with due regard for the national law of that State.

3. Controlled deliveries shall take place in accordance with the procedures of the requested Member State. Competence to act and to direct operations shall lie with the competent authorities of that Member State.

The requested authority shall take over control of the delivery when the goods cross the border or at an agreed hand-over point in order to avoid any interruption of surveillance. During the rest of the journey it shall ensure that the goods are kept permanently under surveillance in such a way that at any time it has the possibility of arresting the perpetrators and seizing the goods.

4. Consignments the controlled delivery of which is agreed to may, with the consent of the Member States concerned, be intercepted and allowed to continue with the initial contents intact or removed or replaced in whole or in part.

Article 23

Covert investigations

1. At the request of the applicant authority, the requested authority may authorize officers of the customs administration of the requesting Member State or officers acting on behalf of such administration operating under cover of a false identity (covert investigators) to operate on the territory of the requested Member State. The applicant authority shall make the request only where it would be extremely difficult to elucidate the facts without recourse to the proposed investigative measures. The officers in question shall be authorized in the course of their activities to collect information and make contact with subjects or other persons associated with them.

2. Covert investigations in the requested Member State shall have a limited duration. The preparation and supervision of the investigations shall take place in close cooperation between the relevant authorities of the requested and applicant Member States.

3. The conditions under which a covert investigation is allowed, as well as the conditions under which it is carried out, shall be determined by the requested authority in accordance with its national law. If, in the course of a covert investigation, information is acquired in relation to an infringement other than that covered by the original request, then the conditions concerning the use to which such information may be put shall also be determined by the requested authority in accordance with its national law.

4. The requested authority shall provide the necessary manpower and technical support. It shall take measures to protect the officers referred to in paragraph 1, while they are active in the requested Member State.

5. When depositing its instruments of adoption of this Convention, a Member State may declare that it is not bound by this Article or part thereof. Such declaration may be withdrawn at any time.
Joint special investigation teams

1. By mutual agreement, the authorities of several Member States may set up a joint special investigation team based in a Member State and comprising officers with the relevant specializations.

The joint special investigation team shall have the following tasks:

— implementation of difficult and demanding investigations of specific infringements, requiring simultaneous, coordinated action in the Member States concerned;

— coordination of joint activities to prevent and detect particular types of infringement and obtain information on the persons involved, their associates and the methods used.

2. Joint special investigation teams shall operate under the following general conditions:

(a) they shall be set up only for a specific purpose and for a limited period;

(b) an officer from the Member State in which the team’s activities take place shall head the team;

(c) the participating officers shall be bound by the law of the Member State in whose territory the team’s activities take place;

(d) the Member State in which the team’s activities take place shall make the necessary organizational arrangements for the team to operate.

3. Membership of the team shall not bestow on officers any powers of intervention in the territory of another Member State.

TITLE V — DATA PROTECTION

Article 25

Data protection for the exchange of data

1. When information is exchanged, the customs administrations shall take into account in each specific case the requirements for the protection of personal data. They shall respect the relevant provisions of the Convention of the Council of Europe of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data. In the interest of data protection, a Member State may, in accordance with paragraph 2, impose conditions concerning the processing of personal data by another Member State to which such personal data may be passed.

2. Without prejudice to the provisions of the Convention concerning the use of information technology for customs purposes, the following provisions shall apply to personal data which are communicated pursuant to the application of this Convention:

(a) processing of the personal data by the recipient authority shall be authorized only for the purpose referred to in Article 1(1). That authority may forward them, without
prior consent from the Member State supplying them, to its customs administrations, its investigative authorities and its judicial bodies to enable them to prosecute and punish infringements within the meaning of Article 4(3). In all other cases of data transmission, the consent of the Member State which supplied the information is necessary;

\(b\) the authority of the Member State which communicates data shall ensure that they are accurate and up-to-date. If it emerges that inaccurate data have been communicated or data have been communicated which should not have been communicated or that lawfully communicated data are required at a later stage to be erased in accordance with the law of the communicating Member State, the recipient authority shall be immediately informed thereof. It shall be obliged to correct such data or have them erased. If the recipient authority has reason to believe that communicated data are inaccurate or should be erased, it shall inform the communicating Member State;

\(c\) in cases where communicated data should, according to the law of the communicating Member State, be erased or amended, the persons concerned must be given the effective right to correct the data;

\(d\) the forwarding and receipt of exchanged data shall be recorded by the authorities concerned;

\(e\) if so requested, the communicating and recipient authorities shall inform the person concerned, at that person's request, of the personal data communicated and the use to which they are to be put. There is no obligation to provide the information if it is found, on consideration of the matter, that the importance to the public of the information being withheld outweighs the importance to the person concerned of receiving it. Moreover, the right of the person concerned to receive information about the personal data communicated shall be determined in accordance with the national laws, regulations and procedures of the Member State in whose territory the information is requested. Before any decision is taken on providing information, the communicating authority shall be given the opportunity of stating its position;

\(f\) Member States shall be liable, in accordance with their own laws, regulations and procedures, for injury caused to a person through the processing of data communicated in the Member State concerned. This shall also be the case where the injury was caused by the communication of inaccurate data or the fact that the communicating authority communicated data in violation of the Convention;

\(g\) the data communicated shall be kept for a period not exceeding that necessary for the purposes for which they were communicated. The need to keep them shall be examined at the appropriate moment by the Member State concerned;

\(h\) in any event, the data shall enjoy at least the same protection as is given to similar data in the Member State which received them;
(i) every Member State shall take the appropriate measures to ensure compliance with this Article by the application of effective controls. Every Member State may assign the task of control to the national supervisory authority mentioned in Article 17 of the Convention concerning the use of information technology for customs purposes.

3. For the purposes of this Article, ‘the processing of personal data’ shall be understood in accordance with the definition in Article 2(b) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

TITLE VI — INTERPRETATION OF THE CONVENTION

Article 26

Court of Justice

1. The Court of Justice of the European Communities shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of this Convention whenever it has proved impossible for the dispute to be settled by the Council within six months of its being referred to the Council by one of its members.

2. The Court of Justice of the European Communities shall have jurisdiction to rule on any dispute between Member States and the Commission concerning the interpretation or application of this Convention which it has proved impossible to settle through negotiation. The dispute may be submitted to the Court of Justice after the expiry of a period of six months from the data on which one of the parties notified the other of the existence of a dispute.

3. The Court of Justice shall have jurisdiction, subject to the conditions laid down in paragraphs 4 to 7, to give preliminary rulings on the interpretation of this Convention.

4. By a declaration made at the time of the signing of this Convention or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of this Convention as specified in either paragraph 5(a) or (b).

5. A Member State which has made a declaration pursuant to paragraph 4 shall specify that either:

(a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of this Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment, or

(b) any court or tribunal of that State may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of this Convention if
that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.


7. Any Member State, whether or not it has made a declaration pursuant to paragraph 4, shall be entitled to submit statements of case or written observations to the Court in cases which arise under paragraph 5.

8. The Court of Justice shall not have jurisdiction to check the validity or proportionality of operations carried out by competent law enforcement agencies under this Convention nor to rule on the exercise of responsibilities which devolve upon Member States for maintaining law and order and for safeguarding internal security.

TITLE VII — IMPLEMENTATION AND FINAL PROVISIONS

Article 27

Confidentiality

The customs administrations shall take account, in each specific case of exchange of information, of the requirements of investigation secrecy. To that end, a Member State may impose conditions covering the use of information by another Member State to which that information may be passed.

Article 28

Exemptions from the obligation to provide assistance

1. This Convention shall not oblige the authorities of Member States to provide mutual assistance where such assistance would be likely to harm the public policy or other essential interests of the State concerned, particularly in the field of data protection, or where the scope of the action requested, in particular in the context of the special forms of cooperation provided for in Title IV, is obviously disproportionate to the seriousness of the presumed infringement. In such cases, assistance may be refused in whole or in part or made subject to compliance with certain conditions.

2. Reasons must be given for any refusal to provide assistance.

Article 29

Expenses

1. Member States shall normally waive all claims for reimbursement of costs incurred in the implementation of this Convention, with the exception of expenses for fees paid to experts.

2. If expenses of a substantial and extraordinary nature are, or will be, required to execute the request, the customs administrations involved shall consult to determine the terms and conditions under which a request shall be executed as well as the manner in which the costs shall be borne.
Article 30

Reservations

1. Save as provided in Article 20(8), Article 21(5) and Article 23(5), this Convention shall not be the subject of any reservations.

2. Member States which have already established agreements between them covering matters regulated in Title IV of this Convention may make reservations pursuant to paragraph 1 only in so far as such reservations do not affect their obligations under such agreements.

3. Accordingly, the obligations arising out of the provisions of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the Gradual Abolition of Checks at their Common Borders which provide for closer cooperation shall not be affected by this Convention in the context of relations between the Member States which are bound by those provisions.

Article 31

Territorial application

1. This Convention shall apply to the territories of the Member States as referred to in Article 3(1) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as revised by the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded and in Regulation (EC) No 82/97 of the European Parliament and of the Council of 19 December 1996, including, for the Federal Republic of Germany, the Island of Heligoland and the territory of Büsingen (within the framework of and pursuant to the Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation on the inclusion of the commune of Büsingen am Hochrhein in the customs territory of the Swiss Confederation, or the current version thereof) and, for the Italian Republic, the municipalities of Livigno and Campione d’Italia, and to the territorial waters, the inland maritime waters and the airspace of the territories of the Member States.

2. The Council, acting unanimously by the procedure provided for in Title VI of the Treaty on European Union, may adapt paragraph 1 to any amendment of the provisions of Community law referred to therein.

Article 32

Entry into force

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of the constitutional procedures for the adoption of this Convention.
3. This Convention shall enter into force ninety days after the notification referred to in paragraph 2 by the State, Member of the European Union at the time of adoption by the Council of the Act drawing up this Convention, which is last to complete that formality.

4. Until this Convention enters into force, any Member State may, when giving the notification referred to in paragraph 2, or at any other later time, declare that as far as it is concerned this Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration. Such declarations shall take effect ninety days after the date of deposit thereof.

5. This Convention shall apply only to requests submitted after the date on which it enters into force or is applied as between the requested Member State and the applicant Member State.

6. On the date of entry into force of this Convention, the Convention on the provision of mutual assistance between customs administrations of 7 September 1967 shall be repealed.

**Article 33**

**Accession**

1. This Convention shall be open to accession by any State that becomes a Member State of the European Union.

2. The text of the Convention in the language of the acceding Member State, as drawn up by the Council of the European Union, shall be authentic.

3. The instruments of accession shall be deposited with the depositary.

4. This Convention shall come into force with respect to any State that accedes to it ninety days after the deposit of its instrument of accession or on the date of entry into force of the Convention if it has not already entered into force upon expiry of the said period of ninety days.

5. Where this Convention has not yet entered into force at the time of the deposit of their instrument of accession, Article 32(4) shall apply to acceding Member States.

**Article 34**

**Amendments**

1. Amendments to this Convention may be proposed by any Member State that is a High Contracting Party. Any proposed amendment shall be sent to the depositary, who shall communicate it to the Council and the Commission.

2. Without prejudice to Article 31(2), the amendments to the Convention shall be adopted by the Council, which shall recommend them to the Member States for adoption in accordance with their respective constitutional requirements.

3. Amendments adopted in accordance with paragraph 2 shall come into force in accordance with Article 32(3).
1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.

2. The depositary shall publish in the Official Journal of the European Communities information on the progress of adoptions and accessions, implementation, declarations and reservations, and also any other notification concerning this Convention.

Done at Brussels on the eighteenth day of December in the year one thousand nine hundred and ninety-seven in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.
THE HIGH CONTRACTING PARTIES to this Protocol, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 12 March 1999,

HAVING REGARD to the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes, hereinafter referred to as ‘the Convention’;

HAVING AGREED ON THE FOLLOWING PROVISIONS:

Article 1

The second indent of Article 1(1) of the Convention shall be amended to read as follows:

‘— the transfer, conversion, concealment or disguise of property or proceeds derived from, obtained directly or indirectly through or used in, illicit international drug trafficking or any infringement of:

(i) all laws, regulations and administrative provisions of a Member State the application of which comes wholly or partly within the jurisdiction of the customs administration of the Member State concerning cross-border traffic in goods subject to bans, restrictions or controls, in particular pursuant to Articles 36 and 223 of the Treaty establishing the European Community, and non-harmonised excise duties, or

(ii) the body of Community provisions and associated implementing provisions governing the import, export, transit and presence of goods traded between Member States and third countries, and between Member States in the case of goods that do not have Community status within the meaning of Article 9(2) of the Treaty establishing the European Community or goods subject to additional controls or investigations for the purposes of establishing their Community status, or

(iii) the body of provisions adopted at Community level under the common agricultural policy and the specific provisions adopted with regard to goods resulting from the processing of agricultural products, or
Article 2

The data categories listed in Article 4 of the Convention shall be supplemented by the following category:

‘(ix) registration number of the means of transport.’.

Article 3

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol.

3. This Protocol shall enter into force ninety days after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality. However, it shall at the earliest enter into force at the same time as the Convention.

Article 4

1. This Protocol shall be open to accession by any State that becomes a Member State of the European Union.

2. The instruments of accession shall be deposited with the depositary.

3. The texts of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respects to any State that accedes to it ninety days after the date of deposit of its instrument of accession or on the date of entry into force of this Protocol if the latter has not already entered into force upon expiry of the said period of ninety days.

Article 5

Any State that becomes a Member State of the European Union and accedes to the Convention in accordance with Article 25 thereof shall accept the provisions of this Protocol.

Article 6

1. Amendments to this Protocol may be proposed by any Member State that is a High Contracting Party. Any proposed amendment shall be sent to the depositary, who shall communicate it to the Council.
2. Amendments shall be adopted by the Council, which shall recommend them to the Member States for adoption in accordance with their respective constitutional requirements.

3. Amendments adopted in this manner shall come into force in accordance with Article 3.

Article 7

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the Official Journal of the European Communities the notifications, instruments or communications concerning this Protocol.

Done at Brussels on the twelfth day of March in the year one thousand nine hundred and ninety-nine.
SIXTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE CIS
CONVENTION

COINBHINSIÚN ARNA DHRÉACHTÚ AR BHONN
AIRTEAGAL K3 DEN CHONRADH AR AN AONTAS
EORPACH MAIDIR LE HÚSÁID THEICNEOLAÍOCHT AN
EOLAIS CHUN CRÍOCHA CUSTAIM

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Choinbhinsiún seo, Ballstáit an Aontais Eorpaigh,

AG TAGAIRT do Ghníomh ó Chomhairle an Aontais Eorpaigh an 26/07/95,

AG MEABHRÚ DÓIBH na ngealltanas atá sa Choinbhinsiún maidir le Riaracháin Chustaim do Sholáthar Cúnamh Frithpháirteach, arna dhéanamh sa Róimh ar an 7 Meán Fómhair 1967,

DE BHRÍ go bhfuil na riaracháin chustaim, mar aon le húdaráis inniúla eile, freagrach, ag teorainneacha seachtracha an Chomphphobail agus laistigh dá theorainneacha críocha chas, as cionta ni hamháin in aghaidh rialachán Chomphphobail ach in aghaidh dlithe náisiúnta freisin, go háirithe na dlithe sin atá folaithe ag Airteagail 36 agus 223 den Chonradh ag bunú an Chomphphobail Eorpaigh, a chosc, a imscru du agus a chur faoi chois,

DE BHRÍ gur bagairt thromchuíseach do shláinte, morálacht agus slándáil an phobail an treoacht atá ag teacht chun cinn ionsar gháinneáil aindleathach de gach saghas,

ÓS DEIMHIN leo gur gá an comhar idir riaracháin chustaim a athnearthú trí nósanna imeachta a leagan síos faoin bhféadfaidh riaracháin chustaim gniomhú go comphpháirteach agus sonraí pearsanta agus sonraí eile a bhaineann le gniomhaochtaí gáinneála aindleathacha a mhalarú ag úsáid na teicneolaíochta nua chun eolas den sórt sin a bhainisteoirí agus a tharchur, faoi réir fhórálacha Choinbhinskiún Chomhairle na hÉorpa um Chosaínt Daoin Aonair maidir le hUathphróiseáil Sonraí Pearsanta arna dhéanamh in Strasbourg ar an 28 Eanáir 1981,

AG MEABHRÚ DÓIBH go mbionn ar na riaracháin chustaim ina n-obair laethúil idir fhórálacha Chomphphobail agus fhórálacha neamhmchomphobail a chur chun feidhm agus go bhfuil, dá dheasca sin, riachtanas fóllasach ann a aírithiú go bhfadh fhraonann na forálacha maidir le cúnamh frithpháirteach agus comhar riarthach sa dá earnáil go comhthireomhar a mhéad is féidir,

TAR ÉIS COMHAONTÚ AR NA FORÁLACHA SEO A LEANAS:

CAIBIDIL I

SAINMHÍNITHE

AIRTEAGAL I

Chun críocha an Choinbhinsiúin seo:

1. Ciallaionn an témara “dlithe náisiúnta” dlithe nó rialachán Ballstáit, a bhfuil inniúlacht iomlán nó pháirt each ag riarachán custaim an Ballstáit sin ina gcur i bhfeidhm, maidir le:
No. 2.  

