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THE EUROPEAN UNION

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EVALUATION REPORT ON THE
SECOND ROUND OF MUTUAL EVALUATIONS
"LAW ENFORCEMENT AND ITS ROLE
IN THE FIGHT AGAINST DRUG TRAFFICKING"

REPORT ON THE UNITED KINGDOM

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P A R T 1

1 INTRODUCTION

1.1 General

Following the adoption of the Joint Action of 5 December 1997, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime was established.

The United Kingdom was the eleventh Member State to be evaluated as part of the second round of mutual evaluations concerning law enforcement and its role in the fight against drug trafficking.

1.2 Persons involved in the evaluation

The examiners for the evaluation were Ms. Catherine Pignon (Assistant prosecutor general at the Court of Appeal in Rouen, France), Mr. Brian Smyth (Higher Executive Officer at Customs National Drugs Team in Dublin, Ireland) and Mr. Herwig Heller (Head of the department for combating fraud and mutual assistance in national and international matters, Ministry of Finance, Vienna, Austria). This team, accompanied by two members of the General Secretariat and one member of the Commission, visited the United Kingdom for five days from 13 May 2001 to 18 May 2001.

1.3 Programme

The programme of the evaluation team and the list of the persons seen during the evaluation visit, and from whom information was received, are at Annex A.

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1.4 Preparation of the report

Following these meetings, the evaluation team prepared this report, with the assistance of the Council Secretariat, based on the observations and conclusions of the experts in the team together with the answers to the questionnaire (12972/ 99 CRIMORG 171) which the UK authorities had provided. The principal purpose of this report is to evaluate the application and implementation at national level of instruments dealing with law enforcement and drug trafficking, of the resulting legislation and practices at national level and of international cooperation in the fight against drug trafficking. The evaluation seeks in particular to assess cooperation and coordination between different law enforcement structures and operational practices in them. The main focus of the evaluation is the practical day-to-day cooperation between different units both at national and international level.

1.5 Structure of the report

The report first describes the organisational structures, intelligence systems, special investigation techniques and methods of coordination and cooperation utilised in the UK in the fight against drug trafficking. The report then evaluates the effectiveness of these systems and, finally, the experts draw conclusions and make recommendations.

2 GENERAL INFORMATION AND STRUCTURES ¹

This chapter is aimed at describing the institutional and legal framework that is employed in the United Kingdom in the fight against drugs crime.

It has to be noted that the evaluation team did not receive any particular information on the situation in Northern Ireland but it was learnt from information received by the UK Anti Drugs Coordination Unit (UKDACU) that drug abuse in Northern Ireland was at a much lower level than in the rest of the UK. This was attributed to the specific situation that has not allowed organised crime networks to develop as paramilitary groups are said to have taken a tough stance on drugs. It cannot be denied, however, that they have also been involved in the blackmailing of drug dealers for fund raising and in the consequent killing of drug dealers.

2.1 Government Structures

2.1.1 UK drugs strategy

The UK's drugs strategy set out in the 1998 White Paper *Tackling Drugs to Build a Better Britain* sets the agenda for the objectives in fighting drugs in the UK.

The UK Government's drugs strategy's vision is "to create a healthy and confident society, increasingly free from the harm caused by the misuse of drugs". It has four main elements;

- young people – to help young people resist drug misuse in order to achieve their full potential in society;
- communities – to protect our communities from drug-related, anti-social and criminal behaviour;

¹ This part is mainly based on the answers of the UK authorities to the questionnaire.

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- treatment – to enable people with drug problems to overcome them and live healthy and crime-free lives; and
- availability – to stifle the availability of illegal drugs on our streets.

The UK drugs strategy is a sub-strategy to the Government's social exclusion strategy. It thus has to be understood as part of a wider context that not only addresses the crime-related aspects of drug abuse but also aims at creating an environment in which any form of abuse is less likely to occur.

All agencies concerned with fighting drugs trafficking operate within the context of this strategy coordinated by the UK Anti Drugs Coordination Unit (UKADCU) within the Cabinet Office. Although the strategy sets the framework for national action, law enforcement authorities are independent in the way they apply the law.

The strategy's Availability pillar covers the combined efforts of the law enforcement agencies to stifle the availability of illegal drugs on the streets. The strategy focuses on the drugs which cause greatest harm, particularly heroin and cocaine, which are being defined as Class A drugs in the UK according to the Drugs Misuse Act 1971.

The drugs strategy has set a target of reducing access to heroin and cocaine by 25% by 2005 and 50% by 2008.

All strategies and working agendas of agencies and departments involved in the fight against drugs have to be in line with the national strategy.

Scotland, Northern Ireland and Wales have developed their own strategies, which are aligned with and reflect the key elements of *Tackling Drugs to Build a Better Britain*.

