



Council of the
European Union

Brussels, 1 June 2016
(OR. en)

7051/08
ADD 6 DCL 1

SCH-EVAL 13
COMIX 174

DECLASSIFICATION

of document: ST 7051/08 ADD 6 RESTREINT UE

dated: 10 July 2008

new status: Public

Subject: Schengen evaluation of SWITZERLAND
- Replies from Switzerland to additional questions from Member
States - Customs controls at the internal borders

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

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

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NOTE

from : the Swiss delegation

to: the Schengen Evaluation Working Party

No. prev. doc. : 7051/08 ADD 4 SCHEVAL 13 COMIX 174 RESTREINT

Subject : Schengen evaluation of SWITZERLAND

- Replies from Switzerland to additional questions from Member States -
Customs controls at the internal borders

In the context of the presentation of the Swiss answers to the Evaluation Questionnaire at the Schengen Evaluation Group on 13 February 2008, Switzerland explained its concept of customs inspections at the internal borders for the time after the implementation of the Schengen Acquis. In additional questions, Switzerland was requested to describe which measures would be taken for the Schengen Border Code to be respected with regard to the controls of persons. In this respect please see in particular the answer to the question of the Czech delegation (annexed).

As some concerns may still exist regarding this question, Switzerland would like to ensure the Schengen Evaluation Group that its authorities responsible for the implementation of the Schengen Acquis will not use the customs inspections at the internal borders in order to sidestep the Schengen Border Code. In particular, customs controls will not amount to (covert) systematic controls on persons in practice.

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Since Switzerland is not member of the European Customs Union, it will continue under Schengen to perform customs controls at the national borders; this makes also the maintenance of infrastructures at the internal borders necessary. Switzerland can however assure the Schengen States as well as the Council of the European Union and the European Commission that it will fully respect its obligations under the Schengen Association Agreement at the internal borders and will apply the Schengen Acquis in full, in particular with regard to the abolition of systematic controls of persons at the internal borders.

Switzerland would like to thank the Council of the European Union, the European Commission and the Schengen States for their understanding for this special situation at the internal borders of Switzerland as well as for their support in the Schengen Evaluation of Switzerland.

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**Correction of the answers of Switzerland from 17 June 2008
to the additional questions of the Czech Delegation from 6 June 2008
(doc. 7051/08 ADD 4)**

Questions of the Czech Delegation

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

Answers of Switzerland (corrected)

Ad 1. The Schengen Borders Code (SBC) defines border checks as “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“ (art. 1, no. 10, SBC).

As explained earlier (cf. our replies to the questionnaire and additional remarks on this very topic), Switzerland does not form part of the EU Customs Union. Hence, customs controls will have to be continued at the internal borders. As a result, the provisions of the Schengen Borders Code must be applied by Switzerland in a way that still allows for customs controls being conducted.

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, i.e. no border checks according to arts. 6 to 19 of SBC will be carried out. In cases where a customs control is carried out controls of persons may take place only in specifically defined cases. 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, he or she will be asked if he or she carries any good. 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).

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This control will be maintained over 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 there is an initial police suspicion during the customs control, a control of the person may take place. These controls are either based on customs or criminal legislation or on art. 21 SBC. Depending on the situation they 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). In all other cases, the person will be allowed to proceed without being controlled, i.e. without his or her travel documents being checked.

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 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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