**Customs and Excise (Mutual Assistance) Act, 2001.**

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— gluaiseacht earrá atá faoi réir bearta toirmisc, srianta nó rialaithe, go háirithe na bearta sin atá folaithe in Airteagal 36 agus 223 den Chonradh ag bunú an Chomhphobail Eorpaigh;

— aistriú, tientú, ceilt nó faltas arna gcineadh ó gháinmneáil idirnáisiúnta aindleathach drugáí, arna bhfáil go díreach nó go neamhdhíreach tríthi nó arna n-úsáid ínti.

2. Ciailaonn an tearcha “sonraí pearsanta” aon eolas a bhainean le duine aonair aitheanta nó inaiththeanta.

3. Ciailaonn an tearcha “Ballstáit soláthair” Ballstát a dhéanann sonra a áireamh sa Chóras Eolais Custaim.

**CAIBIDIL II**

*Córas Eolais Custaim a bhunú*

_Airteagal 2_

1. Cuirfidh riarachaí chustaim na mBallstát ar bun, agus cothabháilfidh siad, uathchóras eolais comhpháirteach chun críocha custaim, dár ngairtear an Córas Eolais Custaim anseo feasta.

2. Beidh sé de chuspóir ag an gCóras Eolais Custaim, i gcomhréir le forálacha an Choinbhinsiúin seo, cabhrú chun sáruithe tromchúis-eachta ar dhlíthe náisiúnta a chosc, a imscrúdú agus a ionchúiseamh trí eifeachtúilacht nó in imeachta cómhair agus rialaithe iaracháin chustaim na mBallstát a mhéadú trí eolas a scaipeadh go luath.

**CAIBIDIL III**

_An Córas Eolais Custaim a obriú agus a úsáid_

_Airteagal 3_

1. Is aís bhunachar sonraí lárnach é an Córas Eolais Custaim agus beidh sé inrochtana trí theirminéil i ngach Ballstát. Cuimseoidh sé go heisiach na sonraí, lena n-áirítear sonraí pearsanta, is gá chun a chuspóir mar atá sé sonraithe in Airteagal 2(2) a bhaint amach sna hearnálaíche seo a leanas:

   (i) tráchtairraí;

   (ii) córacha iompair;

   (iii) gnóthaí;

   (iv) daoine;

   (v) treocheálaí calaoise;

   (vi) infaighteacht saineolais.

2. Áirítheoidh an Coimisiún bainistíocht theicniúil bhonneagar an Chóras Eolais Custaim i gcomhréir leis na rialacha dá bhforaíltear sna bearta cur chun feidhme arna nglacadh laistigh den Chomhairle.

Tuairisceoidh an Coimisiún maidir leis an mbainistíocht don choiste dá dtagraítear in Airteagal 16.
3. Páirteoidh an Coimisiúin leis an gcoiste sin na socruithe praiticiúla iúla arna nglacadh don bhainistíocht theicniúil.

Aireagála 4

Cinnfidh na Ballstáit na míreanna atá le háireamh sa Chóras Eolais Custaim a bhaineann le gach ceann d’earnálaichte (i) go (vi) in Aireagal 3 a mhéad is gá sin chun cuspóir an chóras a bhaint amach. Ní áireofar ar aon chúinte aon sonraíearsanta in earnálaichte (v) agus (vi) d’Aireagal 3. Ní chuimseoidh na sonraíearsanta atá le hionchur ach:

(i) sloinne, sloinne réamhpóst, céad aimmneacha agus aimmneacha bréige;
(ii) dáta agus ionad breithe;
(iii) náisiúntacht;
(iv) gnéas;
(v) aon bhuansaintréithe fisiceacha oibiachtúla áirithe;
(vi) cús leis na sonraí a áireamh;
(vii) gníomhaíocht arna moladh;
(viii) cód foláirimh a shonraíonn aon tuairisc go raibh an duine i dtrácht faoiarm, foréireacht nó tar éis éalú.


Aireagal 5

1. Ní iontrálfar sonraí in earnálaichte (i) go (iv) d’Aireagal 3 sa Chóras Eolais Custaim ach amháin ar mhaithle le hamharc agus tuairiscíú, faireachán discréideach nó seiceáalacha sonraíearsanta.

2. Ar mhaithleis na gníomhaíochtaí arna moladh dá dtagraítear i mír 1, ní iontrálfar sonraíearsanta in aon cheann d’earnálaichte (i) go (iv) d’Aireagal 3 sa Chóras Eolais Custaim ach amháin, go háiríthe mar gheall ar ghníomhaíochtaí neamhdhlíthiúla roimhe sin, má tá taispeáintáirír inrinneacha ann a thugann le fios go bhfuil an duine in dtrácht tar éis sáruithe tromchúiseacha ar dhlíthiú náisiúnta a dheanamh, nó go bhfuil sé i mbun na sáruithe sin a dheanamh nó go ndéanfaidh sé fós iad.

Aireagal 6

1. Má déantar na gníomhaíochtái arna moladh dá dtagraítear in Aireagal 5(1), féadfast an t-eolas seo a leanas, go hiomlaí nó go páirteach, a bhailliú agus a tharchur chuig an mBallstáit soláthair:

(i) go bhfuil an tráchtarra, an chóir ionpair, an gnó nó an duine arna dtuairiscíú aimsithe;
(ii) ionad, uair agus cús na seiceála;
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(iii) bealach agus ceann scribe an turaí;
(iv) daoine tionlacain an duine i dtrácht nó lucht na córa iompair;
(v) an chóir iompair arna húsúid;
(vi) na réada arna n-iompar;
(vii) na himthosca inar aimsiodh an tráchtearra, an chóir iompair, an gnó nó an duine.

Nuair a bhailtear eolas den sórt sin i gcúrsa faireachán discréideach, ní mór bearta a dhéanamh chun a aírithiú nach gcuirtear cineál discréideach an fhaireachán i gceist.

2. I gcomhthéacs seiceál shonrach dá dtagraítear in Airteagal 5(1), féadfaidh daoine, córacha iompair agus réada a chuarchaidh a mhéad is inheadhachta agus i gcomhréir le dthithe, rialachán agus nósanna imeachta an Bhallstaít ina ndéantar ar cuardach. Mura gceadaithe an tseiceál shonrach i ndíoll Ballstáit, déanfaidh an Ballstáit sin í a thiontú go huathoibríoch go hamharc agus tuairisciú.

Airteagal 7

1. Forchoimeádfar rochtain dhíreach ar shonraí sa Chóras Eolais Custaim go heisíach do na huádairais náisiúnta arna n-ainmníu ag gach Ballstáit. Is riarachaín cuiticí iad na huádairais náisiúnta sin ach féadfar údarais eile a aibreann atá inniúil freisin, de réir dhlíthe, rialachán agus nósanna imeachta an Bhallstaít i dtrácht, chun gniomhú d’fhonn an cuspóir atá sonraithe in Airteagal 2(2) a bhaint amach.

2. Cuirfidh gach Ballstáit chuig gach Ballstáit eile agus chuig an gcoiste dá dtagraítear in Airteagal 16 liosta dá údarású inniúla atá ainmnithe i gcomhréir le m’r 1 chun rochtain dhíreach a bhfeãth aca ar an gCóras Eolais Custaim ag sonrú, i gcás gach údarais, na sonraí a bhféadfaidh sé rochtain a bhfeãth aige orthu agus na críocha ar chucú é.

3. De mhaoíl ar mhíreanna 1 agus 2, féadfaidh Ballstáit, trí chomhaontú d’aoín toile, rochtáin ar an gCóras Eolais Custaim a cheadhú d’eagraíochtaí idirnáisiúnta nó réigiúnachta. Beidh comhaontú den sórt sin i bhfoirm prótacail a ghabhann leis an gCoinbhinisún seo. Ag teacht ar a gcinneadh dóibh, tabharfaidh na Ballstáit aird ar aon scríthe cúmalártacha agus ar aon tuairim ón gComh-údarás Maoirseachta dá dtagraítear in Airteagal 18 ar leormhaitheas na mbeart cosantaithe sonraí.

Airteagal 8

1. Ní fhéadfaidh na Ballstáit sonraí ón gCóras Eolais Custaim a úsáid ach amháin chun an cuspóir atá sonraithe in Airteagal 2(2) a ghnóthú, cé go bhféadfaidh siad iad a úsáid chun críocha riarthacha nó chun críocha eile le húdarú roimh ré ón mBallstát a d’ionchuir sa Chóras iad agus faoi réir aon choinniollacha arna bhforchur ag an mBallstát sin. Beidh aon úsáid eile den sórt sin i gcomhréir le dthithe, rialacháin agus nósanna imeachta an Bhallstát a fhéachann le hiad a úsáid agus ba chóir dí aird a thabhairt ar Phríonsabhal 5.5. de Mholadh R (87)15 ó Choiste Airí Chomhairle na hEorpa an 17 Meán Fómhair 1987.
2. Gan dochar do mhíreanna 1 agus 4 den Airteagal seo agus Sch.6 d’Airteagal 7(3), ní úsáidear sonraí ón gCóras Eolais Custaim ach amháin ag údaráis náisiúnta i ngach Ballstát arna n-aímníu ag an mBallstát i dtrácht, atá inniúil, i gcomhréir le dlíthe, rialacháin agus nósanna imeachta an Bhallstáit sin, chun gniomhú d’fhonn an cuspoír atá sonraithe in Airteagal 2(2) a bhaint amach.

3. Cuirfidh gach Ballstát chuig gach Ballstát eile agus chuig an gCoiste dá dtagraítear in Airteagal 16 liosta de na húdaráis inniúla atá aímnithe aige i gcomhréir le dlíthe, rialachaín agus nósanna imeachta an Bhallstáit sin, chun gníomhú d’fhonn an cuspoír atá sonraithe in Airteagal 2(2) a bhaint amach.

4. Féadfar sonraí ón gCóras Eolais Custaim, le húdarú roimh ré ón mBallstát a d’ionchuir sa Chóras iad, agus faoi réir aon choinniollacha arna bhforchuir ag an mBallstát sin, a sheoladh lena n-úsáid ag údaráis náisiúnta seachas na cinn arna n-aímníu faoi mhír 2, ag tiortha nach Ballstát iad agus ag eagraíochtai idirnáisiúnta nó réigiúna-cha ar mian leo iad a úsáid. Glacfaidh gach Ballstát beart speisialta chun slándáil sonraí den sórt sin a áirithiú nuair atá siad á dtachar nó á soláthar do sheirbhísí atá suite lasmhgh dá chrioche. Ní mór mionsonraí bearta den sórt sin a chur in iúl don Chomhúdarás Mairseachta atá luaite in Airteagal 18.

Airteagal 9

1. Beidh ionchur sonraí sa Chóras Eolais Custaim faoi rialú ag dlíthe, rialacháin agus nósanna imeachta an Bhallstáit soláthair mura leagann an Coinbhinsíún forálacha níos déine síos.

2. Beidh an úsáid sonraí arna bhféil ón gCóras Eolais Custaim, lena n-áirítear aon ghníomháiocht dá dtagraítear in Airteagal 5 agus atá arna moladh ag an mBallstát Conarthach soláthair a chomhhall, faoi rialú ag dlíthe, rialacháin agus nósanna imeachta an Bhallstáit a úsáideann sonraí den sórt sin, mura leagann an Coinbhinsíún forálacha níos déine síos.

Airteagal 10

1. Ainmneoidh gach Ballstát riarachán custaim inniúil a bheidh freagrach ar an mbonn náisiúnta as an gCóras Eolais Custaim.

2. Beidh an riarachán sin freagrach as an gCóras Eolais Custaim a olbriú go cul laistigh den Bhallstáit; glacfaidh sé pé bearta is gá chun a áirithiú go gcomhlíontar forála a Choinbhinsíún seo.

3. Cuirfidh na Ballstát in iúl dá cheile ainm an riarachán inniúil dá dtagraítear i mór 1.

CAIBIDIL IV

SONRAÍ A LEASÚ

Airteagal 11

1. Is ag an mBallstát soláthair amháin a bheidh an ceart sonraí atá ionchartha aige sa Chóras Eolais Custaim a leasú, a fhorlóinadh, a cheartú nó a scrisoadh.

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2. Má thugann Baillstát soláthair dá aire, nó má thugtar dá aire, go bhfuil na sonraí a d’ionchuir sé neamhbeacht go fiorasach nó gur ionchuireadh iad nó go bhfuil siad stóráilte ar shlí atá contrártha leis an gCoinhbhinsiúin seo, déanfaidh sé na sonraí a leasú, a fhlorionadh, a cheartú nó a scrisadh, mar is iomchuí, agus tabharfaidh sé faínséis faoi do na Ballstáit eile.

3. Má tá fianaise ag ceann de na Ballstáit a thugann le fios go bhfuil sonra neamhbeacht go fiorasach nó gur ionchuireadh é nó go bhfuil sé stóráilte sa Chóras Eolais Custaim ar shlí atá contrártha leis an gCoinhbhinsiúin seo, tabharfaidh sé faínséis faoi don Bhallstát soláthair a luaithe is féidir. Déanfaidh an Ballstát sin na sonraí i dtrácht a sheiceáil agus, más gá, an sonra a cheart nó a scrisadh gan mhoill. Déanfaidh an Ballstát soláthair faínséis faoi aon cheartú-chón nó aon scrisadh a rinneadh a thabhairt do na Ballstáit eile.

4. Má thugann Ballstát dá aire, agus sonraí á n-ionchur aige sa Chóras Eolas Custaim, go bhfuil a thurascaíl i geodarsna le tuarascáil roimhe sin i dtaca le hínneachar nó gnuimhseacht arna moladh, tabharfaidh sé faínséis faoi d’ionchuir i stóráil don Bhallstát a rinne an tuarascáil roimhe sin. Féachfaidh an dá Bhallstát ansin leis an bhfadhb a réiteach. I gcás easaontais, maithfidh an chéad tuarascáil ach ionchuirt-fear sa Chóras na codanna sin den tuarascáil nua nach bhfuil i geodarsna.

5. Faoi réir fhórálacha an Choinbhinsiúin seo, nuair a dhéanann cúirt in aon Bhallstát, nó udarás inniúil eile sa Bhallstát sin, cinneadh crionchtnaitheach i dtaca le sonraí a leasú, a fhlorionadh, a cheartú nó a scrisadh sa Chóras Eolais Custaim, ghabhfaidh na Ballstátí ortu féin cinneadh den sórt sin a phhorghniomhú gu cómhalartach. I gcás codarsnaidh chuirníní den sórt sin ó chúirtiúnaí nó ó udarásí inniúla eile i mBallstát éagsúla, lena n-áirítear na cinn dá dtagraítear in Airtseagal 15(4) maídhr le ceartú chón nó scrisadh, déanfaidh an Ballstát a d’ionchuir na sonraí i dtrácht iad a scrisadh den Chóras.

CAIBIDIL V

Sonraí a stóráil

Airtseagal 12

1. Ní stórálfar sonraí arna n-ionchur sa Chóras Eolais Custaim ach go ceann na tréimhse is gá chuim an cuspóir ar chuige a ionchuireadh iad a bhaint amach. Déanfaidh an Ballstát soláthair athbhreathniú gach bliain ar a laghad an gá iad a stóráil.

2. Féadfaidh an Ballstát soláthair, laistigh den tréimhse athbhreathnithe, a chinnneadh sonraí a stóráil go dtí an chéad athbhreathnú eile más gá iad a stóráil chun na cuspóirí ar chuige a ionchuireadh iad a bhaint amach. Gan dochar d’Airtseagal 15, mura ndéanfar cinneadh sonraí a stóráil, aisteoarfáidh iad go huathoibríoch go dtí an chuid sin den Chóras Eolais Custaim a mbeidh rochtaí uirthi teoranta i gcomhréir le mir 4.

3. Cuírfeadh an Chóras Eolais Custaim an Ballstát soláthair ar an eolas go huathoibríoch faoi aistriúcháin faoi i ndeigh d’Airtseagal 15, nó bheidh siad in iomchuí, ach mhiníf leis an ocht eile, aóidh, nó a chumhachtachtaí sa Bhallstátí a dtraighiú i mbhúthachtachtaí airde in Airtseagal 17(1) agus 18(1). Le línn na tréimhse sin ní fhéadfadh siad i mBallstát a sheiceáil, a níos mó le haghaidh aon scrisadh a dhéanamh.

4. Leannfar de shonráí arna n-aistriú faoi míthear 2 a stóráil go ceann bliana sa Chóras Eolais Custaim a bhíonn le chéile sin, gan dochar d’Airtseagal 15, nó bheidh siad in iomchuí, ach mhiníf leis an ocht eile, aóidh, nó a chumhachtachtaí sa Bhallstátí a dtraighiú, in Airtseagal 17(1) agus 18(1). Le línn na tréimhse sin ní fhéadfadh siad i mBallstát a sheiceáil, a níos mó le haghaidh aon scrisadh.
SONRAÍ PEARSANTA A CHOSAINT

AIREAGAL 13

1. Gach Ballstát a bhfuil sé d’intinn aige sonraí pearsanta a fháil ón gCorás Eolais Custaim, nó a id a ionchur ann, glacfaidh sé, tráth nach déanann ná dáta theacht i bhfeidhm an Choinbhinsiúin seo, an reachtaitheacht náisiúnta atá leordhothanach chun leibhéal cosanta sonraí pearsanta a ghnóthú is comhionann ar a laghad leis an leibhéal a leanann ó phríomsabail Choinbhinsiúin Strasbourg 1981.