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2.1.2 The Cabinet Sub-Committee on Drug Misuse (HS(D))

At UK level, coordination of activity against illegal drugs lies with the Ministerial Committee on Drug Misuse (also referred to as the Ministerial Steering Group on Drugs (MSGD)) – chaired by the Minister for the Cabinet Office. Anti-drugs activity is delivered principally by the Home Secretary, the Secretary of State for Health, the Secretary of State for Education and Employment, the Paymaster General and the Foreign Secretary. The Scottish Office, Northern Ireland and Welsh Offices are also represented and work closely with the director and staff of the UK Anti Drugs Coordination Unit (UKADCU) in the Cabinet Office.

2.1.3 UK Anti Drugs Coordination Unit (UKADCU) ¹

In 1997 an UK Anti-Drugs Coordinator and a deputy were directly appointed by the Prime Minister and a United Kingdom Anti-Drugs Coordination Unit (UKADCU) was created within the Cabinet Office to shift from a law enforcement accentuated approach to a more integrated approach against drugs.

The Anti-Drugs Coordinator and his deputy are to provide leadership and focus in driving forward the Government's anti-drug strategy. In England they are responsible for the day-to-day monitoring of Government policy, supported by officials of the UKADCU, which is part of the Cabinet Office. The role of the coordinator is to scrutinise the performance of departments and agencies in relation to the actions, objectives and performance indicators set out in the Government's ten-year strategy and produce a National Anti-Drugs Plan for implementation in each succeeding year.

¹ After the visit took place the UKADCU was absorbed into the Home Office and the Home Secretary now chairs the Cabinet sub-Committee on drugs (which has been renamed the Domestic Affairs (Drugs) sub-Committee). Thus the Cabinet Office no longer has any direct responsibility for drugs policy. These new arrangements are not expected to materially affect how the UK's drug strategy is pursued.

2.1.4 The Concerted Inter-agency Drugs Action Group (CIDA)

The Availability pillar of the UKADCU strategy is overseen and coordinated by the CIDA (Concerted Inter-agency Drugs Action Group). This body, created in 2000 and chaired by Her Majesty's Customs and Excise (HMCE) includes senior representatives of the National Crime Squad (NCS), the National Criminal Intelligence Service (NCIS), the Association of Chief Police Officers (ACPO), the Scottish Drug Enforcement Agency (SDEA), the security and intelligence agencies, the Home Office and the Foreign and Commonwealth Office. It has a strong operational focus and has basically emerged out of the need for operational coordination but also to improve the overall intelligence picture and strategic intelligence. CIDA is overseen by the Home Office-chaired Organised Crime Strategy Group (OCSG) which is responsible for the UK's strategy for tackling all forms of organised crime.

CIDA's role is manifold; it would for instance take a decision if police and HMCE were to disagree on operational matters.

2.2 Legal Bases and Regulating Guidelines

2.2.1 Misuse of Drugs Act 1971 ¹

The Misuse of Drugs Act 1971 (MDA) is the main law regulating drug control in the UK. It is through the MDA that the UK fulfils its obligations under the UN Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances.

The MDA, revised in 1979, and its associated regulations, principally the Misuse of Drugs Regulations 1985, makes extensive provision for the control of dangerous drugs and their import, export, production, supply, prescription, possession and possession with intent to supply. The MDA set up an Advisory Council on the Misuse of Drugs, which must be consulted before any use is made of the powers under the Act, for example to control a new drug. The Advisory Council keeps the misuse of drugs in the UK under review and advises Ministers on measures to deal with the social problems caused by such misuse.

¹ cf. <http://www.emcdda.org/>.

2.2.2 Other legislation ¹

The Drug Trafficking Act 1994 (DTA) came into force on 3 February 1995, consolidating and replacing the Drug Trafficking Offences Act 1986 and subsequent amendments. Following a conviction, the court is able to make an assessment of an offender's benefit from drug trafficking and impose a confiscation order depriving him or her of any proceeds. In assessing the amount liable for confiscation, the court is able to assume, unless the contrary is shown, that the whole of an offender's assets at the time of conviction together with any property which has passed through that person's hands during the previous six years, represents the proceeds of drug trafficking. The Act thus ensures that the full value of a convicted trafficker's illicit proceeds rather than those directly attributable to the offence for which he was convicted are liable to confiscation.

Existing money laundering and confiscation capabilities have been reviewed and the findings and recommendations derived therefrom have been used to produce a "Proceeds of Crime Bill" aimed at enhancing existing money laundering measures.

The legal inventory also comprises acts pertaining to special investigative techniques etc.

2.2.3 Guidelines – Strategies of Individual Agencies and Departments

Police chiefs are guided by strategy but have the independence to decide the way in which they apply the law. HMCE also operates to a strategy, with guidelines being issued to investigative and operational staff. The Crown Prosecution Service (CPS) has a Strategic Plan for 2001-04 and an annual Business Plan. Both documents set out overall strategy and priorities. They inform and are supported by individual Area Plans, of which there are 42, which reflect local priorities.

Headquarters Directorates also produce their own Plans which reflect their priorities and targets for the forthcoming year. These are informed by and go to support the overarching aims and objectives of the Strategic and Business Plans.

¹ cf. <http://www.emcdda.org/>.

