



Council of the
European Union

Brussels, 1 June 2016
(OR. en)

7051/08
ADD 3 DCL 1

SCH-EVAL 13
COMIX 174

DECLASSIFICATION

of document: ST 7051/08 ADD 3 RESTREINT UE

dated: 24 April 2008

new status: Public

Subject: Schengen evaluation of SWITZERLAND
- Replies from Switzerland to additional questions put forward at the
meeting of 7 March 2008

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



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NOTE

from : the Swiss delegation

to: the Schengen Evaluation Working Party

No. prev. doc. : 16729/1/07 REV 1 SCHEVAL 193 COMIX 1084

Subject : Schengen evaluation of SWITZERLAND

- Replies from Switzerland to additional questions put forward at the meeting of 7 March 2008

1) Swiss Questionnaire : Precision of the Question 30, Chapitre I "General Border Management of External Borders"

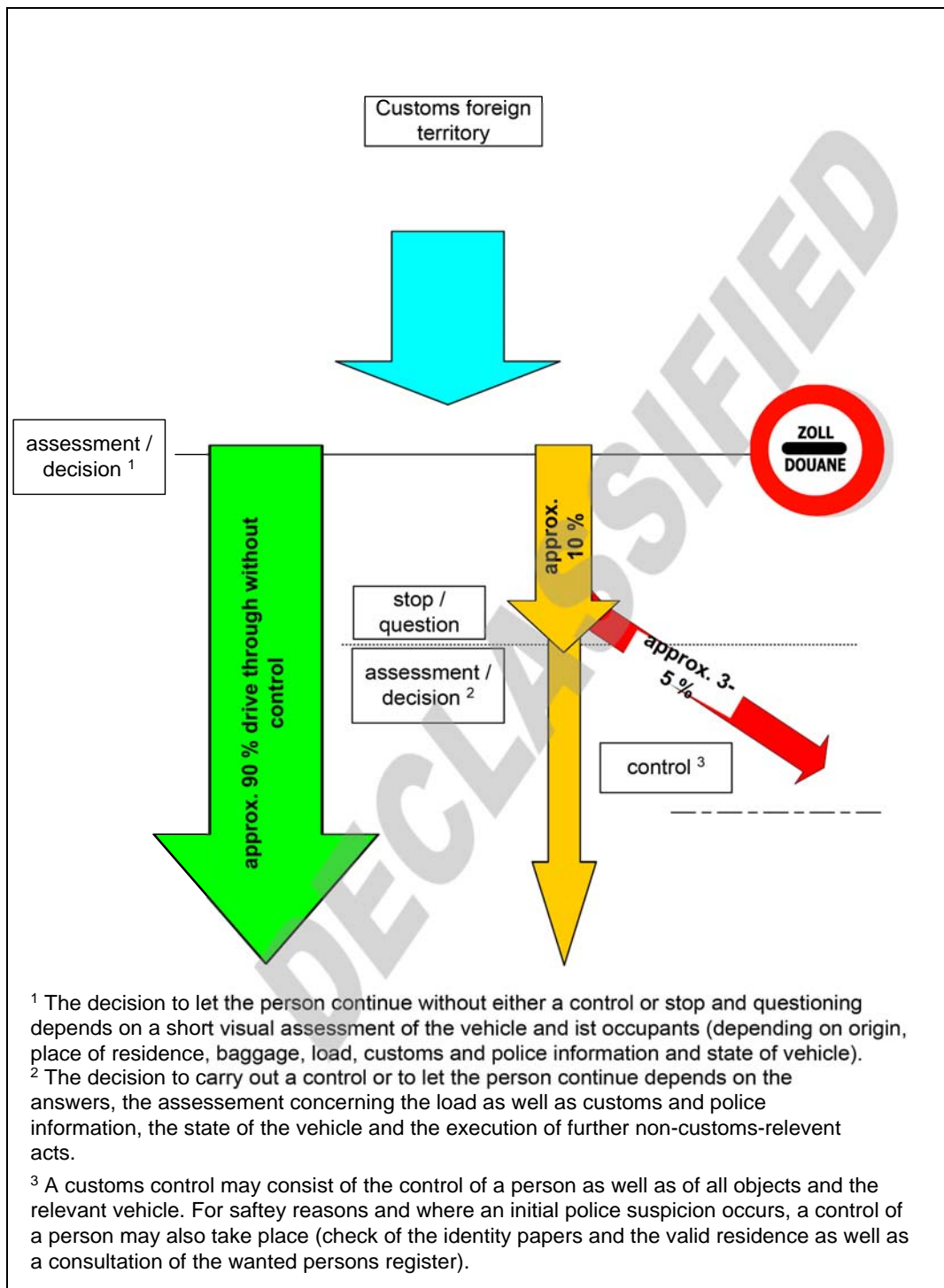
30. Please describe the future application of Article 22 of the Schengen Borders Code with respect to the infrastructure at all road border crossing points.