2. Ní bhuighidh Ballstát sonraí pearsanta ón gCorás Eolais Custaim ná ní ionchuirídh sé ann aíd ach amhain nuair a hheidh na socruithe chuán sonraí den sórt sin a chosaint dá bhforáiltear i mír 1 tar éis teacht i bhfeidhm ar chriochn. Beidh an Ballstát freisin tar éis údarás maoirseachta nó údarás mhaoirseachta náisiúnta a ainmniú roimh re i gcomhréir le hAirteagal 17.

3. D’fhonn a ainithiú go ndéantar ar na forálacha cosaítaí sonraí sa Choinbhinsiúin seo a chur i bhfeidhm go cuí, measfar i ngach Ballstát gur comhad náisiúnta sonraí atá faoi réir na bhforáilteacha náisiúnta dá dtagraítear i mír 1 agus aon fhorálacha níos déine atá sa Choinbhinsiúin seo é an Corás Eolais Custaim.

AIREAGAL 14

1. Faoi réir Airteagal 8(1), áiritheoidh gach Ballstát go mbeidh sé neamhdhleathach faoi dhlíthe, rialachaí agus nósanna imeachta féin sonraí pearsanta ón gCorás Eolais Custaim a úsáid chun críche seachas ar mhaithe leis an gcuspóir dá dtagraítear in Airteagal 2(2).

2. Féadfar sonraí a atáirgeadh chun críocha teicniúla amhain, ar chuntar go bhfuil an t-atáirgeadh sin riachtanach le haghaidh cuardach direach ag na húdarásí dá dtagraítear in Airteagal 7. Faoi réir Airteagal 8(1), ní fheidfar sonraí pearsanta arna n-ionchur ag Ballstát eile a chóipeáil ón gCorás Eolais Custaim isteach i gcomhaid náisiúint eile sonraí.

AIREAGAL 15

1. Cuirfear cearta daoine maidir leis na sonraí pearsanta atá sa Chóras Eolais Custaim, go háirithe a gceart rochtana, in éifeacht i gcomhréir le dhlíthe, rialacháin agus nósanna imeachta an Bhallstát ina ndéantar na cearta sin a agairt.

   Má tá sé leagtha síos i ndhlíthe, rialacháin agus nósannaimeachta an Bhallstát i dtrácht, cinnfídh an t-údarás maoirseachta náisiúnta dá bhforáiltear in Airteagal 17 an gá an fhaisneis a pháirtiú agus cén nós imeachta lena bpairteofar i.

   Ní fheidfaidh Ballstát nach bhfuil na sonraí ábhartha soláthraite aige sonraí a pháirtiú mura mbeidh caoi tugtha aige don Bhallstát soláthair a dhearcadh a nochadh.

   2. Déanfaidh Ballstát, a ndéantar iarraidh ar rochtain ar shonraí pearsanta chuiige, rochtain a dhiúltú más dóigh go bhfheidfaidh an rochtain sin cur chun feidhm se na gníomhachtaíata atá sonraíthe sa tuarcáil dá dtagraítear in Airteagal 5(1) a dhochrú nó d’fhonn cearta agus saoirsi daoine eile a chosaint. Diúltófar an rochtain, pé scéal é, le linn thréimhse an fhaireachain dhíscréidigh nó an amhairc agus na tuairisce.
[No. 2.]  

Sch.6

3. Íngach Ballstát, féadfaidh duine, de réir dhlíthe, rialcháin agus nósaanna imeachta an Bhallstát i dtách, sonraí pearsanta a bhaíneann leis féin a chur á gceart nó á scrisadh má tá na sonraí sin neamhbheacht go fíoraí, nó gur ionchuireadh iad nó go bhfuil siad stóráilte sa Chóras Eolais Custaim ar shlí atá contráthta leis an gcuspóir atá sonraíthe in Airteagal 2(2) den Choinbhinsiún seo ní le forálacha Airteagal 5 de Choinbhinsiún Strasbourg 1981.

4. Ar chróich gach Ballstát féadfaidh aon duine, i gcomhréir le dhlíthe, rialcháin agus nósaanna imeachta an Bhallstát i gceist, caingean a thabhairt nó, más ionchuir, gearán a dhéanamh os comhair na gcúirtíanna nó an údarás is inniúil faoi dhlíthe, rialcháin agus nósaanna imeachta an Bhallstát sin maidir le sonraí pearsanta a bhaíneann leis féin sa Chórais Eolais Custaim, d’fhonn:

(i) sonraí pearsanta atá neamhbheacht go fíoraí a cheart nó a scrisadh;
(ii) sonraí pearsanta arna n-ionchuir nó arna stóráil sa Chórais Eolais Custaim ar shlí atá contráthta leis an gCoinbhinsiún seo a cheart nó a scrisadh;
(iii) rochtain a fháil ar shonraí pearsanta;
(iv) cúiteamh a fháil de bhun Airteagal 21(2).

Gabhfaidh na Ballstát i dtách orthu féin cintiú críochnaitheacha arna nglacadh ag cúirt, nó ag údarás inniúil eile, de bhun phointí (i), (ii) agus (iii) den mhír seo a fhorgnaíomhú go cómhalartach.

5. Ní bheidh le tuiscint ó na tagairtí san Airteagal seo agus in Airteagal 11(5) do “chimneadh críochnaitheach” go bhfuil aon oibreachaí ag adair an bhallstátach ar chéad bhreith is inniúil an mhír 2 agus trí thromlach dhá thrian fad a bhaineann leis an gAirteagal 16.

CAIBIDIL VII

CREAT INSTIÚIDÍEACH

Airteagal 16

1. Cuirfear ar bun coiste ar a mbeidh ionadaithe ó riaracháin chustaim na mBallstát. Glacfaidh an Coiste a chuint d’aon toil fad a bhaineann le forálacha le chéad fhleisce de mhír 2 agus trí thromlach dhá thrian fad a bhaineann leis an gAirteagal 17(1) agus 18(1);

2. Beidh an Coiste freagrach as:

— forálacha an Choinbhinsiún seo a chur chun feidhme agus a chur i bhfeidhm i gearr, gan dochar do chumhachtáí na n-údarás maoirseachta dá dtagraítear in Airteagal 17(1) agus 18(1);

— oibrití cuí an Chórais Eolais Custaim maidir le gnéithe teicniúla agus oibríochtúla. Tabharfaidh an Coiste gach céim is gá chin a áirithiú go gcúrtaí na bearta atá leagtha amach in Airteagal 12 agus 19 chun feidhme go cuíí maidir leis an gChórais Eolais Custaim. Chunt críocha na míre seo amháin, féadfaidh an Coiste rochtain dhíreach agus ceadúsáide dírí a bheithe aige ar shonraí ón gCórais Eolais Custaim.
3. Caithfidh an Coiste tuarsaí a dhéanamh in aghaidh na bliana don Chomhairle i gcomhréir le Teideal VI den Chonradh ar an Aontas Eorpach maidir le héifeachtacht agus éifeachtúlacht an Chóras Eolais Custaim, ag déanamh moltáí dó mar is gá.

4. Comhlachófar an Coimisiún le himeachtaí an Choiste.

CAIBIDIL VIII

MAOIRSEACHT AR CHOSAINT SONRAÍ PEARSANTA

Airteagal 17

1. Ainmníodh gach Ballstát údarás maoirseachta nó údarás mhaoirseachta náisiúnta atá freagrach le sonraí pearsanta a chosaint chun maoirseachta neamhspleách a dhéanamh ar sonraí den sórt sin arna n-ionchur sa Chóras Eolais Custaim.

Déanfaidh na háduráis mhaoirseachta, i gcomhréir lena reachtach-ocht náisiúnta faoi seach, maoirseachta agus seiceálacha go neamhspleách, d’fhonn a áirithiú nach sáraíonn próiseáil agus úsáid sonraí arna gcóimeád sa Chóras Eolais Custaim cearta an duine i dtracht. Chuiige sin, beidh rochtain ag na háduráis mhaoirseachta ar an gCóras Eolais Custaim.

2. Féadfaidh aon duine iarraidh ar an uádarás maoirseachta náisiúnta seiceál a dhéanamh ar sonraí pearsanta a bhaineann leis féin sa Chóras Eolais Custaim agus ar an úsáid atá déanta nó á déanamh de na sonraí sin. Beidh an ceart sin faoi rialú ag dlithe, rialacháin agus nósanna imeachta an Bhallstát ina ndearnadh an t-iarratas. Más Ballstát eile a d’ionchuir na sonraí, déantar an tseiceáil i ndlúth-chomharaíocht le hédarás maoirseachta náisiúnta an Bhallstát sin.

Airteagal 18

1. Cuirfear ar bun Comhúdarás Maoirseachta, ar a mbeidh beirt ionadach ó gach Ballstát arna roghnu ón údarás maoirseachta neamhspleách náisiúnta nó ó na háduráis mhaoirseachta neamhspleách náisiúnta faoi seach.


3. Beidh an Comhúdarás Maoirseachta inniúil chun oibriocht an Chóras Eolais Custaim a mhaoirsiú, chun aon deacrachtaí máidir le cur i bhfeidhm nó léiríú a fhéadfaidh teacht chun cinn le linn a oibriochta a scrúdú, chun staídéar a dhéanamh ar fhadhanna a fhéadfaidh teacht chun cinn máidir le feidhmiú maoirseachta neamhspleách ag údarás mhaoirseachta náisiúnta na mBallstát nó i bhfeidhmíú cearta rochta an gCóras ag daoine aonair, agus chun tograí a tharraingt suas d’fhonn réitigh chomhpháirteacha ar fhadhanna a aimsiú.

4. D’fhonn a fhreagraíochtaí a fheidhmiú, beidh rochtain ag an gComhúdarás Maoirseachta ar an gCóras Eolais Custaim.

5. Seolfar tuarascáil arna dtarraingt suas ag an gComhúdarás Maoirseachta chuig na háduráis a gcúireann na háduráis mhaoirseachta náisiúnta a dtuarascáil faoina mbráid.
1. Chun slándáil a chothabháil, glacfar gach beart riarthach is gá:

(i) ag údaráis inniúla na mBallstát i leith theirminéil an Chórais Eolais Custaim ina Stáit faoi seach;

(ii) ag an gCoiste dá dtagraitear in Airteagal 16 i leith an Chórais Eolais Custaim agus na dteirminéal atá suite san áitreabh céanna leis an gCóras agus atá arna n-úsáid le haghaidh críocha teicniúla agus na seiceálacha is gá de bhun mhír 3.

2. Glaicfaidh na húdaráis inniúla agus an coiste dá dtagraitear in Airteagal 16 bearta ach go háirithe chun:

(i) cosc a chur le rochtain ag aon duine neamhúdaraithe ar shuítéalacha arna n-úsáid chun sonraí a phróiseáil;

(ii) cosc a chur le léamh, cóipéal, bunathrú nó scrisadh sonraí agus meáin sonraí ag daoine neamhúdaraithe;

(iii) cosc a chur le hiontráil neamhúdaraithe sonraí agus aon cheadú, bunathrú nó scrisadh neamhúdaraithe sonraí;

(iv) cosc a chur le rochtain ar shonraí sa Chóras Eolais Custaim ag daoine neamhúdaraithe trí bhíthin trealamh tarchuir sonraí;

(v) a ráthú, maidir le húsáid an Chórais Eolais Custaim, nach mbeidh ceart rochtana ag daoine údaraithe ach amháin ar shonraí a bhfuil siad inniúl ina leith;

(vi) a ráthú gur féidir a sheiceál agus a shuìomh cé hiad na húdaráis a bhféadfar sonraí a tharchur chucu le trealamh tarchuir sonraí;

(vii) a ráthú gur féidir a sheiceéal agus a shuiothm a posteriori cad iad na sonraí a ionchuirreadh sa Chóras Eolais Custaim, cathain a ionchuirreadh iad agus cé a d’ionchuir iad agus gur féidir faireachán a dhéanamh ar an geastúi;

(viii) cosc a chur le léamh, cóipéal, bunathrú nó scrisadh neamhúdaraithe sonraí le linn sonraí a tharchur agus meáin sonraí a ionpáir.

3. Déanfaidh an Coiste dá dtagraitear in Airteagal 16 faireachán ar cheistíú an Chórais Eolais Custaim d’fhonn a sheiceál an raibh na cuardaigh arna ndéanamh inghlactha agus ar úsáidir údaraithe a rinne iad. Déanfar 1% ar a laghad de na cuardaigh go lèir arna ndéanamh a sheiceál. Coimeádfar taifead de na cuardaigh sin agus na seiceálacha sin sa Chóras, ní dhéanfaidh an Coiste agus na húdaráis mhoairseachta dá dtagraitear in Airteагail 17 agus 18 é a úsáid ach amháin chun na críche a dúradh, agus scrisofar é tar éis sé mhí.
Beidh an riarachán custaim inniúil dá dtagraítear in Airteagal 10(1) den Choinbhinsiúin seo freagrach as na bearta slándála atá leagtha amach in Airteagal 19, i ndáil leis na teirminéil atá suite ar chrioch an Bhallstaít i dtrácht, as na feidhmeanna athbhreithnithe atá leagtha amach in Airteagal 12(1) agus (2), agus ar shliú eile as cur chun feidhme cin a Choinbhinskiúin seo a mhéad is gá faoi dhliththe, rialacháin agus nóanna imeachta an Bhallstaít sin.

CAIBIDIL X

FREAGRACHTAÍ AGUS DLITÉANAS

Airteagal 21


2. Beidh gach Ballstát faoi dlíteanas, i gcomhréir Lena dlíthiú, rialacháin agus nóanna imeachta fén, i leith na diobhála a dhéantar do dhúní trí úsáid an Chórais Eolais Custaim sa Bhallstát i dtrácht.

Is amhlaidh a bheidh freisin nuair a dhéantar an diobháil trí ionchur sonraí neamhbeachta ag an mBallstát soláthair, nó tríd an mBallstát sin sonraí a ionchur ar shlí atá contrártha leis an gChoinbhinskiúin seo.

3. Murab é an Ballstát a sholáthair na sonraí neamhbheachta an Ballstát a ndéantar caingean a thabhairt ina choinne i leith sonraí neamhbeachta, lorgóidh na Ballstáit in dtrácht comhaontú maidir le pé comhréir, más ann, de na suimeanna ar na suimeanna de réir chomhreir na mBallstaít. Déanfar aon suim den sórt sin a aisísce arna iarraidh sin.

Airteagal 22

1. Beidh na costais arna dtabhá ag na Ballstáit i ndáil le hoibriú agus úsáid an Chórais Eolais Custaim atá suite ar a gcroícha de mhuiúear ar gach eacán doibh.

2. Beidh caiteachas eile arna thabhumhion e a gchur chun feidhme an Choinbhinskiúin seo, seachas caiteachas nach fheidir a scaradh óiobritt i leith sonraí neamhbeachta, i lorgúidh na Ballstáit i dtrácht comhaontú maidir le pé comhréir, má ann, de na suimeanna ar na suimeanna de réir chomhreir na mBallstáit. Cinnfear cion gach Ballstát de réir chomhréir a olltairgeachta náisiúnta le suim iomlán olltairgeachta náisiúnta na mBallstát don bhliain roimh an mhblia ina dtabhairt ear na costais.

Chun croícha an fhomhór seo a chur i bhfeidhm, ciallaíonn an téarma “olltairgeachta náisiúnta” an olltairgeachta náisiúnta arna sainí i gcomhréir le Treoir 89/130/CEE, Euratom ón gComhairle an 13 Feabhra 1989 maidir le tiomsú na holltaígeachta náisiúnta ag margadhphrághsanna a chomhchuibhniú nó i gcomhréir le haon ion-straim Chomhphobail á leasú nó ag gabháil a hionaid.

CAIBIDIL XI

CUR CHUN FEIDHME AGUS FORÁLACHA CRÍÓCHNAITHEACHA

Aisceagal 23

Déanfar an t-eolas dá bhforáiltear faoin gCoinbhinsiún seo a mhalartú go díreach idir údaráis na mBallstát.

Aisceagal 24

1. Beidh an Coinbhinsiún seo faoi réir a ghlaetha ag na Ballstát i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstát in iúl d’Ardrúnaí Chomhairle an Aontais Eorpaigh go bhfuil na nósanna imeachta is gá faoina rialacha bunreachtúla faoi seach chun an Coinbhinsiún seo a ghlacadh comhiontu acu.

3. Tiocfaidh an Coinbhinsiún seo i bhfeidhm nócha lá tar éis don fhógra dá dtagraítear i mór 2 a bheith tugtha ag an mBallstát is déanaí a dheanfadh sin.

Aisceagal 25

1. Beidh aontachas leis an gCoinbhinsiún seo ar oscailt d’aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach.

2. Is tacadh an Choinbhinsiún seo i dteanga an Stát aontaigh, arna dhreachtaí ag Comhairle an Aontais Eorpaigh.

3. Taiscear na hionstraimí aontachais leis an taiscí.

4. Tiocfaidh an Coinbhinsiún seo i bhfeidhm maidir le Stát aontaí nócha lá tar éis dó a ionstraim aontachais a thaisceadh nó ar dhéara an Choinbhinsiún a theacht i bhfeidhm mura bhfuil sé tagtha i bhfeidhm fós tráth na tréimhse nócha lá sin a dhul in éag.

Aisceagal 26

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Choinbhinsiún seo.

2. Foilseoidh an taiscí in Iris Oifigeúil na gComhphobal Eorpaí faisnéis maidir leis an gCoinbhinsiún seo a ghlacadh agus aontachais leis, na dearbhuithe, na forchoimeádaí agus gach fógra eile a bhainéann leis an gCoinbhinsiún seo.