2.3 Competent Authorities

In the UK both Her Majesty's Customs and Excise (HMCE) as well as the police service are responsible for tackling drugs trafficking, with the National Crime Squad (NCS), the Scottish Drug Enforcement Agency (SDEA) and the Royal Ulster Constabulary (RUC) leading police action and HM Customs and Excise (HMCE) the customs action. The evaluation team was assured that both branches of law enforcement work closely together.

2.3.1 National Criminal Intelligence Service (NCIS)

The National Criminal Intelligence Service, which is a multi-agency organisation employing staff from 24 different agencies, is charged, under section 2 of the Police Act 1997 with the following functions:

- a) to gather, store and analyse information in order to provide criminal intelligence;
- b) to provide criminal intelligence to police forces in Great Britain, the Royal Ulster Constabulary (RUC), the NCS and other law enforcement agencies;
- c) to act in support of these organisations in carrying out their criminal intelligence activities.

The mission statement for the organisation is "To provide leadership and excellence in criminal intelligence to combat serious and organised crime".

NCIS have signed partnership agreements with the Association of Chief Police Officers (ACPO), ACPO (Scotland), the RUC, HMCE and NCS and working protocols or memoranda of understanding with other agencies. Both the Service Authority¹ and the Home Secretary can set objectives for NCIS. Five objectives have been set. Objective 2, set by the Home Secretary, is "To provide high quality and relevant criminal intelligence and information to law enforcement agencies, having regard to the Command paper entitled "Tackling Drugs to build a better Britain – the Government's ten-year strategy for tackling drugs misuse".

¹ The service authority consists of central government representatives, local politicians, senior police officers and businessmen; its task is to screen the budget and procedures.

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Performance targets have been set and address three specific areas of criminality:

- i) Importation of drugs;
- ii) Manufacture of illegal drugs;
- iii) Distribution of illegal drugs.

NCIS has an authorised establishment of 886 with 794 currently in post. Funding for the upcoming financial year has been set at £57.67m.

NCIS has six regional offices in the UK and a satellite office in Northern Ireland which are the key contact points with regional police forces, local HMCE and NCS units. According to NCIS they provide the following services to law enforcement through these offices:

- a secure flagging service aimed at avoiding duplication of effort by law enforcement agencies
- a 24-hour facility to search NCIS intelligence databases
- the interface between police forces, other law enforcement agencies and the intelligence agencies
- advice and support for applications under the Regulation of Investigatory Power Act 2000.

The Economic Crime Unit within NCIS acts as UK Financial Intelligence Unit (FIU).

2.3.2 National Crime Squad (NCS)

The National Crime Squad for England and Wales, set up in 1998, is responsible for providing a nationally coordinated investigative response to serious and organised crime occurring at regional, national and international level. It also continues to provide support to local police forces investigating serious crime.

The NCS has three geographical areas of operations spread over England and Wales operating out of 36 locations, with headquarters based in Central London. It is estimated that approximately 75% of the business of the NCS impacts upon those trafficking in class A drugs. NCS deals with level 3 crime only, which according to the National Intelligence Model is defined as "serious and organised crime – usually operating on a national and international scale requiring identification by

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proactive means and response primarily through targeting operations by dedicated units and a preventative response on a national basis".

Police officers are seconded from their regional police for a limited time only (five to seven years). There also is a role to support other police forces.

The NCS employed 1432 detectives and 415 support staff in 1999-2000 with a budget of £103.45 million. The budget for 2000-1 is £108.75m, and for 2001-2 will be £114.05m. NCS also has to act according to a business plan. In 1999-2000 the value of drugs seized totalled £121,354,468. 612 arrests were made associated with drugs and 214 criminal drug-related organisations were disrupted or dismantled.

2.3.3 Scottish Drug Enforcement Agency (SDEA)

The SDEA was formally established on 1 April 2000 and launched on 1 June 2000 on the basis of a Collaborative Agreement of the eight Scottish Chief Constables under the terms of Section 12 of the Police (Scotland) Act 1967. The agency incorporates the Scottish Crime Squad (SCS), the Scottish Criminal Intelligence Office (SCIO) and the Scottish Technical Support Unit (STSU), which have ceased to exist as separate entities.

The SDEA is co-located along with the National Criminal Intelligence Service (NCIS) Scottish Office and HM Customs and Excise, Enforcement Directorate – Investigations.

SDEA's objectives are to deliver the law enforcement action priorities set out in the Scottish Executive's strategy *Tackling Drugs in Scotland: Action in Partnership* which in turn links to the UK strategy *Tackling Drugs to Build a Better Britain*. They include rationalisation of the intelligence, operational and coordination elements of drug enforcement in Scotland, whilst maintaining the capacity to assist Scottish police forces, as appropriate, with the investigation of all serious and organised crime.

2.3.4 Royal Ulster Constabulary (RUC)

It is assumed that the RUC performs the same tasks for Northern Ireland as the NCS does for England and Wales and the SDEA does for Scotland. The evaluation team did however receive no particular information on the RUC.

