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COMIX 174

## DECLASSIFICATION

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Subject: Schengen evaluation of SWITZERLAND  
- Replies from Switzerland to additional questions put forward by the  
CZ delegation on the concept of customs' inspections at the internal border  
under Schengen

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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

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from : the Swiss delegation

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to: the Schengen Evaluation Working Party

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Subject : Schengen evaluation of SWITZERLAND

- Replies from Switzerland to additional questions put forward by the CZ delegation on the concept of customs' inspections at the internal border under Schengen

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Following the meeting of the Schengen Evaluation Working Party on 29 May 2008 and replies from Switzerland to additional questions put forward at the meeting of 7 March (doc. 7051/08 ADD 3 SCHEVAL 13 COMIX 174 RESTREINT), the delegation of the Czech Republic hereby submits its additional questions concerning the regime at the Swiss future internal Schengen border:

**Taking into consideration the fact that customs checks will be maintained at the Swiss land border, please describe in more details which measures will be applied with regards to:**

- 1. ensuring that persons crossing internal borders will not be subject to border check as defined by the Schengen Borders Code;**
- 2. informing public and persons crossing internal borders about specific Swiss (non-EU/EEA) rules arising from the maintenance of customs checks.**

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**Ad 1.** According to the Swiss concept „a customs control may consist of the control of a person as well as of all objects and the relevant vehicle. For safety reasons and where an initial police suspicion occurs, a control of a person may also take place (check of the identity and the valid residence as well as a consultation of the wanted persons register)”. However, e.g. consultation of data and alerts on persons and, where necessary, objects included in the SIS and in national data files comprises one part of a thorough check applicable to third-country nationals crossing the external borders.

According to the Schengen Borders Code, “border checks” means *the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter the territory of the Member States or authorised to leave it.* Conditions for entry of third-country nationals, and thus what shall be done within every border check, are further specified in Article 5 of the Code.

**Ad 2.** All persons crossing the Swiss border should be aware of specific rules applied at the border, including scope of the check and authorisation of the BGC officers. Such information should be provided in an understandable way and should be available also at border crossing points. Persons subjected to customs checks should also be informed about their rights related to the check.

## Replies from Switzerland

**Ad 1.** It is correct that the Schengen Borders Code defines border checks as checks of persons and checks of goods (including means of transport and objects in their possession), i.e. customs checks. As explained earlier already (cf. our replies to the questionnaire and additional remarks on this very topic), Switzerland does not form part of the EU / EEA Customs Union. Hence, the Schengen Borders Code can only be applied by Switzerland as far as controls of persons are concerned. This means that after full accession of Switzerland to the Schengen area persons entering Switzerland will not be checked anymore solely due to the fact that they are crossing the Swiss border. Exceptionally, controls of persons may take place in cases where a customs control is carried out: The decision to stop and question a person for customs reasons depends on a short visual assessment of the vehicle and its occupants (provenance of the vehicle, luggage, load, state of the vehicle, customs and police information). If the person is stopped, it is asked if it carries any good.

## RESTREINT UE

Depending on the answers of the person and a more profound visual control of the vehicle and its occupants a customs control may take place (in practice about 3-5% of the traffic). It consists of the control of all objects and the relevant vehicle. If some customs offences are discovered (including stolen goods, arms, drugs, etc.), if for safety reasons it seems to be necessary or if an initial police suspicion occurs during the customs control, a control of the person may take place. Depending on the situation this control may go from a check of the identity papers and the valid residence permits to a consultation of the wanted persons' register (RIPOL, including SIS).

These aspects are taken into account within the training programme set up for the border guard's personal.

**Ad 2.** Customs checks themselves are nothing new and the procedures applied today will remain the same in the future. But Switzerland is well aware that in the context of Schengen the special situation of not being a member of the EU / EEA and, as a direct consequence thereof, the maintenance of customs checks deserves special attention by way of communication and information: For this purpose we are about to elaborate an adequate campaign especially designed to clarify the situation at internal border crossing points.

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