Aisceagal 27

1. Ní foláir don Chomhairle aon diospóidh idir na Ballstát maidir le léiriú nó cur i bhfeidhm an Choinbhinsiún seo a phlé mar chéad cheim i gcomhréir leis an nós imeachta atá leagtha amach i dTeideal VI den Chonradh ar an Aontas Eorpaí d’fhonn teacht ar réiteach.

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Mura mbeidh réiteach faighte laistigh de thréimhse sé mhí, féad- Sch.6 faidh páirtí sa díospóid í a chur faoi bhráid Chúirt Bhreithiúnais na gComhphobal Eorpach.

2. Aon díospóid idir Ballstát amháin nó níos mó agus Coimisiún na gComhphobal Eorpach maidir leis an gCoinbhinsiuín seo a chur i bhfeidhm nárth féidir a réiteach trí chaibidlíocht, féadfar í a chur faoi bhráid na Cúirte Breithiúnais.
SEVENTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE AGREEMENT

COMHAONTU I dTAOBH AN COINBHINSIÚN ARNA DHRÉACHTÚ AR BHONN AIRTEAGAL K.3 DEN CHONRADH AR AN AONTAS EORPACH MAIDIR LE hÚSÁID THEICNEOLAIÓCHT AN EOLAIS CHUN CRÍÓCHA CUSTAIM A CHUR I bhFEIDHM GO SEALADACH IDIR BHALLSTÁIT ÁIRITHE DEN AONTAS EORPACH

TÁ

RÍOCHT NA BEILGE,
RÍOCHT NA DANMHAIRGE,
POBLACHT CHÓNAIDHME NA GEARMÁINE,
AN PHOBLACHT HEILLÉANACH,
RÍOCHT NA SPÁINNE,
POBLACHT NA FRAINCE,
ÉIRE,
POBLACHT NA hIOIDÁILE,
ARD-DIÚCACHT LUCSAMBURG,
RÍOCHT NA hÍSILTÍRE,
POBLACHT NA hOSTAIRE,
POBLACHT NA PORTAINGÉILE,
POBLACHT NA FIONLAINNE,
RÍOCHT NA SUALAINNE,
RÍOCHT AONTAITHE NA BREATAINE MÓIRE AGUS THUAISCEART ÉIREANN,

Ballstáit an Aontais Eorpaigh agus sínitheoirí Choinbhinsiún an 26 Iúil 1995 arna dhréachtú ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpaí maidir le húsáid theicneolaíocht an eolais chun críocha custaim, dá ngairtear “an Coinbhinsiún” anseo feasta,

AG FÉACHAINT dá thábhachtaí atá sé an Coinbhinskiún a chur i bhfeidhm go luath;

DE BHRÍ nach goiscfidh forálacha Theideal VI den Chonradh ar an Aontas Eorpaí, de bhun Airteagal K.7 den Chonradh sin, comhar níos dluithte idir dhá Bhallstát nó níos mó a thionscnamh ná a fhorbairt a mhéad nach mbeadh an comhar sin i na shárú ná ina bhac ar an gcomhar dá bhforáiltear i dTeideal VI den Chonradh sin,

DE BHRÍ nach mbeadh an Coinbhinskiún a chur i bhfeidhm go sealadach idir Bhallstáit áirithe den Aontas Eorpaí ina shárú ná ina bhac ar an gcomhar dá bhforáiltear i dTeideal VI den Chonradh ar an Aontas Eorpaí,
Aireagáil 1

Chun críocha an Chomhaontaíthe seo:

— ciallaíonn “Coinbhinsiúin” an Coinbhinsiúin arna dhréachtú ar bhonn Aireagáil K.3 den Chonradh ar an Aontas Eorpach maidir le húsáid theicneológhacht an eolais chin críocha custaim,

— ciallaíonn “Ardpháirtithe Conarthacha” na Ballstátid den Aontas Eorpach is páirtithe sa Chomhaontú,

— ciallaíonn “Páirtithe” na Ballstátid den Aontas Eorpach is páirtithe sa Chomhaontú seo.

Aireagáil 2

Beidh an Coinbhinsiúin infheidhmé go sealadach idir na hArdpháirtithe Conarthacha is páirtithe sa Chomhaontú seo amhail ón gcéad lá den tríú mí tar éis don ochtú Ardpháirtí Conarthach a dhéanann amhlaidh ionstraim formheasta, glactha nó daingnithe an Chomhaontaíthe seo a thaisceadh.

Aireagáil 3

Na foráilacha idirthreimhseacha is gá chun an Coinbhinsiúin a chur i bhfeidhm go sealadach, déanfaidh na hArdpháirtithe Conarthacha sin a mbeidh an Coinbhinsiúin infheidhmé go sealadach eatarthu iad a ghlacadh de thoil a chéile i gcomhair na hArdpháirtithe Conarthacha eile. Fad atá an cur i bhfeidhm sealadach ann, feidhmíodh na hArdpháirtithe Conarthacha, ag gnóamh doibh de thoil a chéile i ndlúthchomhlachas le Coimisiún na gComhpheobal Eorpach, feidhmanna an choiste dá bhforáiltear in Aireagáil 16 den Choinbhinsiúin. Ní dhéantar Aireagal 7(3) agus 16 den Choinbhinsiúin a chur chun feidhm sa tréimhse sin.

Aireagáil 4

1. Beidh an Comhaontú ar oscailt chun a shíniú ag Ballstáit a shíniúonn an Coinbhinsiúin. Beidh sé faoi réir a fhormheasta, a ghlaictha nó a dhaingnithe. Tiocfaidh sé i bhfeidhm ar an gcéad lá den tríú mí tar éis don ochtú Ardpháirtí Conarthach a dhéanann amhlaidh a ionstraim formheasta, glactha nó daingnithe a thaisceadh.

2. I gcás Ardpháirtí Conarthach a ionstraim formheasta, glactha nó daingnithe a thaisceadh ar dháta níos déanaí, tiocfaidh an Comhaontú seo i bhfeidhm ar an gcéad lá den tríú mí tar éis dó an ionstraim sin a thaisceadh.

3. Taiscear na hionstraimí formheasta, glactha nó daingnithe le hArdrúnaí Chomhairle an Aontais Eorpaigh. Feidhmíodh sé feidhmanna an taiscí.

Sch. 7

Airteagal 5

Tarraingiódh an Comhaontú seo suas i scribhinn bhunaidh amháin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phor-taingéillis, sa Spáinnis agus sa tSualainnis agus comhúdarás ag gach ceann de na téacsanna sin; taiscfear é le hArdrúnaí Chomhairle an Aontais Eorpaigh agus cuirfidh sé cóip dheimhnithe chuig gach ceann de na Páirtithe.

Airteagal 6

Rachaídh an Comhaontú seo in éag ar theacht i bhfeidhm don Choinbhinsiúin.
EIGHTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE 1996 PROTOCOL

PRÓTACAL, ARNA DHRÉACHTÚ AR BHONN AIRTEAGAL K3 DEN CHONRADH AR AN AONTAS EORPACH, MAIDIR LE LÉIRIÚ, TRÍ RÉAMHRIALÚ, AG CÚIRT BHRÉITHIÚNAIS NA gCOMPHOBAL EORPACH AR AN gCOINBHINSIÚN MAIDIR LE hÚSAID THEICNEOLAÍOCHT AN EOLAS CHUN CRÍOCHA CUSTAIM

TÁ NA hARDPÁIRITHE CONARTHACHA,

TAR ÉIS COMHAONTÚ ar na forálacha seo a leanas a chuirfear i gceangal leis an gCoinbhinsiúin:

Airteagal 1

Beidh dlinse ag Cúirt Bhreithiúnais na gComphobal Eorpach, faoi na coinnollacha atá leagtha síos sa Prótacal seo, chun réamhrialuithe a thabhairt ar léiriú ar an gCoinbhinsiúin maídir le húsaid theicneolaíocht an eolais chun críocha custaim.

Airteagal 2

1. Féadfadh aon Bhallstát, trí dhearbhú a dhéanamh tríth sínithe an Prótacail seo nó aon tríth eile ina dhiúdhsin, glacadh le dlinse Chúirt Bhreithiúnais na gComphobal Eorpach chun réamhrialuithe a thabhairt ar léiriú ar an gCoinbhinsiúin maídir le húsaid theicneolaíocht an eolais chun críocha custaim faoi na coinniollacha atá sonraithe i bpointe (a) de mhír 2 nó i bpointe (b) de mhír 2.

2. Féadfadh Ballstát a dheanann dearbhú faoi mhír 1 a shonru:

(a) go bhféadfadh aon cheann de chúirteanna nó binsi an Bhallstát sin nach bhfuil leigheas breithiúnaíoch faoin dí náisiúnta in aghaidh a bhreithianna a iarraidh ar Chúirt Bhreithiúnais na gComphobal Eorpach réamhrialú a thabhairt ar cheist a ardaítear i gcás atá ar feithéamh os a chomhghair agus a bhaineann le léiriú ar an gCoinbhinsiúin maídir le húsaid theicneolaíocht an eolais chun críocha custaim má mheasann an chúirt nó an binse sin gur gá breith a thabhairt ar an gceist ionas go bhféadfadh sé breithiúnas a thabhairt; nó

(b) go bhféadfadh aon cheann de chúirteanna nó binsi an Bhallstát sin a iarraidh ar Chúirt Bhreithiúnais na gComphobal Eorpach réamhrialú a thabhairt ar cheist a ardaítear i gcás atá ar feithéamh os a chomhghair agus a bhaineann le léiriú ar an gCoinbhinsiúin maídir le húsaid theicneolaíocht an eolais chun críocha custaim má mheasann an chúirt nó an binse sin gur gá breith a thabhairt ar an gceist ionas go bhféadfadh sé breithiúnas a thabhairt.

Airteagal 3

1. Beidh an Prótacal ar Reacht Chúirt Bhreithiúnais na gComphobal Eorpach agus Rialacha Nóis Imeachta na Cúirte Breithiúnais sin innfeidhme.
No. 2.  

Sch. 8

2. I gcomhréir le Reacht Chúirt Bhreithiúnais na gComhphobal Eorpach, beidh gach Ballstát, bíodh nó ná bíodh dearbhú de bhun Airteagal 2 déanta aige, i dtideál ráitis cháis nó barúlacha a scríobhinn a thíolacadh do Chúirt Bhreithiúnais na gComhphobal Eorpach i gcásanna a thagann chun cinn foí Airteagal 1.

Airteagal 4

1. Beidh an Prótacal seo faoi réir a ghlactha ag na Ballstát i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstát in iúl don taiscé go bhfuil na nósanna imeachta is gá faoína rialacha bunreachtúla faoi seach chun an Prótacal seo a ghlacadh comhlionta agus cuirfidh siad in iúl dó freisin aon dearbhú arna dheanamh de bhun Airteagal 2.

3. Tiocfaidh an Prótacal seo i bhfeidhm nócha lá tar éis don fhógra dá dtagraítear i mír 2 a bheith tugtha ag an Stát, is Ballstát den Aontas Eorpach tráth na Comhairle do ghlaicadh an Ghnímh ag dréachtú an Phrótaicil seo, is déanaí a dheanfaidh an beart sin. Ar a shon sin, tiocfaidh sé i bhfeidhm ar a luaíthe san am céanna leis an gCoimbhinsíún maidir le húsáid theicneolaíocht an eolais chun críocha custaim.

Airteagal 5

1. Beidh aontachas leis an bPrótacal seo ar oscaílt d’ao Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach.

2. Taiscefar na hionstraimí aontachais leis an taiscí.

3. Is tánaidh údarásach tánaidh an Phrótaicil seo i réimse an Stáit aontaigh, arna dhreachtú le Comhairle an Aontais Eorpaigh.

4. Tiocfaidh an Prótacal seo i bhfeidhm i leith an Stáit aontaigh nócha lá tar éis dó a ionstraim aontaigh a theachadh nó ar dháta an Phrótaicil seo a theacht i bhfeidhm mura mbéidh sé tagtha i bhfeidhm fós tráth na tréimhse nócha lá thuasluaite a dhul in éag.

Airteagal 6

Aon Stáit a thagann chun bheith ina Bhallstát den Aontas Eorpach agus a aontaíonn don Choinbhinsíún maidir le húsáid theicneolaíocht an eolais chun críocha custaim i gcomhréir le hAirteagal 25 de, glacfaidh sé le forálacha an Phrótaicil seo.

Airteagal 7

1. Féadfaidh gach Ballstát is Ardpháirtí Conarthaí leasuithe ar an bPrótacal seo a mholaídh. Cuirfear gach togra do leasú chuig an taiscí agus cuírfidh seisean in iúl don Chomhairle é.

2. Glacfaidh an Chomhairle na leasuithe agus molfaidh sí iad lena nglaicadh ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.
3. Tiocfaidh na leasuithe ar na nglacadh amhdaidh i bhfeidhm i Sch. 8 gcomhréir le hAibreagal 4.

Aibreagal 8

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Phrótaicail seo.

2. Foilseoidh an taiscí in Iris Oifigiúil na gComhphobal Eorpach fógraí, ionstraimí agus cumarsáidí a bhaíneann leis an bPrótaicail seo.

Arna dheanamh sa Bhruiséil, an naóú lá is fiche de Shamhain, mile naoi gcéad nócha a sé, i scríbhinn bhunaidh amháin sa Bhéarla, sa Dámnhainn, sa Fhillainnis, sa Fhraincis, sa Ghairmínis, sa Ghreigis, sa Iodáilis, sa Ollainnis, sa Phortaingéilis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag gach ceann de na téeasanna sin.
THE TEXT IN THE IRISH LANGUAGE OF THE CUSTOMS COOPERATION CONVENTION

AN COINBHINSIÚN, ARNA DHRÉACHTÚ AR BHONN AIRTEAGAL K3 DEN CHONRADH AR AN AONTAS EORPAIGH, MAIDIR LE CÚNAMH FRITHPHÍRTEACH AGUS COMHAR IDIR RIARACHÁIN CHUSTAIM

TÁ NA hARDPHÁIRÍTITHE CONARTHACHA sa Choinbhinsiúin seo, Ballstáit an Aontais Eorpaigh,

AG TAGAIRT do Ghniomh ó Chomhairle an Aontais Eorpaigh an 18 Nollaig 1997;

AG MEABRHÚ DÓIBH an gá na gealltanais a neartú atá sa Choinbhinsiúin maidir le riaracháin chustaim do sholáthar cúnamh frithpháirtíseach arna shiníú sa Róimh ar an 7 Meán Fómhair 1967;

DE BHRÍ go bhfuil riaracháin chustaim freagrach, ar chríoche chustaim an Chomhphobail agus go hairithe ag a pointí iomtrála agus fágála, as cionta nó amháin in aghaidh rialacha an Chomhphobail ach in aghaidh dtiúth théisiúnta freisin, go háirithe na básanna atá folaithe ag Airteagail 36 agus 223 den Chonradh ab fhunú an Chomhphobail Eorpaigh, a chosc, a imscruí agus a chur faoi chois;

DE BHRÍ gur bagairt tromchuíseach don tslainte phoiblí, don mhoráiltacht phoiblí agus don tslándáil phoiblí an treocht atá ag teacht chun cinn ionsar gháinneáil aindeachtach de gach saghas;

DE BHRÍ gur cóir foirmeacha sonracha chomhair a rialú lena ngabhfhadh gniomhaoichchtaí trasnsearain d'thonn sárruithe áirithe ar reachtaiochta náisiúnta na mBallstát agus rialacháin chustaim an Chomhphobail ar aon a chosc, a imscruí agus a ionchuíseamh agus de bhri nach foráir gniomhaoichchtaí trasnsearain den sórt sin a dhéanamh in gceannai g'Chomhphobail na dtiúthlauchtá (an dtí ábhartha is inifeidhme sa Bhallstát iartha agus treoracha údaráis inniúla an Bhallstát sin a chomhlíonadh), na coimheadh (gan tús a chur le gniomhaoichchtaí den sórt sin a chuirtear in iomchuí forimheacha eile gniomhaoichchta ar lú a suntas) agus na comhréireachta (scála agus faid na gniomhaoichchta a chinneadh i bhfianaise thromchuí an tsáraithe a thoimhniú i gcoimhdeacht)

ÓS DEIMHIN LEO gur gá an comhar idir riaracháin chustaim a athnartú trí nósaanna imeachta a leagan sios faoi bhotheadfáidh riaracháin chustaim gniomhú go comhpháirtíseach agus sonraí a mhahartú a bhaininn le gniomhaoichchtaí gáinneála aindeachtach;

AG COIMEAD I gCUIMHNE DÓIBH go mbionn ar na riaracháin chustaim ina n-obair laethúil idir fhórálacha an Chomhphobail agus fhórálacha náisiúnta a chur chuinn féidhme agus go bhfuil, dá dheasca sin, riachtanas follasach ann a áirithe go bhfabhraíonn na foráil sa chaitheamh le cúnamh frithpháirtíseach agus comhar sa dá earráil go comhthreomhar a mhead is féidir,

TAR ÉIS COMHAONTÚ AR NA FORÁILCHA SEO A LEANAS:
Aisceagal 1

Raon feidhme

1. Gan dochar d’inniúlachtaí an Chomhphobail, cuirfidh Ballstáit an Aontais Eorpaigh cúnaimh frithpháirteach ar fáil dá chéile agus comhoibreoidh siad le chéile trína riarcháin chustaim d’fhonn:

— sáruithe ar hförálacha násiúnta custaim a chosc agus a bhrath, agus

— sáruithe ar hförálacha custaim an Chomhphobail agus förálacha násiúnta custaim a ionchuíseamh agus a phionósú.