2.3.5 Her Majesty's Customs and Excise (HMCE)

2.3.5.1 General

HMCE is responsible for preventing and detecting the illegal import and export of controlled drugs, the investigation of organisations and individuals engaged in international drug smuggling, their prosecution and the identification of the proceeds of such crime. HM Customs and Excise is part of the National Contact Point in conjunction with NCIS.

HMCE has recently been reorganised into two key functional areas: "Business & Tax Services" and "Law enforcement". Law Enforcement is made up of "Intelligence", "Detection" and "Investigation".

Law Enforcement is split up into four regions: South, London, Central and North. Within each region there are investigation teams dedicated to the investigation of drugs trafficking. They are multi-functional insofar as they carry out evidence gathering, surveillance, arrests and prosecutions. Within London teams are split between Eastern Hemisphere operations and Western Hemisphere operations. The vast majority of HMCE resources are directed at the Class A drugs trade.

In addition to the four regions there are national teams which are managed from London. These teams use more sensitive/intrusive techniques and are specialised in nature. They include informant handling teams, undercover officers and covert technical surveillance.

Joint action on specific cases between police, customs and other organisations as appropriate is part of the UK's approach. There are arrangements for ensuring a multi-agency, coordinated strategic approach to tackling drug trafficking.

2.3.5.2 Operational coordination between HMCE and NCS, SDEA and RUC

HMCE has a detailed operational protocol with the NCS that governs the division of work, joint operations and the sharing of intelligence. HMCE also has a Memorandum of Understanding (MoU) with the Association of Chief Police Officers (ACPO) which covers, in general, how the Department works with the 43 police constabularies in England and Wales.

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A HMCE cell also operates within the SDEA. According to SDEA close cooperation with HMCE exists with three-monthly strategic meetings to decide on which force would be best to tackle an operation.

The evaluation team did not receive any information on the operational circumstances between the RUC and HMCE but from the printed information it can be assumed that operations between RUC and HMCE are ensured by liaison with the regional offices.

Joint operations between police and HMCE concern the smuggling of goods into and out of the UK, other serious or organised crime including trafficking of drugs, or other international drug trafficking activities.

2.4 Community-based approaches

2.4.1 Drug Action Teams

A total of 182 local Drug Action Teams (DAT's) consisting of 150 DAT's in England, 5 Drug and Alcohol Action Teams within Wales, 4 Drug Coordination Teams in Northern Ireland and 22 Drug Action Teams in Scotland exist within the UK to tackle drug misuse locally. Their membership consists of senior staff from the statutory agencies involved e.g. health, police, prison service, local authorities and in Northern Ireland representatives from the community and voluntary sector are also involved. The role of the Drug Action Teams is to assess local problems and decide priorities and resources.

2.4.2 Police partnerships

Police forces are continuing to develop partnerships with other agencies and play an important role in Drug Action Teams. One of the three key Ministerial policing priorities is "to target and reduce drug-related crime in partnership with other local agencies, via the Drug Action Teams, in line with the Government's strategy". Police forces are also encouraged to invest up to 1% of their budgets in drug-specific partnerships working in local communities. The effectiveness of police action to counter drug misuse will continue to be monitored and researched.

2.4.3 Drugs Prevention Advisory Services

The Government's 10-year national strategy recognised the need for a successor body to the Home Office Drugs Prevention Initiative (DPI), which came to a planned end in March 1999 after some 9 years of promoting the cause of effective community-based drug prevention in various parts of England. On 1 April 1999 the Home Office Drugs Prevention Advisory Service (DPAS) was set up to support delivery of the national strategy and promote effective drugs prevention across the whole of England. DPAS has been structured to operate at a national, regional and local level. Its current functions are:

- to support Drug Action Teams (DAT's) in their local delivery of the four aims of the Government's anti-drugs strategy, namely a) helping young people to resist drug misuse; b) treatment – enabling people with drug problems to overcome them and live healthy, crime free lives; c) availability – stifling the availability of illegal drugs on streets; and d) protecting communities from drug-related anti-social and criminal behaviour;
- to advance the cause of effective drug prevention and expand the evidence base by dissemination of guidance and good practice;
- to encourage the development, through DAT's and others, of effective local prevention programmes and practices;
- to foster strategic links with key players, organisations and the voluntary and private sectors, to ensure that drug issues are kept on the agendas of relevant programmes and initiatives at national, regional, and local levels;
- to act as a "rapid intelligence" resource for advising national, regional and local organisations on practicability, strategic impact, and effective implementation of prevention policies and activities.

DPAS continues to issue reports as detailed findings emerge on what works in drugs prevention.

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In Scotland, the Effective Interventions Unit has been established within the Executive's cross-cutting drug misuse team. The Unit will identify and disseminate evidence of effective practice across all four pillars of the Scottish drugs strategy. The Unit will manage the Executive's drugs research programme.

2.5 Prosecution Services and Judges

2.5.1 Crown Prosecution Service

England and Wales have a national prosecution service, the Crown Prosecution Service (CPS), which was formed in 1986. The CPS is made up of 42 areas which mirror the boundaries of local police forces. The CPS does not have specialist departments set up to fight drug trafficking in particular. CPS areas and CPS headquarters deal with all offences that come within their geographical ambit. The level and seniority of staff assigned to a case would be a decision for local management or headquarters management if that case happened to be prosecuted by the Casework Directorate at CPS HQ. This applies to all types of offences including drug trafficking.