Article 22 of the Schengen Borders Code (which repealed the decision of the Executive Committee (SCH/Com-ex (94) 1, 2 Rev.) of 26.4.1994 on Adaptation Measures to Remove Traffic Hindrances and the Abolition of Traffic Restrictions on Internal Borders) does in principle apply to Switzerland. The exception hereto is based on the fact that Switzerland is not part of the EU Customs Union, and hence it will have to continue the performance of custom checks at the internal borders (for further information please refer to the attached document „Concept of customs’ inspections at the internal border under Schengen“).

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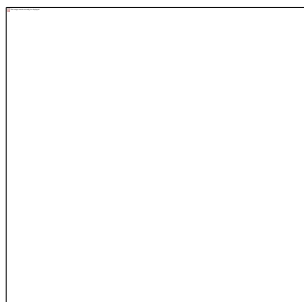
2) Concept of customs' inspections at the internal border under Schengen

Due to the fact that Switzerland is not member of the EU Customs Union, the Border Guard Corps (BGC) will still carry out customs controls at the internal borders. In the following graphic the procedure of a customs inspection at the border from the visual assessment to the operational control is shown. From this it becomes clear, that the major part of the traffic crosses the border without either a stop or being controlled. Around 10% of the travellers are stopped and questioned. Based on the questioning around 3-5% are subjected to a detailed material control.



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In order to clear the border crossing traffic (570'000 persons and 350'000 cars daily) at a faster pace, persons, who cross the border regularly, hold a valid travel document and carry goods up the tax free amount, have the possibility to stick a green declaration on the dashboard of their vehicle (analogous to the red/green system at airports).



The green declaration binds its users and the BGC can carry out a control without previous questioning.

The infrastructure and the traffic control systems necessary for the customs inspection will remain in use. In case of temporary reintroduction of controls of persons at the internal borders according to article 23 ff of the Schengen Borders Code, the responsible BGC will use this customs infrastructure also for controls of persons.

3) Distribution of competences between the cantons, the Border Guard Corps and the Federal Department of Justice and Police regarding controls at the border and in the border region

General

The Border Guard Corps (BGC) fulfils customs tasks on the whole Swiss territory, incl. the customs enclaves. In order to improve efficiency the BGC uses around 40% of its available resources for mobile (customs-) controls. Taking into account that significant overlaps exist between customs and police tasks (prior security checks for self protection, coercive powers of the BGC in the customs field, traffic police controls in addition to the customs inspection of vehicles and their loads, etc.), the BGC may perform police tasks, apart from customs inspections, at the border and in the border region, as far as these have been delegated to them by means of individually concluded agreements between the BGC and the cantons. The use of these synergies aims to relieve the workload of the cantonal police.

Authority of the Federal Department of Justice and Police to issue directives

In its field of competence the Federal Department of Justice and Police (FDJP) can give instructions to the BGC as well as to the cantonal polices. Thus the FDJP is for example authorized in accordance with article 19 of the Ordinance on Entry and Visa Procedures VEV (SR 142.204) to issue directives concerning the controls of persons. The BGC and the cantonal police are bound by these instructions/directives although not directly subordinated to the FDJP. In this sense, the incorporation of the BGC into the Federal Department of Finance and of the cantonal police in the different cantonal structures has no influence on the authority of the FDJP.

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Relationship between the BGC and the cantons

Due to the implementation of Schengen there will be no change in the distribution of tasks between the BGC and the cantonal police. *The police sovereignty as a cantonal matter will not be touched.* Apart from its unique field of control tasks based on the customs act (monitoring the traffic of goods, combating the smuggle of goods), the BGC will in future continue to carry out only those police tasks which have been delegated to the BGC by the respective canton. On an operational level this activity is tightly coordinated with the responsible cantonal authorities.

Details on the cooperation are specified in an agreement concluded between the BGC and the respective canton.

These agreements stipulate especially the:

- Responsibilities of cantonal police forces and the BGC;
- Tasks of the BGC (tasks delegated to perform independently as well as tasks performed as an assessing executive body in favour of the cantons);
- Area of deployment of the BGC;
- Regular exchange of information and intelligence;
- Operational coordination;
- Mutual support;
- Mixed patrols;
- Common use of communication systems;
- Training.

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