2. Gan dochar d’Aisceagal 3, ní dheanfaidh an Coinbhinsíún seo difear do na förálacha is infeidhme maird le cúnaimh frithpháirtiach in ábhair choiriúla idir údaráis bhreithiúnach, d’hörálacha nós fabhraí i gcomhaontuithé déthaobhacha nó Íthaobhacha idir Ballstáit a rialaionn an comhar dá bhosraítear i mór 1 idir údaráis chustaim nó údaráis inniúla eile na nBallstáit, ná do shocrúithi sa réimse céanna arna ggeomhaontú ar bhonn reachtaiochta comhionainne nó córais speisialta lena bhforaítear bearta cúnaimh fhruitpháirtígh a chur i bhfeidhm go cómhalartach.

Aisceagal 2

Cumhachtáí

Cuirfidh na riarcháin chustaim an Coinbhinsíún seo i bhfeidhm laistigh de theoirainneacha na gcumhachtá a thugtar do fhörálacha násiúnta. Ní fhéadhar aon ní sa Choinbhinsíún seo a thugtar mar ní a dhéanann difear do na cumhachtát a thugtar faoi hförálacha násiúnta do na riarcháin chustaim de réir bhfr an Choinbhinsíún seo.

Aisceagal 3

Gaolmhairacht le cúnamh frithpháirtiach arna sholáthar ag na húdaráis bhreithiúnach

1. Folaíonn an Choinbhinsíún seo cúnamh frithpháirtiach agus comhar faoi chuisiú na n-imscruísithe coiriúla maidir le sáruithe ar hförálacha násiúnta custaim agus förálacha custaim an Chomhphobail a bhfuil dílnse ag an údarás iarrrachta ina leith ar bhonn hförálacha násiúnta an Bhallstáit abhartha.

2. Nuair a dhéanann údaráis breithiúnach imscruidh coiriúl nó nuair a dhéantar imscruidh coiriúl faoi na stúir, cinnfidh an t-údarás sin an dtuolcaí thereacht ar chúnamh frithpháirtiach nó ar chomhar maidir leis sin ar bhonn na bhförálacha is infeidhme maird le cúnamh frithpháirtiach in ábhair coiriúla nó ar bhonn an Choinbhinsíùin seo.

Aisceagal 4

Sainmhíniithe

Chun críocha an Choinbhinsíùin seo, beidh feidhm ag na sainmhíniithe seo a leasann:

1.—“förálacha násiúnta custaim”: fürálacha reachtaiochta, rialúcháin agus riarcháin uile de chuid Ballstáit a dtagann a gcur i

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bhfeidhm go hiomlán nó go páirteach faoi dhílnse riarachán custaim an Bhallstáit sin maird le:

— trácht trasteorann in earrá atá faoi réir toirmeasc, srianta nó rialuithe, go háirithe faoi Aírteagail 36 agus 223 den Chonradh ag bunú an Chomhphobail Eorpaigh;

— dleachtanna máil neamh-chomhchuibhithe;

2.—“forálacha custaim an Chomhphobail”:

— bailiúchán fhorálacha an Chomhphobail, agus forálacha cur chun feidhme a bhaineann leo, a rialaíonn allmhairiú, onnmhairiú, idirthuras agus láithreacht earrai arna dtrádaí idir Ballstáit agus tríú tóirtha, agus idir Ballstáit i gcás earraí nach bhfuil stádas Comhphobail acu de réir bhí Aírteagal 9(2) den Chonradh ag bunú an Chomhphobail Eorpaigh nó earraí atá faoi réir rialuithe nó imscrúdúithe breise chun a stádas Comhphobail a bhunú;

— bailiúchán na bhforálacha arna nglacadh ar leibhéal an Chomhphobail faoin gcomhbheartas talmhaíocht agus na forálacha sonracha arna nglacadh i ndáil le hhearrail a thig ó tháirgí talmhaíochta a phróiseáil;

— bailiúchán na bhforálacha arna nglacadh ar leibhéal an Chomhphobail maidir le dleachtanna comhchuibhithe máil agus le cáin bheartala ar allmhairiú mar aon leis na forálacha náisiúnta á geur chun feidhme;

3.—“sáruithe”: gníomhartha atá codarsnach le forálacha náisiúnta custaim nó forálacha custaim an Chomhphobail, lena n-aíirtear, inter alia:

— rannpháirtiocht i sáruithe den sórt sin nó in iarrachtaí ar sháruithe den sórt sin a dheánamh;

— rannpháirtiocht in eagraíocht chóiríúil a dhéanann sáruithe den sórt sin;

— scúíradh an airgid a thig ó na sáruithe dá dtagraítear sa mhír seo;

4.—“cúnamh frithpháirteach”: riaracháin chustaim do sholáthar cúnamh mar a tharlaítear sa Choinbhinsiuín seo;

5.—“údarás iarrthach”: an t-údarás inniúil de chuid an Bhallstáit a dhéanann iarraidh ar chúnamh;

6.—“údarás iarrtha”: an t-údarás inniúil de chuid an Bhallstáit a ndéantar iarraidh ar chúnamh air;

7.—“riaracháin chustaim”: údaráis chustaim na mBallstáit agus údarás eile a bhfuil dílnse acu chun forálacha an Choinbhinsiuín seo a chur chun feidhme;

8.—“sonraí pearsanta”: gach básáistí a bhaineann le duine nádúrtha sainaitheanta nó atá insainaítheanta; meastar go bhfuil duine insainaítheanta más féidir é a shainaítheacht go díreach nó go hídirrach, inter alia trí uimhir aitheantais nó trí shaintréith nó saintréithe dá chéannacht fhísiceach, fhíseoláích, shíceoláích, eacnamaíoch, chultúrtha nó shóisialta;

9.—“comhar trasteorann”: comhar idir riaracháin chustaim thar theorainneacha gach Ballstáit.
Láraonaid chomhordaithe

1. Ceapfaidh na Ballstáit láraonad (aonad comhordaithe) ina n-údaráis chustaim. Beidh sé freagrach as gach iarratas ar chúnamh frithpháirteach faoin gCoinbhinsíníonn seo a ghlacadh agus as cúnamh frithpháirteach a chomhordú, gan dochar do mhír 2. Beidh an t-aonad freagrach freisin as an gcomhar le húdaráis eile atá i gceist i mbeart cúnamh faoin gCoinbhinsíníonn seo. Coinneoidh aonaid chomhordaithe na mBallstát an teamhmháil dhíreach is gá le cheile, go háirithe sna cásanna atá folaithe i dTeideal IV.

2. Ní easiafaidh gniomhaíocht na láraonad comhordaithe, go háirithe tráth éigeanhóla, comhar díreach idir seirbhísí eile de chuid údaráis chustaim na mBallstát. Ar chúiseanna éifeachtaí agus comhchuibhis, cuirfear na láraonaid chomhordaithe ar an eolas faoi an ghníomhaíocht lena ngabhfaidh comhordaithe freisin as an gcomhar le húdaráis eile atá in iomlán faoi an eolas.

3. Mura mbeidh údaráis custaim inniúil, nó mura mbeidh sé inniúil go hiomlán, chun iarraidh a phróiseáil, díreach an láraonad comhordaithe an iarraidh chuig an údaráis náisúnta inniúil agus cuirfíd Ísé an t-údaráis iarraidh chuig an u´ dara´sn a´isino'nta inniúil agus cuirfíd sé an t-údaráis iarraidh chuig an eolas go bhfuil sin deanta aige.

4. Mura féidir gíiseadh d'iarraidh ar chúiseanna dhú nó mura chúiseanna substainteacha, cuirfíd sé an t-údaráis iarraidh chuig an údaráis iarraidh mar aon le minicúchán ar na chúiseanna nárthbh fhéidir an iarraidh a phróiseáil.

Oifigigh liaison

1. Féadfaidh Ballstáit comhaontuithe a dhéanamh eatarthu féin maidir le hoifigigh liaison a mhalartú go ceann tréimhsí teoranta nó neamhtheoranta, i gcomhréir le coinníollacha arna gcomhaontú go frithpháirteach.

2. Ní bheidh aon chumhachtaí idirghabhála ag oifigigh liaison sa tír aíochta.

3. D’fhonn an comhar idir riaracháin chustaim na mBallstát a chur ar aghaidh, féadfaidh oifigigh liaison, le comhaontú údaráis inniúil na mBallstát nó arna iarraidh sin do na húdaráis inniúla sin, nuad-gais seo a leanas a bhfeidh a chur orthu:

(a) an malartú faoiirse idir na Ballstát a chur ar aghaidh agus a bhrostú;

(b) cúnamh a thabhairt in imscruideithi e na bhainean lena mBallstát féin nó leis an mBallstát a ionadaíonn siad;

(c) tacaisocht a thabhairt chu mór le hiarrataí ar chúnamh;

(d) comhairle agus cúnamh a thabhairt don tír aíochta maidir le hoibríochtaí trasteorann a ullmhu agus a chur i gúr;  

(e) aon dualgais eile a chur a bhféadfaidh na Ballstát comhaontú eatarthu féin.

4. Féadfaidh na Ballstáit comhaontú go déthaobhach nó go híltaobhach ar théarmaí tagartha agus ar shuíomh na n-oifigeach liaison. Féadfaidh oifigigh liaison freisin leasanna Ballstát amhain nó níos mó a ionadú.
Aitreagal 7

Oibleágaíd an chéannacht a chruthú

Mura bhforáiltear a mhalairt sa Choinbhinsíün seo, beidh oifigigh de chuid an údaráis iarrthaigh atá i mbhallstát eile chun na cearta atá leagtha sós sa Choinbhinsíün seo a theagmháil in ann i gcónaí údaráis i scribhinn a thabhairt ar aird a shonraíonn a gcéannacht agus a bhfeidhmeanna oifigiúla.

TEIDEAL II — CÚNAMH AR É A IARRAIDH

Aitreagal 8

Prionsabail

1. Chun an cúnamh is gá faoi Teideal seo a chur ar fail, gníomhóidh an t-údaráis iarrtha nó an t-údaráis inniúil ar dhúigh sé an iarraidh chuige amhail is dá mbeadh sé ag gníomhú thar a cheann féin nó ar iarraidh ó údaráis eile ina Bhallstát féin. Lena linn sin, bainfidh sé leas as na cumhachtaí dlíthiúla uile atá ar fáil dó faoi chuimsíú a dhí náisiúnta chun an iarraidh a fhreagraír.

2. Cuirfidh an t-údaráis iarrtha an cúnamh sin i mbaint le himthosca uile an tsaráith a bhfuil aon bhaint inaithenta aige le hábhhar na hiarrata ar chúnamh gan gá a bheith le hiarraidh sa bhreis chuige sin. Má tá amhras ann, rachaidh an t-údaráis iarrtha i dtógadh i dtosach báire leis an údaráis iarrthach.

Aitreagal 9

Foirm agus inneachar na hiarrata ar chúnamh

1. Déanfar iarrataí ar chúnamh i scribhinn i gcónaí. Beidh na doiciméid is gá chuimh se na hiarrataí sin a fhorgnóimhú in éineacht leis an iarraidh.

2. Cuimseoidh na hiarrataí arna ndéanamh de bhun mhír 1 an fhaisnéis seo a leanas:

(a) an t-údaráis iarrthach atá ag déanamh na hiarrata;

(b) an beart arna iarraidh;

(c) críoch agus cúis na hiarrata;

(d) na dlíthe, na rialacha agus na forálacha dlí eile atá i gceist;

(e) sonraí chomh cruinn cuimsitheach agus is féidir ar na daoine nádúrtha nó dlítheanacha is ábhar do na himscruíúithe;

(f) achoimre ar na fiorais ábhartha, seachas na cáisanna dá bheartaítear in Aitreagal 13.

3. Tiolafar iarrataí i dtéanga oifigiúil de chuid Bhallstát an údaráis iarrthach nó i dtéanga is inghlactha ag an údaráis sin.
4. Glacliú le hiarrataí ó bhéal na n-áirí sin a chuireann príomha Sch.9 ach ní mór iad a dhaingniú i scribhinn a luaithi is féidir.

5. Mura gcomhallann iarraidh na ceanglaí fhoirmiúla, féadfaidh an t-údarás iarrth a iarraidh go ndéantar i a cheart nó a chomhláin; féadfar bearta a dhéanamh idir an dá linn atá riachtanach chun an iarraidh a chomhliomadh.

6. Comhantóídh an t-údarás iartha níos imeachta a chúrt a chur i bhfeidhm agus an iarraidh á freagraí aige ar choinníoll nach bhfuil an níos imeachta sin codarach na forálacha dlí agus riarthacha an Bhallstáit iartha.

**Airteagal 10**

**Iarrataí ar fhaisnéis**

1. Arna iarraidh sin don údarás iarrradh, páirteoidh an t-údarás iartha gach faisnéis leis chun gur féidir leis sáruithe a chos, a bhrath agus a ionchuíseamh.

2. Beidh in éineacht leis an bhfaisnéis arna páirtiú tuarsacha agus doiciméid eile, nó céipéenna deimhnithe díobh nó sléacht astu, ar a bhfuil an faisnéis sin bunaithe agus atá i seilbh an údarás iartha nó a tugadh ar aird nó a fuarthas d’fhonn an iarraidh ar faisnéis a thabhairt.

3. Trí chomhaontú idir an t-údarás iartha agus an t-údarás iartha, féadfaidh oifigí ar na n-údarú ag an údarás iarrradh, faoi réir teagasc mionsonraithe ón údarás iartha, faisnéis a thabhairt de bhun mhír 1 o oifigi an Bhallstáit iartha. Beidh feidhm aige sin mar d'fhéadfadh an t-údarás iartha a fhorghníomhnut.

**Airteagal 11**

**Iarrataí ar fhaisreachán**

Arna iarraidh sin don údarás iarrradh, déanfaidh an t-údarás iarrradh a mhéad is féidir faire speisialta, nó cuírfidh sé faoi dearra go ndéanfar faire speisialta, ar dhaoine tuairim atá forais thromchúiseach lena chreidiúint go bhfuil sáru déanta acu ar fhorálacha custaim an Chomphobail nó forálacha custaim náisiúnta nó go bhfuil sáru á dhéanamh acu orthu nó go bhfuil bearta ullmhuighcháin curtha i gcúirt acu d’fhonn sáruithe den sórt sin a dhéanamh. Arna iarraidh sin don údarás iarrradh, déanfaidh an t-údarás iarrradh faire freisin ar aítanna, ar chórsaí oibrithe agus ar earrá é a bhuíl baint acu le gníomhaíochtaí a d’fhéadfadh bheith ina sáru ar na forálacha custaim thuasluaite.

**Airteagal 12**

**Iarrataí ar fhiosruachán**

1. Déanfaidh an t-údarás iarrradh, arna iarraidh sin don údarás iarrradh, fiosruachán iomchuí, nó cuírfidh sé faoi dearra go ndéanfar fiosruachán iomchuí, ar oibríochtaí ar sáruithe iad nó ar cosúil don údarás iarrradh gur sáruithe iad.

Páirteoidh an t-údarás iarrradh torthaí na bhfiosruachán sin leis an údarás iarrradh. Beidh feidhm mutatis mutandis ag Airteagal 10(2).
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2. Trí chomhaontú idir an t-údarás iarrthach agus an t-údarás iarrtha, féadfaidh oifigigh ar na gceapadh ag an údarás iarrthach bheith i láthair ag na fiosrúcháin dá dtagraítear i mB 1. Is oifigigh de chuid an údarás iarrtha a dhéanfaidh na fiosrúcháin i gcónaí. Nó fhéadfaidh oifigigh an údarás iarrthaigh, ar a dtionscnamh féin, na cumhachtaithe a thugtar d’oifigigh an údarás iarrtha a ghabháil orthu féin. Ar a shon sin, beidh rochtain acu ar an áitreabh céanna agus ar na doiciméid chéanna atá ag oifigigh an údarás iarrtha a bhain a n-aon ná eolais a fháil sa phríomhchúiseán atá á dhéanamh agus chuige sin amháin.

Airteagal 13

Fógra

1. Arna iarraidh sin don údarás iarrthach, tabharfaidh an t-údarás iarrtha, i gcomhreir le rialacha na náisiúnta an Bhallstáit ina bhfuil sé bunaithe, fógra don seolaí nó curfidh sé faoi deara go dtábhachar fógra dó, faoi na hionstraimé nó na cinní uile a thagann ó údarás inniúla an Bhallstáit a bhfuil a shuíomh ag an údarás iarrthach ann agus a bhainnann leis an gCoinbhinsíün seo a chur i bhfeidhm.

2. Beidh in éineacht le hiarrataí ar fhógra, a luann ábhar na hionstraimé nó an chinnidh a bhfuil fógra le tabhairt ina thaobh, aistriú- chán i dteanga ofíigiúil nó i gcéanna de theangacha ofíigiúla an Bhallstáit ina bhfuil an t-údarás iarrtha bunaithe, gan dochar do cheart an údarás sin a úsáid d’úsáid mar fhianaise i gcomhreir leis an dlí náisiúnta.