Importation offences are usually dealt with by HM Customs and Excise (HMCE). The Special Casework Unit Drugs Division is responsible for prosecution of all drugs cases investigated by HMCE's National Investigation Service, which investigates all of the more serious importations of drugs. All the lawyers within the Division are competent to deal with all drug trafficking offences.

In practice, serious drug trafficking prosecutions are usually allocated to judges of some seniority.

2.5.2 Crown Office – Scotland

The Crown Office is Scotland's own prosecution service and its policies differ somewhat from those of the CPS for England and Wales. Although there are at present no specialised prosecutors for drugs cases, the evaluators have been told that Glasgow will have a dedicated drugs court by the end of the year. There are magistrates that do specialise in drugs. The law enforcement side expressed the view that specialisation of prosecutors for drugs was not really necessary but that specialised prosecutors for organised crime were, however, regarded as a useful instrument. It was stated that when preparing a case for court, close cooperation with the Crown Office was the usual practice.

2.5.3 Northern Ireland

The team did not receive any information on the particular situation in Northern Ireland.

2.5.4 Operational coordination

There is no operational coordination between prosecution services specialised in the investigation and prosecution of drug trafficking, so far as the Crown Prosecution Service (CPS) is concerned, as the CPS and the judiciary in England and Wales have no statutory power to investigate.

At HM Customs and Excise nearly all prosecutors in serious drug cases are within the same team with the same line manager.

2.5.5 Cooperation between prosecution services, police and customs

The CPS has no specialised prosecution units in relation to drug trafficking investigations. The only time they might be involved at the investigation stage is if they are asked by the police to advise on the sufficiency of evidence in respect of certain charges, or whether the case should proceed at all. That advice might include guidance on the validity or otherwise of evidence collected to date. No particular stage triggers the request for advice, each case is dealt with on its own merits and is entirely dependent on the police asking for such advice.

In HMCE, National Investigation Service legal advisors may become involved at a very early stage of an investigation, advising on the application for search warrants, production orders etc. Advisory and International Criminal Division may become involved at the pre-charge stage to instruct counsel to give preliminary advice on the sufficiency of evidence to charge or to despatch Letters of Request to overseas investigators. Once a suspect is charged, a case lawyer from Special Casework Unit will be allocated who will then deal exclusively with the prosecution until trial and sentence.

2.6 Training

Training is not currently coordinated amongst law enforcement authorities. However, a recent initiative within the partnership of the NCS, NCIS, the Metropolitan Police, HMCE and National Police Training, which has been endorsed by ACPO Crime Committee, to provide a single national multi-agency centre for the training and development of covert law enforcement techniques, has been established under the banner of the National Specialist Law Enforcement Centre (NSLEC). The centre has the potential to coordinate between different law enforcement authorities as it develops.

2.6.1 HM Customs and Excise

For HMCE, investigation officers are trained in basic investigation techniques, high-speed driving, surveillance, interview techniques and financial investigations.

2.6.2 Police

For the police, specialist training for officers engaged in drugs investigations is dealt with by a number of forces who have developed and delivered courses aimed essentially at constable and sergeant level. These courses address issues such as: informant handling; the role of other agencies; searching techniques; local and national drug strategies; use of forensic science; and financial investigation.

West Yorkshire police have initiated a course dealing with illicit laboratories. The Metropolitan Police run a Financial Intelligence Development Course for experienced financial investigators (this training covers drug trafficking).

2.6.3 NCS and NCIS

The NCS and NCIS call in experts as and when necessary to deliver training on specific areas of concern, e.g. precursor chemicals. NCIS have sent officers to the Netherlands to receive training from the United States Drug Enforcement Agency in relation to laboratories.

The SDEA has sent an officer to the United States DEA for Drug Unit Command Training.

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The Specialist Crime Centre provides a variety of surveillance-related courses to the NCS and police forces within England and Wales. The training includes areas such as controlled deliveries, chemical precursors, fixed site illicit laboratories and identifying financial institutions visited by money laundering teams.

NCIS have developed their own analyst training using ANACAPA as well as other methods and help in the delivery of training to other forces and agencies. A number of forces offer generic training for crime analysts.

2.7 Monitoring

There is no formal mechanism in place to monitor decisions etc. There have, however, been signs that monitoring procedures are carried out within the individual agencies. NCS hold de-briefing sessions and disseminate good practice through various ACPO groups.

HMCE reported that they had recently conducted an evaluation on the operational protocol between HMCE and the police.

3 INTELLIGENCE

3.1 General

With NCIS at the heart of law enforcement intelligence, UK law enforcement is not only employing all kinds of traditional law enforcement intelligence but is also using contributions from security services in its portfolio.

The exchange of personal data is regulated by the *Data Protection Act (1998)* and the *Regulation of Investigatory Powers Act 2000*. The Government has proposed measures in the current *Criminal Justice and Police Bill* to facilitate exchange of data between government departments and law enforcement agencies for the investigation and detection of crime.

3.1.1 Sources

Both at operational and strategic levels a multitude of intelligence sources is used:

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- *Databases*: e.g. Experian, GB Accelerator, PNC, CEDRIC, ALERT, and other tailor-made NCIS products such as the Strategic Intelligence Requirement (SIR) database, Drugs Unit Disclosures databases, etc.
- *Records & Files*: Land Registry, telecom billings & subscriptions, bank records, policy files, etc.
- *Covert Human Intelligence Sources*: via Regional Source Development Teams.
- *Statistics*: greater use at a strategic level, but Home Office RDS products are an example.
- *Open Sources*: again greater use at a strategic level, but sources such as WWW, Reuters, Lexis-Nexis, etc commonly used.

3.1.2 Strategic intelligence

Strategic research is directed by the setting of a Strategic Intelligence Requirement (SIR), based on the latest assessment of a topic or crime sector.

Strategic research also relies on interviews and debriefing as part of the SIR and general strategic process.

Due to its nature and position in the market, NCIS is ideally positioned as a centre and clearinghouse for intelligence at operational and strategic levels. NCIS is also represented on many high-level policy-making bodies in relation to law enforcement, such as the CIDA group where its analyses help to inform operational activity.

3.1.3 Information exchange – national

There is generally a good exchange of intelligence and information between the relevant agencies and there is the mechanism in the Home Office's Organised Crime Strategy Group (OCSG) to discuss and address any difficulties which might occur. Action is being taken to address some aspects, e.g. legislation to establish "gateways" to allow greater sharing of data.

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At a strategic level intelligence is disseminated through the circulation to interested parties of reports and assessments, the main product being the annual UK Threat Assessment. On a more targeted level "Streetwise" seeks to disseminate knowledge specifically on drugs market developments to law enforcement. At a regional level the main strategic product will be the Quality Strategic Pictures.

HMCE also have an intelligence role in drugs trafficking. The Department continuously acquires, generates, uses and stores information of all kinds in carrying out its business. It works in close cooperation with NCIS and currently 60 officers are seconded to work there.

Information is shared between interested parties by the dissemination process, which in itself is underpinned by the NCIS flagging system, whereby targets are registered as being of interest to a particular agency. Incoming intelligence relating to the target would therefore be sent on to the team involved.

Development by NCIS of a National Intelligence Model (NIM) for intelligence-led law enforcement, and its subsequent implementation by law enforcement agencies, is considered to lead to improvements. Support for this product has come from the highest levels, and uptake has been promising. General awareness of intelligence-led law enforcement and its benefits in relation to policy and priority setting, and targeting resources efficiently and effectively will increase as NIM implementation and practice becomes more common.

3.1.4 Intelligence – use and impact

At an operational level, intelligence packages and assessments are used to lead and support ongoing operational work undertaken by partner agencies, as well as to feed into regional level Quality Strategic Pictures. Intelligence on targets is also collected and updated to allow rapid deployment of law enforcement against them if necessary.

At a strategic level the main NCIS product is the UK Threat Assessment, which is used by the Organised Crime Strategy Group to set priorities.

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Secondary strategic reports and assessments targeted on specific areas of study have been shown to be useful for again leading policy development, and here NCIS reported that they have had visible successes. Examples like Project *Ibitha* were said to have improved tactical coordination and tasking.

Environmental Scanning carried out by NCIS is used to monitor developments in criminal markets, and to maintain a level of ongoing knowledge. Further, these systems act as an early warning system for flagging up problems for the attention of law enforcement via PEST (political, economical, sociological, technological) style analyses. Again aspects of this work can feed into policy formulation. NCIS is currently laying particular emphasis in developing this kind of capability to tackle drug trafficking.

All of the above feed into the development at a corporate level of targeted "Knowledge Products", such as the National Intelligence Model, which are aimed at increasing law enforcement capability and effectiveness in general.

In addition, the Joint Intelligence Committee within the Cabinet Office uses intelligence from the security and intelligence agencies and open source material to produce high level assessments of particular aspects of drugs trafficking to the UK. These assessments are seen by Ministers and senior Government officials and help to inform the broad response to the problem.

3.1.5 Exchange of intelligence with law enforcement abroad

NCIS has a role as Europol Central Bureau and the same considerations apply to the exchange of data internationally as domestically, i.e. European Convention on Human Rights (ECHR) and Data Protection Act compatibility. This also means that an exchange of soft information with enforcement abroad is possible.

3.2 Financial Intelligence

The function of the United Kingdom Financial Intelligence Unit (FIU), founded in 1986 is performed by the Economic Crime Unit within NCIS. It is the central, national unit responsible for receiving, analysing, and disseminating financial disclosures received in the UK and forwarded to law enforcement for investigation.

NCIS decide which service will be entrusted with a particular financial investigation.

The FIU can call upon external expertise, chartered accountants etc when required.

Presently the FIU is staffed with 50 with an increase planned over the next three years.

The national database on Suspicious Transaction Reports (STR's) is maintained within this unit.