Airteagal 14

Úsáid mar fhianaise

Féadfaidh comhlachtáí inniúla an Bhallstáit ina bhfuil an t-údarás iarrthach bunaithe cinntiú, deimhnithe, faisnéise, doiciméid, cóipeanna foirideimhnte agus páipéir eile ar na bhfáil i gcomhréir lena ndlí náisiúnta ag oifigigh an údarás iarrthach agus arna dtarchur chuig an údarás iarrthach sna cáisanna cúnaimh dá bhforáiltear in Aírteagail 10 go 12 a úsáid mar fhianaise i gcomhreir leis an dlí náisiúnta.
(b) gach faisnéis atá ina seilbh acu, agus go háirithe tuarascaíochtaí agus doicimeid eile nó cothromanna dhíse deimhnithe diobh nó sleachta astu, a bhaineann le hoibríocht a bhfuil baint acu le cion arna bheartú nó arna dhéanamh, a pháirtiú le húdaráis inniúla na mBallstát eile i dtrácht.

**Airtéagal 17**

**Faisnéis spontáineach**

Cuirfidh údaráis inniúla gach Ballstáit láithreach chuig údaráis inniúla na mBallstát eile i dtrácht gach faisnéis ábhartha a bhaineann le cionta arna mbheartú nó arna ndéanamh agus go háirithe faisnéis faoi na hearraí i gceist agus modhanna agus meáin nua Chun cionta den sórt sin a dhéanamh.

**Airtéagal 18**

**Úsáid mar fhianaise**

Tuarascáilacha faireacháin agus faisnéis arna bhfáil ag oifigigh de chuid Ballstáit amháin agus arna bpáirtíú le Ballstáit eile i gcúrsa an chúnaimh spontáineach dá bhforaítear in Airtéagal 15 go 17, féadfaidh comhlachtai inniúla an Bhallstáit a ghlacann an fhaisnéis iad a úsáid mar fhianaise, i gcomhréir leis an díl náisiúnta.

**TEIDEAL IV — FOIRMEACHA SPEISIALTA COMHAIR**

**Airtéagal 19**

**Prionsabal**

1. Rachaidh riaracháin chustaim in mbun comhair thrasteorann i gcomhréir leis an Teideal seo. Soláthróidh siad dá chéile an cúnamh is gá i ndáil le foireann agus tacaiocht eagrúcháin. Is i bhfoirm iarrataí ar chúnaimh i gcomhréir le hAirteagal 9 a bheidh iarrataí ar chomhhar, de ghnáth. I gcásanna sonracha dá dtagraítear sa Teideal seo, féadfaidh oifigigh den údarás iarrthach gabhail le gníomhamhachtaí ar chríoch an Stáit iarrtha, le formheas an údarás iarrthaigh.

   Is iad na lárnaicí chomhordaithe i gcomhréir le hAirteagal 5 a bheidh freagrach as oibríochtaí trasteorann a chomhordú agus a phleanáil.

2. Ceadófar comhair trasteorann de réir bhrí mhír 1 chun sárutithe a chosc, a imscrúdú agus a ionchúiseamh i gcásanna ina bhfuil:

   (a) gásneáil inđleathach drugaí agus substaintí siceátrópacha, arm, muinisean, ábhar pléascach, earrái cultúrtha, dramhafola contúirtí agus tocsainí, ábhair núcéléach nó ábhar nó trealaimh atá ceaptha chun airm adhamaíche, bhíttheolaisocha agus/nó cheimiceacha (earrái toirmiscthe) a dhéanamh;

   (b) trádáil i substaintí atá liostaíthe i d'Áirbháil I agus II de Choinbhhinsiúin na Náisiúin Aontaíthe i geoinne gásneáil neamhdhleathach drugaí támhshuanacha agus substaintí siceátrópacha agus atá ceaptha chun drugaí a dhéanamh go neamhdhlichthuill (substaintí réamhtheachtach a)

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(c) trádáil thráchtálaích neamhduilthiúil trasteorann in earraí

inchánach chun cain a imghabháil nó chun iocaíochtaí

Stáit neamhduaraíthe a fháil i ndáil le hhearrfáil a allmhairiú

nó a onnmhairiú, nuair atá an trádáil agus an fiontar a bhaineann

le caíochtaí agus deontais chomh mór sin gur tábhachtach na gComhphobal Eorpach nó na mBallstát;

(d) aon trádáil eile in earraí atá toirmiscthe ag rialacha

custaim an Chomhphobail nó rialacha custaim náisiúnta.

3. Ní bheidh de cheangal ar an údaráis iarrtha tús a chur leis na

foirmeacha sonracha comhair dá dtagraítear sa Teideal seo mura

gceadaítear faoi dhlí náisiúnta an Bhallstát iarrthta an saghas imscrú-

daithe a iarrtar nó mura bhforáiltear ann dó. Sa chás sin, beidh an

t-údaráis iarrthach i dteideal an saghas comhfhréagrach comhair thra-

steorann a dhiúlú ar na cúiseanna céanna ina mhalaíocht de chás, nuair a

iarrann údaráis de chuid an Bhallstát iarrthtaigh é.

4. Más gá faoi dhlí náisiúnta na mBallstát, iarrfaidh na húdaráis

rannpháirteacha ar a n-údaráis bhreithiúnacha na híomhduíthe a

bheartaithe a fhormheas. Nuair a chuireann na húdaráis bhreithiún-

achna inniúla a bhformheas faoi réir coinniollacha agus ceanglas aíri-

the, féachfaidh an húdaráis rannpháirteacha chuige go n-urramótar

na coinniollacha agus na ceanglais sin in gcórsa na n-imscrúduithe.

5. Nuair a bhionn oifighigh de chuid Ballstát ag gabháil do ghníomh-

haoiachtá ar chriochh Bhallstát eile de bhua an Teidil seó agus go ndé-

anann siad damaíste trína ngníomhaíochtaí, déanfadh an Ballstát ar

ar a chriochn nár neachadh an damaíste e a shláintí g cleamhréir lena

reachtaíocht náisiúnta ar an dóigh chéanna is a dhéanfadh sé é é dá

mha iad a oifigigh féin a rinne an damaíste. Déanfadh an Ballstát a

ndearma a oifigigh an damaíste na suimeanna a d’ioc an Ballstát eile

sin do na daoine éagóiríthe nó do dhaoine nó insititúidí eile a bhfuil

teideal acu ina leith a aisíoch go hionmhláin leis.

6. Gan dochar d’fhheidhmíu a cheart i leith tríú páirtithe agus

d’áinneoin na hoibéalaighi de damaíste a shláinti de réir an dara habhairt

de mhír 5, staonfaidh gach Ballstát, sa chás dá bhforáiltear sa chéad

abairt de mhír 5, ó aisíoch as meid an damaíste a bhain dó a iarraidh

ar Bhallstát eile.

7. Faisnéis a fhaghlaim oifigigh le linn an chomhair thrasteorann

dá bhforáiltear in Aireagail 20 go 24, féadfaidh údaráis inniúla an

Bhallstát a ghlacann i an fhasnéis sin a úsáid mar fhianaise, i

gcleamhréir leis an dlí náisiúnta agus faoi réir coinniollacha aírite

arna leagan síos ag comhlachtai inniúla an Bhallstát ina bhfuarrhas

an fhasnéis.

8. I gcórsa na n-obriochtai dá dtagraítear in Aireagail 20 go 24,

tabharfar an choir choráin d’oifighigh ar misneach ar chriochh Bhallstát

eile a thugtar d’oifighigh an Bhallstát sin a mheád a bhaineann le

sáruithe a dhéantar ina geine nó a dhéanann siad.

**Aireagail 20**

**Dearthóir**

1. Oifighigh an iaracháin chustaim de chuid ceann de na Ballstát

atá ar thoir, ina dtir féin, duine a breathnaíodh i mbun ceann de na

sáruithe dátagraítear in Aireagail 19(2) a dhéanamh a bhféadfadh

eiseachadadh teacht as nó i mbun rannpháirtiú i sárú den sórt sin,
údarófar dóibh leanúint den tóir ar chríoch Bhallstát eile gan Sch.9 réamhúdarás nuair nárth fhéidir, ag féachaint do phráíonn áirithe na staide, fógra a thabhairt d’údarás inniúla an Bhallstát eile roimh iontráil ar an gcríoche fin nó nuair nár fhéad na húdarás sin an t-ionad a shroicheadh in am chun an tóir a ghlacadh ar láimh.

Rachaidh na hoifigigh throa i dteagmháil le húdarás inniúla an Bhallstát ar ar a chríoch a dhéanfar an tóir, ar a dhéanaí nuair a thrasnaíonn siad an teorainn. Cuirfear deireadh leis an tóir a luaithte a iarann an Ballstát ar ar a chríoch atá an tóir á déanamh é. Arna iarraidh sin do na hoifigigh thóra, cuirfidh údarás inniúla an Bhallstát sin forrán ar an duine a bhfuil an tóir air chun a chéannacht a shuíomh nó é a ghabháil. Cuirfidh na Ballstát an taiscé ar an eolas faoi na hoifigigh thóra a bhfuil feidhm ag an bhforáil seo maidir leo; cuirfidh an taiscé na Ballstát eile ar an eolas.

2. Déanfar an tóir i gcomhréir leis an nósanna imeachta seo a leanas, arna sainuí sa dearbhú dá bhforáiltear i mír 6:

(a) ní bheidh de cheart ag na hoifigigh thóra duine a ghabháil;

(b) ar a shon sin, mura n-iarrtar deireadh a chur leis an tóir agus mura féidir le húdarás inniúla an Bhallstát ar ar a chríoch atá an tóir á déanamh idirghabháil tapaidh go leor, féadfaidh na hoifigigh thóra an duine a bhfuil tóir air a ghabháil go dí gur féidir le hoifigigh an Bhallstát sin, nach folair a chur ar an eolas gan mhoill, a chéanna de nan dhuine a shuíomh nó é a ghabháil.

3. Déanfar an tóir i gcomhréir le míreanna 1 agus 2 ar cheann de na dógheanna seo a leanas mar a shainiú sa dearbhú dá bhforáiltear i mír 6:

(a) i limistear nó le linn tréimhse, amhail ón teorainn a tharsnú, atá le bunú sa dearbhú;

(b) gan an limistear ná an tréimhse a theorannú.

4. Beidh an tóir faoi réir na geoinniollacha ginearálta seo a leanas:

(a) déanfaidh na hoifigigh thóra forálacha an Airteagail seo agus dlí an Bhallstát ar ar a chríoch atá siad ag oibríú a chomhliomadh; déanfaidh siad de réir theagasca údarás inniúla an Bhallstát sin;

(b) nuair is ar muir a bhíonn an tóir, déanfar í i gcomhréir le dlí idirnáisiúnta na farraige mar atá i gCoinbhinsíún na Náisiún Aontaithe Maidir le dlí na farraige nuair a leantar di ar an muir mhóir nó sa limistear eacnamaíoch eisiach, agus i gcomhréir le forálacha an Airteagail seo nuair is ar chríoch Bhallstát eile a dhéantar í;

(c) toirmiscfear iontráil i dteaghasí príobháideacha agus in áiteanna nach bhfuil rochtain ag an bpobal orthu;

(d) beidh na hoifigigh thóra so-insainaitheanta, trína n-éide, trí armhanda nó trí ghabhálaí feistithe dá goir iompair; toirmiscfear éadaí sibhialta a úsáid in éineacht le cóir
(e) féadfaidh na hoifigigh thóra a n-armáin seirbhíse a iompar ach amháin (i) nuair atá dearbhú ginearálta déanta ag an mBallstát iarrtha nach féidir riamh armáin a iompar isteach ar a chrioch nó (ii) nuair atá a mhalaírt de chinniadh sonrach déanta ag an mBallstát iarrtha. Nuair a cheadaítear d’oifigg é Bhallstát eile a n-armáin seirbhíse a iompar, toirmiscear a n-úsáid ach amháin i gcásanna féinchosanta dílisceanaí;

(f) nuair a bheidh an duine a bhfuil tóir air gafa mar a tharlaítear i bpoinnt (b) de mhir 2, d’fhonn é a thabhairt ós comhair údaráis inniúla an Bhallstát ar a chrioch atá an tóir á déanamh, ní fhéadfaidh ach cuardach slándála a dhéanamh air; féadfaidh domhais a úsáid le linn do bheith á aistriú; féadfaidh earrá a bhí i seilbh an duine a raibh tóir air a urghabháil;

(g) tar éis gach oibríochta dá dtagraítear i míreanna 1, 2 agus 3, rachaidh na hoifigigh thóra i látair údaráis inniúla an Bhallstát ar a chrioch a bhí siad ag oibríocht agus tabharfaidh siad tuairisc ar a misean; arna iarraidh sin do na húdaráis sin, ní foláir dóbh fanacht ar láithne n-údaráis sin go dtí go ndéantar imthosca a ngníomhaíochta a shoiléirítear go leordhóthanach; beidh feidhm ag an gcoinnìoll seo fú nuair nach raibh de thoradh ar an tóir go ndearnadh an duine a raibh tóir air a ghabháil;

(h) arna iarraidh sin d’údaráis an Bhallstát ar ar a chrioch a tharlta an tóir, cabhróidh údaráis an Bhallstát ónár tháinig na hoifigigh thóra leis an bhfhiosrúcháin i ndiaidh na hoibríochta inar ghlac siad páirt, lena n-áirítear imeachtaí dí.

5. Féadfar duine a ghabhann údaráis inniúla an Bhallstát ar ar a chrioch atá an tóir á déanamh, tar éis na gniomhaíochtaí bhforáltear i mhir 2, a choimeáil, gan sleachta dá náisiúntacht, chun é a cheistitiú. Beidh feidhm mutatis mutandis ag na rialacha a bhí ann go dílis náisiúnta.

Mura náisiúntach den Bhallstát ar ar a chrioch a gabhadh é an duine, scoailtear saor é trí tháth nach déanaí ná sé huaire an chlog tar éis a ghabhála, gan na huairéanta idir meánoiche agus 09.00 a 16.00 leo, mura mbeidh iarraidh ar a ghabháil shealadach chun crioch eiseachadta i bhfoirm éigin faighte roimhe sin ag údaráis inniúla an Bhallstát sin.

6. Ar shíniú an Choinbhinsiuín seo dó, déanfaidh gach Ballstát dearbhú ina saingeoidh sé, ar bhonn mhíreanna 2, 3 agus 4, na nösanna imeachta chun an tóir a chur chun feidhme ar a chrioch.

Féadfaidh Ballstát tráth ar bith dearbhú eile a chur in ionad an dearbhaithe sin, ar choinnioll nach srianfaidh sé raon feidhme an tseandearbhaithe.

Déanfar gach dearbhú tar éis dul i geomhairle le gach ceann de na Ballstát i dtrácht agus d’fhonn scoirthe coibhéiseacha a fháil sna Ballstát sin.
7. Feadfaidh Ballstáit, ar bhonn déthaobhach, raon feidhme mhír Sch.9
1 a leathnú agus forálacha breise a ghlacadh chun an tAireagal seo
a chur chun feidhme.

8. Agus ionstraimi glactha an Choibhinsiuín seo á dtaisceadh
aige, feadfaidh Ballstáit a dhearbhdh nach bhfuil an tAireagal seo, nó
cuíd de, ina cheangal air. Feadfar dearbhú den sórt sin a tharraingt
star tráth ar bith.

**Aireagal 21**

_Faireachán trascearann_

1. Udarófar d’oifigigh riaraíochtaí chustaim de chuid ceann de na
Ballstáit a bhfuil daoine a bhfuil forais tromchúiseacha ann lena
chreidiúint ina leith go bhfuil siad i dtreis i gceann de na sárúithe dá
dtgraifeár in Aireagal 19(2) á gcóimeád faoi bhreathnú acu ina dtír
féin leánuin dá mbreathnú ar chrioch Bhallstáit eile nuair atá
breathnú trascearann údaraithe ag an mBallstáit sin mar fhreagra ar
iarraidh ar chuánma a tíolaíoch roimhe sin. Feadfar coinniollacha a
chur leis an údarú sin.

Cuirfidh na Ballstáit an taiscí ar an eolas faoi na hoifigigh thóra a
bhfuil feidhm ag an bhforáil seo maidir leo; cuirfidh an taiscí na
Ballstáit eile ar an eolas.

Arna iarraidh sin, déantar an breathnú a chur de chúram ar
oifigigh an Bhallstáit ar a chrioch a dheantar é.

Déantar an iarraidh dá dtgraifeá sa chéad fhomhór a chur chugú
údarás arna ainmniú ag gach ceann de na Ballstáit atá cumhachtaíthe
chun an t-údarú arna iarraidh a thabhairt nó an iarraidh a chur ar
aghaidh.

Cuirfidh na Ballstáit an taiscí ar an eolas faoin údarás arna
ainmniú chuige sin; cuirfidh an taiscí na Ballstáit eile ar an eolas.

2. Nuair nach féidir, de bharr cúiseanna sárphráinneacha, réamh-
údarú an Bhallstáit eile a iarraidh, údarófar do na hoifigigh atá ag
déanamh an bhreathnaithe leánuint de dhaoine a bhfuil forais trom-
chúiseacha ann lena chreidiúint ina leith go bhfuil siad i dtreis i
geann de na cionta dá dtgraifeár in Aireagal 19(2) a bhreathnú ar
an taobh eile den teorainn, ar choinníoll go gcomhiontar na coinn-
iollacha seo a leasas:

(a) déantar fógra faoi thrasnú na teorann a thabhairt láithreach,
    i rith an bhreathnaithe, d’údarás inniúla an Bhallstáit ar
    ar a chrioch a leanfar den bhreathnú;

(b) déantar iarraidh arna tíolaícadh i gcomhréir le mór 1 agus ag
tabhairt na bhforas maidir leis an teorainn a thrasnú gan
réamhúdarú a thíolaícadh gan mhoill.