NCIS reported that they were dealing with 20.000 STR's per year. The SDEA reported 3.000 disclosures last year.

A growing number of STR's, 40% at present, are communicated electronically to NCIS via the internet using public key encryption. The objective for the near future is to transmit all STR's via internet.

4 SPECIAL INVESTIGATION TECHNIQUES

4.1 Financial investigations by police, customs and prosecutors

4.1.1 Legislation

Under the Drug Trafficking Act 1994, constables – police and customs officers – can ask the court for search warrants or orders requiring production of specific documents or evidence for the purposes of financial investigations. Constables also have general power to apply to the court for an order under the Police and Criminal Evidence Act 1984 to obtain documents to assist in the investigation of crime – although this is not exclusively for drug trafficking investigations. Before the courts can grant such orders, they need to be satisfied that:

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- a) there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;
- b) there are reasonable grounds for suspecting that the material to which the application relates –
 - i) is likely to be of substantial value to the investigation for the purpose of which the application is made; and
 - ii) does not consist of or include items subject to legal privilege or excluded material, and
- c) there are reasonable grounds for believing that it is in the public interest, having regard to:
 - i) the benefit likely to accrue to the investigation if the material is obtained, and
 - ii) the circumstances under which the person in possession of the material holds it,
- d) the material should be produced or that access to it should be given.

This financial investigation may – and usually does – commence before conviction.

Provisional measures such as restraint can be implemented when proceedings have been instituted for a drug trafficking offence or where an application has been made to do so. Proceedings must not have been concluded and the court must also be satisfied that the defendant has benefited from drug trafficking.

The UK has recently published a new draft Bill, the Proceeds of Crime Bill, which is intended to improve financial investigations. It provides for the establishment of an Assets Recovery Agency which would investigate and remove offenders' wealth accumulated through criminal activity. Proceeds will be recoverable through civil as well criminal proceedings.

4.1.2 Agencies responsible

There are a number of law enforcement agencies that undertake financial investigations in the UK. HMCE has a specific objective to deprive drug traffickers of the proceeds of their crime and they will be involved in the most large-scale drug investigations in the UK. Investigations are also undertaken by the police service and NCS, although their investigation remit covers a wider range of offences.

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On last available figures, the police service has 1055 financial investigators, the NCS 226 and HMCE 158. In general, police and customs officers must undertake a three-part course in order to be placed on the NCIS list of accredited financial investigators. There is ongoing training available following accreditation.

4.1.3 Operational experiences

In respect of those convicted of drugs and drug money laundering crimes over the past three years, customs officers have provided evidence to enable the court to determine 'benefits' from crimes totalling £112m. The main problem experienced with international enquiries is the time it takes some jurisdictions to reply to International Letters of Rogatory request.

4.1.4 Exchange of fiscal information

In the UK there is no legal bar to the fiscal authorities exchanging information with the competent national authorities in investigations involving murder or treason without the need for a production order. Production orders can also be obtained as appropriate under section 93 of the Drugs Trafficking Act, section 55 of the Criminal Justice Act and section 19 of the Terrorism Act 2000. These orders can only be used for the purpose for which they were issued and cannot be used for intelligence purposes. Legislation contained within the Drugs Trafficking Act 1994 places an obligation on all individuals to disclose knowledge or suspicion of drug money laundering. A person is guilty of an offence if:

- (a) he knows or suspects that another person is engaged in drug money laundering;
- (b) the information, or other matter on which that knowledge or suspicion is based, came to his attention in the course of his trade, profession, business or employment, and
- (c) he does not disclose the information or other matter to a constable as soon as is reasonably practicable after it comes to his attention.

With regard to exchange of information, the disclosure can be spontaneous on account of the above legislative requirements or by compulsion following a judicial decision. In addition, there are further reporting and record-keeping duties applicable to fiscal authorities under the Money Laundering Regulations 1993.

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According to supplementary information provided by the Home Office, HMCE can obtain information from Inland Revenue under section 127 of the Taxes Management Act 1970. The police can obtain information with the tax payer's consent. Failing that, the Revenue will cooperate without the need for a production order on investigations involving murder or treason. These orders can only be used for the purpose for which they were issued and cannot be used for intelligence purposes.

The earlier mentioned *Proceeds of Crime Bill* is aimed reducing the prerequisites for exchanging financial information between fiscal and law enforcement authorities.

4.2 Special investigative techniques – Controlled deliveries (CD's)

4.2.1 Legal bases, regulations, requirements

Controlled delivery is a technique permitted following a ruling of the House of Lords in the *Latif and Shahzad [1996] 2 Cr.App.R.* case. The use of covert techniques is also regulated by the Regulation of Investigatory Powers Act 2000 (RIPA).

The deployment of undercover officers may be authorised by HMCE (at Band 9 ¹) or the police (by a Superintendent) under section 29 of the RIPA.

Members of foreign law enforcement or other agencies or sources of those agencies may be authorised to be deployed in the UK in support of domestic and international investigations (para 2.19 RIPA Covert Human Intelligence Source Code of Practice).