Cuirfeadh deireadh leis an mbreathnú a laithíte a dheánann an
Ballstáit ar ar a chrioch atáthar á dheánamh é sin a iarraidh, tar éis
don fhógra dá dtgraifeáir i bpointe (a) a bheith tugtha nó an iarraidh
dá dtgraifeáir i bpointe (b) a bheith déanta, nó nuair nach mbeidh
an t-údarú faighte cúig huaire an chloig tar éis an teorainn a thrasnú.

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3. Ní dhéanfar an breathnú dá dtagraítear i míreanna 1 agus 2 ach faoi na coimisiúin an Bhailstáit seo a leasann:

(a) déanfaidh na hoifigigh atá ag déanamh an bhreathnaíthe forálacha an Airteagail seo a chomhlíonadh maile le dí an Bhallstát ar ar a chríoch atá siad ag feidhmiú; ní foláir dóibh déanamh de réir theagasca údaráis inniúla an Bhallstát sin;

(b) ach amháin sna staideanna dá bhforáiltír i mór 2, déanfaidh na hoifigigh doiciméad a iompáin le linn an bhreathnaíthe á dheimhniú gur deonaíodh u darú;  

(c) beidh na hoifigigh atá ag déanamh an bhreathnaíthe i gcónaí in ann cruthúnas a sholáthar go bhfuil siad ag gniomhú ina gcáil oifigiúil;  

(d) féadfaidh na hoifigigh atá ag déanamh an bhreathnaíthe a n-armorain seirbhísí a iompáin le linn an bhreathnaíthe ach amháin (i) nuair atá dearbhú ginearálta déanta ag an mBallstát iarrtha nach féidir riamh armáin a iompáin isteach ar a chríoch; nó (ii) nuair atá a mhalaire de chinnneadh sonraic déanta ag an mBallstát iarrtha. Nuair a cheadaítear d'hoifigigh de chuid Ballstát eile a n-armáin seirbhísí a iompáin, toirmíscfar a n-úsáidach amháin i gcásanna féinchothsanta dlisteanaití;  

(e) toirmíscfar iontráil i dteaghas príobháideacha agus in áiteanna nach bhfuil rochtain ag an bpobal Orthu;  

(f) ní fhéadfaidh na hoifigigh atá ag déanamh an bhreathnaíthe forráin a chur ar an duine faoi bhreathnú ná é a ghabháil;  

(g) beidh na hoibríochtaí uile ina n-ábhar do thuarascáil chuig údaráis an Bhallstát ar ar a chríoch a rinneadh iad; féadfar iállach a chur ar na hoifigigh atá ag déanamh an bhreathnaíthe láthriú go pearsanta;  

(h) arna iarraidh sin d'údaráis an Bhallstát ar ar a chríoch a rinneadh an breathnú, cabhróidh údaráis an Bhallstát ónár tháinig na hoifigigh bhreathnaíthe leis an bhfiosrúcháin i ndiaidh na hoibríochta in mar ghlac siad páirt, lena n-áirithe imeachtaí dí.

4. Féadfaidh na Ballstát, ar leibhéal déthaobhacht, raon feidhme an Airteagail seo a leathú agus bearta breise a ghluasad á chur chun feidhme.

5. Agus ionstraimi glactha an Choinbhinsiúin seo á dtaisceadh aige, féadfaidh Ballstát a dhearbhú nach bhfuil an tAirteagal seo, nó cuíd de, ina cheangal air. Féadfar dearbhú den sórt sin a tharraingt siar tríth ar bith.

Airteagal 22

Seachadh rialaithe

1. Gabhann gach Ballstát air féin go bhféadfar seachadh rialaithe a cheadú ar a chríoch, arna iarraidh sin do Bhallstát eile, faoi chum-siú imscrúduithe coiriúla maidir le cionta ineiseachadta.
2. Déanfaidh údaráisi inniúla an Bhallstát iartha cinneadh seachadtaí rialaithe a úsáid ó chás go chéile i gcomhréir le dlí náisiúnta an Bhallstát sin.

3. Déanfar na seachadh rialaithe i gcomhréir le nósanna imeachta an Bhallstát iartha. Is iad údaráisi inniúla an Bhallstát sin a bheidh inniúil chun gníomhú agus chun na hoibríochtaití a dhíritiú.

Rachaidh an t-údarás iartha i gceann an tseachadta nuair a thrasnáionn na hearraí an teorainn nó ag ionad arna chomhaontú lena dtabhairt ar láimh chun aon bhraiseadh san fhaireachán a sheachaint. I gcaitheamh a bhfuil fáthta den turas, áiritheoidh an t-údarás iartha go ndéanfar buanfhaireachán ar na hearraí ar dhóigh gur féidir leis tráth ar bith na húdair a ghabháil agus na hearraí a urghabháil.

4. Féadfar teacht roimh coinsíonteachtaí ar a gcomhaontaitear a seachadh rialaithe, le toilíú na mBhallstát i dtrácht, agus a údará dóbh leanúint ar a mbealach mar atá siad nó tar eis dá n-inneachar bunaíodh a bheith bainte astu nó tárgtí eile a bheith curtha ina n-ionad go hiomlán nó go páirteach.

Airteagal 23

Imscrúduithe folaitheacha

1. Arna iarraidh sin don údaráis iartrach, féadfaidh an t-údarás iartracha a údará d’oifighg riarachán custaim an Bhallstát iartraihgh, nó d’oifighg ag gníomhú thar ceann an riarachán sin, atá ag oibríú faoi chumhdach céannaíteach bréagaí (imscrúduaitheoirí folaitheacha) oibríú ar chrioch an Bhallstát iartrha. Ní hé anfáidh an t-údarás iartrach a údaráidh ach amháin dá mbeadh sé an-deacair na fioraí a shoiléiriú gan leas a bhaint as na bearta imscrúduithe a bheartaítear. Údarófar do na hoifigigh i gcúrsa i gcúrsa a ngníomhaiochtaití fasnéis a bhalltú agus dul i dteagmháil le daoine atá faoi amhras nó dãoine eile atá comhthaite leo.

2. Beidh ré teoranta ag imscrúduithe folaitheacha sa Bhallstát iartrha. Déanfar na himscrúduithe a ullmhú agus a mhaoírísí i ndlúthchomhghairdú údaráis ábhartha an Bhallstát iartrha agus an Bhallstát iartraihgh.

3. Cinnfidh an t-údarás iartrha in gcomhréir leis na coiníollacha faoina gcéadtaítear imscrúduithe folaitheach maille leis na coiníollacha faoina gcuirtear in dtaobh é. Má fháightear i gcúrsa imscrúduithe foilaitheach fasnéis i ndáil le sáriú seachas an sáriú atá folaithe san iarraidh bhunaidh, cinnfidh an t-údarás iartrha freisin in gcomhréir lena dhlí náisiúnta na coiníollacha a bhaineann leis an leas is féidir a bhaint as fasnéis den sórt sin.

4. Soláthróidh an t-údarás iartrha an daonchumhacht agus an tacaíocht theicniúil i gceart. Glacfaidh sé bearta chun na hoifigigh dá dtagraítear i mír 1 a chosaint fad a bheidh siad ag gníomhú sa Bhallstát iartrha.

5. Agus ionstraimiú glactha an Choimhínsíúin seo a dtaisceadh aige, féadfaidh Ballstát a dhearbhú nach bhfuil an t’Airteagal seo, nó cuíd de, ina cheangal air. Féadfar dearbhú den sórt sin a tharraingt iar tráth ar bith.


Sch.9

A. S. 23
Foirne imscruádaithe comhpháirteacha speisialta

1. Féadfaidh údaráis Bhallstát éagsúil foireann imscruádaithe chomhpháirteach speisialta a chur ar bun de thoil a cheile a bheidh bunaithe i mBhallstát amháin agus ar a mbeidh oifigigh a bhfuil na speisialtóireachtaí ábhartha acu.

Beidh de chúram ar an bhfoireann imscruádaithe chomhpháirteach speisialta:

— imscruáduithe achrannacha éilitheacha ar sháruithe sonracha a dhéanamh a éilíonn gníomhaíochtaí chomhhoraidhe sin Ballstát i dtrácht,

— gníomhaíochtaí comhpháirteacha a chomhordú chun saighdanna aírithe a chotháil a chosc agus a bhrath agus chun faisnéis a fháil faoi na daoine i dtreis iomáint, faoína gcomthaigh agus faoi na modhanna aon n-úsáid.

2. Oibreoidh foirne imscruádaithe comhpháirteacha speisialta faoi na coinniollacha gineáralta seo a leanas:

(a) ní chuirfear ar bun iad ach chun críche sonraí agus go ceann tréimhse teoranta;

(b) beidh oifigeach ón mBhallstát ina bhfuil gníomhaíochtaí na foríné á ndéanamh i gceannas ar an bhfoireann;

(c) beidh na hoifigigh rannpháirteacha faoi cheangal ag dlí an Bhallstát ar a chrióch atá gníomhaíochtaí na foríné á ndéanamh;

(d) déanfaidh an Bhallstát ina bhfuil gníomhaíochtaí na foríné á ndéanamh na socruithe eagrúcháin is gá chun go bhféadfadh an fhoireann oibreálú.


TEIDEAL V — SONRAÍ A CHOSAINT

Sonraí a chosaint i ndáil le sonraí a mhalartú

1. Nuair a dheantar faisnéis a mhalartú, cuirfídh na húdaráis chus-taim san áireamh, i ngach cás sonraí, na ceanglais chun sonraí pear-santa a chosaint. Órramóidh síd forálacha abhartha Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981 um chosaint daoine aonair maidir le huathphróíseáil sonraí pearsanta. D’fhonn sonraí a chosaint, féadfaidh Bhallstát, i gcomhréir le mír 2, coinniollacha a fhor-chur maidir le próiseáil sonraí pearsanta ag Ballstát eile a bhféadfadh na sonraí pearsanta sin a chur chuige.

2. Gan dochar d’fhorálacha an Choinbhinsiún maidir le húsáid theicneolaochtaí an eolais chun críoch custaim, beidh feidhm ag na forálacha seo a leanas maidir le sonraí pearsanta a pháirtítear de bhun an Choinbhinsiún seo a chur i bhfeidhm:

(a) ní údarófar don údaráis glactha na sonraí pearsanta a próí-seáil ach chun na críche dá dtagairtear in Airteagal 1(1). Féadfaidh an t-údarás sin, gan réamhthoiliú an Bhallstát
a sholáthair na sonraí, iad a tharchur chuig a chuid riara-chán custaim, údarás inscrúdaithc agus comhlachtaí brei-thiúnacha chun gur féidir leo sáruithe de réir bhri pointe 3 d’Aireteagal 4 a iomchúiseadh agus a phíonó, i ngach cás eile ina dtarchuirtear sonraí, beidh gá le toilí ón mballstáit a sholáthair an fhaisnéis;

(b) áiritheoidh údarás an Bhallstáit a pháirtiónn sonraí go bhfuil siad beacht agus suas chun dáta. Má thagann sé chun solais gur pháirtíodh sonrai neamhbeachta nó sonrai nár chóir a pháirtiú nó nach foláir sonrai a pháirtíodh go dleathach a scriosadh níos déanaí i gcomhréir le dí Bhallstáit a bpaírtithe, cuirfeadh an fhd éithe do sonrai sin a cheart nó a scriosadh. Má bhionn cuis ag an údarás glachta a chreidiúnt go bhfuil sonrai arna bpaírtiú neamhbeachta nó gur cóir iad a scriosadh, cuiridh sá Bhallstáit a bpaírtithe ar an eolas;

(c) sna cáisanna inar cóir, de réir dlí Bhallstáit a bpaírtithe, sonrai arna bpaírtiú a scriosadh nó a leasú, ní foláir ceart éifeachtúil a thabhairt do na daoine i dtách chun na sonrai a cheartú;

(d) taifeadh na húdarásí i dtách cur ar aghaidh agus glacadh sonrai arna malartú;

(e) má iartrar amhlaidh, déanfadh na húdarásí pháirtithe agus na húdarásí ghlachta an duine i dtách a chur ar an eolas, arna iarraidh sin dó, faoi na sonrai pearsanta arna bpaírtiú agus an leas a bhainfear astu. Nó bheidh aon oibríocht aon an fhaisnéis a sholáthar má fhaightear; ar an ábhar a mheas, gur mó an tábhacht don phobal ar an fhaisnéis a cheannróil síor ná an tábhacht don duine i dtách an fhaisnéis sin a fháil. Thairis sin, is i gcomhréir le dlíthe, rialacháin agus nósanna imeachta náisiúnta an Bhallstáit ar a chrioch i iartrar an fhaisnéis agus chuimhneart an duine i dtách chun fhausnéois faoi na sonrai pearsanta arna bpaírtiú a fháil. Sula ngraipfear aon chinnneadh maidir le fhausnéis a sholáthar tabhairfar deis don údarás páirtithe a sheasamh a shonrú;

(f) beidh na Ballstáit faoi dlítheanas, i gcomhréir lena ndlíthe, rialacháin agus nósanna imeachta féin, is leith na diobhála a dheantar do dhúine trí phróiseáil sonraí arna bpaírtiú sa Bhallstáit i dtách. Is amhlaidh a bheidh freisin nuair a dheantar an diobháil toisce go ndearnadh sonraí neamhbeachta a pháirtiú, nó go ndearna an t-údarás páirtithe sonraí a pháirtiú de shárhú ar an gCoinbhinsiuin seo;

(g) stóráil ar sonraí arna bpaírtiú go ceann tréimhse nach mó ná an tréimhse is gá chun na gcríoch ar pháirtíodh chucu iad. Scrúdóidh an Ballstáit i dtách in am trátha an gá iad a stóráil;

(h) ar aon chúma, beidh ag na sonraí ar a laghad an chosaint chéanna a bhíonn ag sonraí comhchosúla sa Bhallstáit a ghlac iad;

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(i) glacfaidh gach Ballstáit na bearta iomchuí chun a áirithiú trí rialaithe éifeachta go ndéanfar an tAirteagal seo a chomhfonadh. Feadfaidh gach Ballstáit cùram an rialaithe a shannadh don údarás maoirseachta náisiúnta atá luaite in -Airteagal 17 den Choinbhinsiún maidir le húsaid theicneolaithe i ncolais chun críoch custaim.

3. Chun críocha an Airteagain seo, tuigfear “próiseáil sonraí pearsanta” i gcomhréir leis an saimhniú i bpointe (b) d’Airteagal 2 de Threoir 95/46/CE o’ Pharlaimint na hEorpa agus o’ n gComhairle an 24 Deireadh Fómhair 1995 maidir le daoine aonair a chosaint i ndaíl le sonraí pearsanta a próiseáil agus maidir le saorghluaiseacht sonraí den sórt sin.

TEIDEAL VI — AN COINBHINSIÚN A LÉIRIÚ

Airteagal 26

An Chúirt Bhreithiúnais

1. Beidh dlíse ag Cúirt Bhreithiúnais na gComphobal Eorpach chun rialú ar aon diospóid idir Ballstáit maidir le léiriú nó cur i bhfeidhm an Choinbhinsiún seo nuair nach féidir an diospóid sin a réiteach sa Chomhairle laistigh de shé mhí óna cur faoi bhhráid na Comhairle ag ceann dá comhlátaí.

2. Beidh dlíse ag Cúirt Bhreithiúnais na gComphobal Eorpach chun rialú ar aon diospóid idir na Ballstáit agus an Coimisiún maidir le léiriú nó cur i bhfeidhm an Choinbhinsiún nach féidir a réiteach trí chaibidilfocht. Féadfar an diospóid a chur faoi bhhráid na Cúirte Breithiúnais tar éis do thhréimhse sé mhí ón dátá a thug ceann de na páirtithe fógra don pháirtí eile go raibh diospóid ann dul in éag.

3. Beidh dlíse ag an gCúirt Bhreithiúnais, faoi réir na gcoinniollacha atá leagtha sios i móranna 4 go 7, chun réamhrialuithe a thabhairt ar léiriú an Choinbhinsiún seo.

4. Féadfaidh aon Bhallstát, trí dhearbhú a dhéanamh trí thainnithe an Choinbhinsiún seo nó aon tráth eile ina dhiaidh sin, glacadh le dlíse Chúirt Bhreithiúnais na gComphobal Eorpach chun réamhrialuithe a thabhairt ar léiriú an Choinbhinsiún seo mar atá sonraithe i bpointe (a) nó (b) de mhír 5.

5. Sonróidh Ballstát a dhéanann dearbhú de bhun mhír 4:

(a) go bhféadfaidh aon chúirt nó binse de chuid an Bhallstáit sin nach bhfuil aon leigheas breithiúnaí ann faoin dlí náisiúnta in aghaidh a breitheanna nó a bhreitheanna a iarradh ar Chúirt Bhreithiúnais na gComphobal Eorpach réamhrialú a thabhairt ar cheist a thugtar ar aird i gcás atá ar feitheamh os comhair na cúirte nó an bhísin agus a bhaineann le léiriú an Choinbhinsiún seo má mheasann an chúirt nó an binse sin gur gá breith maidir leis an gceist ionas go bhféadfaidh sí nó sé breithiúnas a thabhairt; nó

(b) go bhféadfaidh aon chúirt nó binse de chuid an Bhallstáit sin a iarradh ar Chúirt Bhreithiúnais na gComphobal Eorpach réamhrialú a thabhairt ar cheist a thugtar ar aird i gcás atá ar feitheamh os comhair na cúirte nó an bhísin

sín agus a bhaineann le léiriú an ChoinbhsíÚin seo má Sch.9
mheasann an chuírt nó an binse sin gur gá breith maitir
leis an gceist ionas go bhféadfaidh sí nó së breithúnas a
thabhairt.

6. Beidh feidhm ag an bPrótacal ar Reacht Chúirt Bhreithúnais
na gComhphobal Eorpach agus Rialacha Nóis Imeachta na Cúirte
Breithúnais sin.

7. Beidh aon Ballstát, biodh nó ná biodh dearbhú de bhun mhír
4 déanta aige, i dteideal ráitis cháis nó barúlacha i scribhinn a thiol-
cadh don Chuírt i gcásanna a thagann chun cinn cinn faoi mhír 5.

8. Ní bheidh dlínse ag an gCúirt Bhreithúnais chun léirmheas a
dhéanamh ar bhallfocht nó comhréireacht oibríochtaí arna ndéan-
amh i mBallstát ag na seirbhísí inniúla um fhorghniomhú an dlí faoi
chuimisí an ChoinbhsíÚiníin seó ná ar fheidhmiú na bhfearaghrachtáí
átá ar na Ballstát maitir leis an ord poiblí a chaomhnú agus an
tslándáil inmheánaích a choimirciú.

TEIDEAL VII — CUR CHUN FEIDHME AGUS FORÁLACHA
CRÍOCHNAITHEACHA

Airteagal 27

Rúndacht

Cuirfidh na riaracháin chustaim san áireamh ceanglaí rúndacht na
n-imserduíthe i ngach cáis sonrach ina malartaithe faisnéis. Chuige
sin, féadfaidh Ballstát coinniollacha a forchar maitir le húsáid na
faisnéise ag Ballstát eile a bhféadfar an fhaisnéis sin a chur chuige.

Airteagal 28

Díoláinta ón oibleagáid cúnamh a sholáthar

1. Ní chuirfidh an ChoinbhsíÚiníin de cheangal ar údaráis na
mBallstát cúnamh a sholáthar naíuair ba dhóigh don chúnamh sin
beartas poiblí nó leasanna fíor-riachtanacha eile an Ballstát i
dtrácht a dhochoir, go háirithe i réimse na sonraí a chosaint, nó nuair
is flassa go bhfuil raon an gníomh a iartrar, ach go háirithe i
gcomhthéacs na bhfoirmteacha speisialta comhair dá bhforáiltear i
Teideal IV, diréireach le tromchús an tsáraithe a thóimhinditear. I
gcásanna den sórt sin, féadfaidh an dhuhtú go hionfainn nó go
páirtíteach nó é a chur faoi réir coinniollacha áirithe.

2. Ní folair na cúiseanna a thabhairt le haon diúltú cúnamh a
sholáthar.

Airteagal 29

Caiteachas

1. De ghnáth tarscaoilfidh Ballstát gach éileamh ar aisíocáíochtaí
as costais arna dtáblú i gcur chun feidhme an ChoinbhsíÚiníin seó,
seachas costais i leith táillí arna n-íoc do shaineolaithe.

2. I gcás ina bhfuil nó ina mbeidh gá le caiteachas de chineál sun-
tasach urghnách chun géilleadh don iarraidh, rachaidh na riaracháin
chustaim i gceist i gcomhar le chéile chun na téarmaí agus na
cooniollacha faoina bfhorgniumhófár an iarraidh agus an dóigh ina
n-iomprófar na costais sin a chinneadh.
Aitragal 30

Forchoimeádais

1. Ach amháin mar a fhóraítear in Aitragal 20(8), Aitragal 21(5) agus Aitragal 23(5), ní bheidh an Coinbhínsiúin seo faoi réir aon forchoimeádaís.

2. Ballstáit a bhfuil comhaontúithe bunaithe acu eatarthu maidir le hábhair atá faoi rialú ag Teideal IV den Coinbhínsiúin seo, ní fhéadfaidh siad forchoimeádaís a dhéanamh de bhun mhír 1 ach amháin a mheid nach ndéanann an forchoimeádaís sin difear dá n-oibléagáidí faoi na comhaontúithe sin.

3. Dá réir sin, na hoibleagaídí a thig ó fhorálacha Choinbhínsiúin an 19 Meitheamh 1990 chun Comhaontú Schengen an 14 Meitheamh 1985 maidir le seiceálacha ag na comhtheorainneacha a dhearthú de réir a cheile a chur i bhfeidhm agus a fhorálann go mbeidh comhar níos dlúthe ann, ní dhéanfaidh an Coinbhínsiúin seo difear doibh sa chaidreamh idir na Ballstáit atá faoi cheangal na bhforálacha sin.

Aitragal 31

Cur i bhfeidhm críochach

1. Beidh feidhm ag an gCoinbhínsiúin seo maidir le críoch na mBallstáit mar a thagraítear dóibh in Aitragal 3(1) de Rialachán (CEE) Uma. 2913/92 ón gComhairle an 12 Deireadh Fómhair 1992 ag bunú Chóid Custaim an Chomhphobail, mar atá arna choigeartú leis an lonstraim agus theacht na aontacha Phoblacht na hOstaire, Phoblacht na Fionlainne agus Ríocht na Sualainne agus oiriúnaithe ag an Conraideal ar bhfuil a bhfuil an tAontas fothaite agus le Rialachán (CE) Uma. 82/97 ó Pharlaimint na hEorpa agus Cuirfadh na Ballstáit in iúl don taisc agus aon nós imeachta dá bhforaítear i dTeideal VI den Chonradh ar an Aontas Eorpa, mír 1 a oiriúntú d’aois leasú ar na forálacha de dhíl an Chomhphobail dá dtagraítear inti.

2. Féadfaidh an Chomhairle, ag gníomhú di d’aon toil tríd an nós imeachta dá bhforaítear i dTeideal VI den Chonradh ar an Aontas Eorpa, mír 1 a oiriúntú d’aois leasú ar na forálacha de dhíl an Chomhphobail dá dtagraítear inti.

Aitragal 32

Teacht i bhfeidhm

1. Beidh an Coinbhínsiúin seo faoi réir a ghlactha ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstáit in iúl don taisc go bhfuil na nósanna imeachta is gá faoi rialacha bunreachtúla faoi seach chun an Coinbhínsiúin seo a ghlacadh comhlíonta aic.
3. Tiocfaidh an Coinbhinsiúin seo i bhfeidhm nócha lá tar éis don fhógra dá dtagraítsear i mír 2 a bheith tugtha ag an Stát is Ballstát den Aontas Eorpach ar an dáta a ghlac an Chomhairle ar Gníomh ag dréachtú an Choinbhinsiúin seo is déanaí a chomháthraidh an fhöirmiúilacht sin.

4. Go dtí go dtiocfaidh an Coinbhinsiúin seo i bhfeidhm, féadfaidh gach Ballstát, tráth an fhógra dá dtagraítsear i mír 2 a thabhairt nó tráth ar bith eile ina dhaiadadh sin, a dhearbhú go mbeidh feidhm ag an gCoinbhinsiúin seo, seachas Airteagal 26 de, a mhéad a bhaineann leis maidir lena chaíadramaí leis na Ballstát a mbeidh an dearbhú céanna déanta acu. Beidh éifeacht leis na dearbhuithe sin nócha lá tar éis dáta a dtaiscthe.

5. Ní bheidh feidhm ag an gCoinbhinsiúin seo ach maidir le hiarrataí a dhéantar tar éis an dáta a thiocfaidh sé i bhfeidhm nó a chuirtear i bhfeidhm é idir an Ballstát iartrága agus an Ballstát iartrach.

6. Ar dháta an Choinbhinsiúin seo a theacht i bhfeidhm, aisghairfear Coinbhinsiúin an 7 Meán Fómhair 1967 maidir le riaracháin chustaim do sholáthar cúnamh frithpháirtíochta.

Airteagal 33

Aontachas

1. Beidh aontachas leis an gCoinbhinsiúin seo ar oscailt d’aon Stát a thiocfaidh chun bheith ina Bhallstát den Aontas Eorpach.

2. Is téacs údarásach téacs an Choinbhinsiúin seo i dteanga an Bhallstát aontaigh, arna dhréachtú ag Comhairle an Aontais Eorpaigh.

3. Taiscfear na hionstraimiú aontachais leis an taiscí.

4. Tiocfaidh an Coinbhinsiúin seo i bhfeidhm i leith aon Stát a aontaimh dó nócha lá tar éis dó a ionstraim aontachais a thaisceadh nó ar dháta an Choinbhinsiúin a theacht i bhfeidhm, mura mbeidh sé tagtha i bhfeidhm cheana tráth na tréimhse thuasluaite nócha lá a dhul in éag.

5. I gcás nach mbeidh an Coinbhinsiúin seo tagtha i bhfeidhm fós tráth a n-ionstraimiú aontachais a thaisceadh, beidh feidhm ag forálacha Airteagal 31(4) maidir leis na Ballstát aontaigh.

Airteagal 34

Leasuithe

1. Féadfaidh gach Ballstát is Ardpháirti Conartha leasuithe ar an gCoinbhinsiúin seo a mholadh. Cuífair gach togra do leasú chuig an taiscí agus cuírfeadh séisean in iúl don Chomhairle agus don Chomh-Síonad.

2. Gan dochar d’Airteagal 31(2), glacfaidh an Chomhairle leasuithe ar an gCoinbhinsiúin seo agus molfaidh sí iad lena nglacadh ag na Ballstát in gcomhréir lena rialacha bunreachtúla faoi seach.

3. Tiocfaidh na leasuithe arna nglacadh i gcomhréir le mír 2 i bhfeidhm i gcomhréir le forálacha Airteagal 32(3).
An taiscí

1. Is é Ardruí na Chomhairle an Aontais Eorpaigh taiscí an Choinbhinsíún seo.

2. Foilseoidh an taiscí in Iris Oifigiuil na gComhphobal Eorpach faisnéis maird leis an gCoinbhinsíún seo a ghlacadh agus aontachais leis, maird lena chur chun feidhme agus maird leis na dearbhuithe agus na forchoimeádaí, maille le gach fógra eile a bhaineann leis an gCoinbhinsíún seo.

Arna dheanamh sa Bhruiséil ar an ochtú lá déag de Nollaig sa bhliain míle naó, seacht a séacht, i scríbhinn bhunaidh amhráin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghreigis, san Iodáilis, san Ollainnis, sa Phortaingeilis, sa Spáinnis agus sa tSualainnis agus comhúdarás ag na téacsanna i ngach ceann de na teangacha sin; déantar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaiocht Chomhairle an Aontais Eorpaigh.
THE TEXT IN THE IRISH LANGUAGE OF THE 1999 PROTOCOL

PRÓTACAL, ARNA DHRÉACHTÚ AR BHONN AIRTEAGAL K.3 DEN CHONRADH AR AN AONTAS EORPACH, MAIDIR LEIS AN RAON FEIDHME ATÁ AG SCÚRADH FÁLTAIS SA CHOINBHINSIÚN MAIDIR LE HÚSÁID THEICNEOLAIÓCHT AN EOLAS CHUN CRÍOCHA CUSTAIM AGUS MAIDIR LE hUIMHIR CHLÁRÚCHÁIN NA CÓRA IOMPAIR A ÁIREAMH SA CHOINBHINSIÚN

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Phrótacal seo, Ballstáit an Aontais Eorpaigh,

AG TAGAIRT DO Ghniomh o’ Chomhairle an Aontais Eorpaigh an 12 Márta 1999,

AG FÉACHAINT don Choinbhinsiúin, arna dréachtú ar bhonn Airteagl K.3 den Chonradh ar an Aontas Eorpaich, maidir le húsáid theicneolaíocht an eolais chun crioche custaim, dá ngairtear “an Coinbhinsiú” anseo feasta;

TAR ÉIS COMHAONTÚ AR NA FORÁLACHA SEO A LEANAS:

Airteagal 1

Leasaítear an dara fleasc de phointe 1 d’Airteagal 1 den Choinbhinsiúin mar a leanas:

‘— aistiú, tionsú, ceilt nó folú maoine nó fáltas arna gcineadh ó gháinneáil idirnáisiúnta ainneachtach drugaí, arna bhfáil go díreach nó go neamhdíreach trí thím nó arna n-úsáid inti nó arna gcineadh ó aon sárú ar na forálaí o chúros a leanas, arna bhfáil go díreach nó go neamhdíreach trí díth nó arna n-úsáid ann:

(i) na dlíthe, rialacháin agus forálaí riaracháin uile de chuid Ballstáit a dtag a geir in bhfeidhm go hiomlaí nó go páirt-each faoi dhliathreach aircmháistear ar an Bhallstáit maidir le trácht trásteoíonn in earrá atá faoi réir toirmneas, srianta nó rialúthe, go háirithe de bhun Airteagail 36 agus 223 den Chonradh ag bunú an Chomhphobail Eorpaigh, agus faoi réir dleachtanna neamh-chomhchuirithe máil; nó

(ii) an bailiúchán forálaí Comhphobail agus forálaí comhlachtaí the chun feidhme a rialaíonn allmhairí, onnmhairí, idirthuras agus láithreachtaí earrái arna dtrá-dáil idir Ballstáit agus tríú tíortha, agus idir Ballstáit i gcás earráin nach bhfuil stádas Comhphobail acu de réir bhrí Airteagal 9(2) den Chonradh ag bunú an Chomhphobail Eorpaigh nó i gcás earrá na atá faoi réir rialúthe nó inscrúduithe breise d’fhonn a stádas Comhphobail a shuíomh; nó

(iii) an bailiúchán forálaí arna nglacadhbh ar leibhéal an Comhphobail faoin gcomhbeartas talmhaíochta agus na forálaí sonraí arna nglacadh i ndáil le hearraí a thig ó tháirigí talmhaíochta a phróiseáil; nó
Sch.10

(4) an bailúchán forálacha arna nglacadh ar leibhéal an Chomhphobail maidir le dheachtanna comhchuibhithe muid agus cáin bhreisluachra ar allmhairiú mar aon leis na forálacha náisiúnta á geur chun feidhme.

Airteagal 2

Forlíontar na hearnáilacha sonraí atá liostithe in Airteagal 4 den Choinbhinsiún leis an earnáil seo a leanas:

‘(ix) uimhir chlárúcháin na córa iompair.’

Airteagal 3

1. Beidh an Prótacal seo faoi réir a ghlaictha ag na Ballstáit i gcomhhréir lena rialacha bunreachtúla faoi seach.

2. Cuírfidh na Ballstáit in iúl don taísce go bhfuil a rialacha bunreachtúla faoi seach chun an Prótacal seo a ghlacadh comhlionta acu.

3. Tiocfaidh an Prótacal seo i bhfeidhm nócha lá tar éis don fhógra dá dtagráitear i mír 2 a bheith tugtha ag an Stát is Ballstáit den Aontas Eorpach tráth na Comhairle do ghlacadh an Ghníomh ag dréachtú an Prótacail seo is déanáidh a chomhlíonadh an fhóirmiúlacht sin. Ar a shon sin, tiocfaidh sé i bhfeidhm ar a luaithse san am céanna leis an gCoinbhinsiún.

Airteagal 4

1. Beidh aontachas leis an bPrótacal seo ar oscailt d’aon Stát a thagann chun bheith ina Bhallstáit den Aontas Eorpach.

2. Déanfar na hionstraimí aontachais a thaisceadh leis an taísce.

3. Is téacs údarásach téacs an Phrótaicil seo i dteanga an Stát aontaigh, arna tharraingt suas ag Comhairle an Aontais Eorpaigh.

4. Tiocfaidh an Prótacal seo i bhfeidhm i leith aon Stát a aontaíonn dó nócha lá tar éis dó a ionstraim aontachais a thaisceadh nó ar dháta an Phrótaicil seo a theacht i bhfeidhm mura mbeidh sé tagtha i bhfeidhm fós tráth na tréimhse nócha lá thuaslúite a dhul in éag.

Airteagal 5

Aon Stát a thagann chun bheith ina Bhallstáit den Aontas Eorpach agus a aontaíonn don Choinbhinsiún i gcomhréir le hAirteagal 25 de, glacfaidh sé le forálacha an Phrótaicil seo.

Airteagal 6

1. Féadfaidh gach Ballstát is Ardpháirtí Conarach leasúthe ar an bPrótaicil seo a mholadh. Cuírfeadh gach togra do leasú chug an taísce agus cuírfeadh seisean in iúl don Chomhairle é.
2. Glacfaidh an Chomhairle na leasuithe agus molfaidh sí íad lena Sch.10 nglacadh ag na Ballstaít i gcomhréir lena rialacha bunreachtúla faoi seach.

3. Tiocfaidh na leasuithe arna nglacadh amhlaidh i bhfeidhm i gcomhréir le hAirteagal 3.

Airteagal 7

1. Is é Ardruánaí Chomhairle an Aontais Eorpaigh taiscí an Phrót-acail seo.

2. Foilseoidh an taiscí in Iris Oifigiuí na gComhphobal Eorpach fógraí, iomstraimi agus cumarsáidí a bhaineann leis an bPrótacal seo.

Arna dhéanamh sa Bhruiséil, an dara lá déag de Mhárta, mile naoi gcéad nócha a naoi.