Officers cannot incite the commission of an offence as agent provocateur. Operations must be necessary, proportionate and in accordance with the law. Sufficient details of the operation must be supplied to determine whether the application fulfils these criteria.

Primary responsibility for the UK border control of prohibited drugs rests with HMCE.

¹ Band 9 denotes a certain rank.

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4.2.2 Availability

For conducting CD's a 24-hour coverage is provided. Contact with foreign agencies can be initiated at any time via the NCIS desk officer system. If it is agreed to take on a controlled delivery, a surveillance team will be deployed within a reasonable timescale – between 30 minutes and 3 hours.

4.2.3 Operational Experience

The NCS experience in relation to the countries with which the UK historically and currently works undertaking controlled deliveries (CD's) with undercover officer (UCO) involvement is as follows:

Netherlands, Belgium, Germany High degree of cooperation. Quick or reasonable turn around of requests. UC Units operationally compatible.

Spain Degree of cooperation is reasonable and varies regionally. Turn around is variable in terms of time and agreement. More difficult since the Spanish Organic Law 1999. Operational back-up is ad-hoc; the situation has improved in recent years, but has been dependent on a regional judge's decision and remains variable.

Italy CD's are feasible and arrangements have been made in the past, though the operation did not proceed.

France The French legal system does not provide for any foreign undercover officers to operate in France. CD's are allowed on occasion to transit through France to the port of departure, but are dependent on the availability of a French Paris-based surveillance team to shadow the load.

Others CD's from other countries have been proposed; these include Poland, Russia and Bulgaria. However, none of the proposals has required any in-depth exploration and so the potential outcome is still unknown.

4.2.4 Coordination at international level

The NCS and HMCE coordinate international controlled deliveries through the UK Drugs Liaison Officer (DLO) network. The DLO's in Europe and the UK's relations with Europol are managed by NCIS. The operational teams initiate the requests via the National Units and communications are maintained through the desk officers. This ensures that appropriate audit trails are left and that all sections of the intelligence trail are kept equally informed.

This structure is kept in place as long as the operation is in the intelligence exchange phase. If and when the operation goes "live" then Europol will move to direct contact, where, for example, there is mobile surveillance. Europol will, however, maintain the information "loop" and the ability to support the operation with information exchange should this be required. Europol experts may also become involved where their support may add value to the operation.

4.2.5 Controlled money deliveries

The NCS has facilitated money pick-ups and transfers on behalf of various US law enforcement agencies.

As to the involvement of Europol in such operations, the UK authorities state that theoretically there would be no particular reason why they could not coordinate such an operation although in practice they have had no involvement in doing so. Of course the organisation would require some other considerations over and above the usual business such as integrity and control, but it should be feasible. In actual fact it seems likely that, with the recent extension of the Europol mandate, this is an area where the UK may involve Europol more in future operations.

4.2.6 Cross-border drug transactions

HMCE always try to substitute illegal drugs with an inert substance prior to making a controlled delivery.

5 COORDINATION AND COOPERATION

5.1 Cooperation at national level

The working relationship between the different agencies that are tasked with fighting drugs in the UK is governed by several consultative mechanisms. The working arrangements are contained in Partnership Agreements, Working and Operational Protocols and Memoranda of Understanding.

In general, NCIS acts as the national information exchange centre ensuring a comprehensive use of intelligence that is fed into its channels.

HMCE and the NCS have a detailed operational protocol that governs the division of work, joint operations and the sharing of intelligence; the same applies for the SDEA but no information was received for the RUC. Further, NCIS acts as a flagging service to avoid duplication incidents. According to what the evaluation team was told, the arrangement generally works well, particularly when compared to the state of affairs that existed before the introduction of these instruments.

5.2 Cooperation at international level

5.2.1 Information exchange

A number of bilateral and multilateral agreements do exist; yet the evaluation team has not been provided with a comprehensive list.

From their observations, the evaluators gained the clear impression that the UK authorities prefer bilateral forms of cooperation rather than multilateral ones.

5.2.2 Joint investigation teams

The UK considers their multilateral (Europol) and bilateral (DLO) liaison are sufficient. As an operation progresses, direct contact is established between teams but this relationship dissolves when it is concluded. There are close links between cross-channel teams but these do not amount to "joint teams". But there is no reason why in appropriate circumstances "joint teams" could not be considered.

5.2.3 Information channels used

The appropriate channel is chosen according to the specific need. Liaison officers (Drugs and Commercial Fraud) tend to be used for operation-related enquiries and intelligence information exchange.

NCIS use Interpol for all post-arrest enquiries; drug enquiries where we do not have liaison officer connections; and all mainstream police work excluding drugs (i.e. fraud, theft, murder and wanted or missing people).

The decision to route an enquiry through a particular channel rests with the International Division of NCIS.

The criteria are:

- subject matter
- urgency
- whether or not the enquiry is self-explanatory
- whether it requires a UK representative to be personally involved with the operation/activity.

The UK initiated 362 new cases through Europol in the calendar year 2000.

5.2.4 Operational Experience

The UK has a very high volume of activity with its EU partners, a situation which has existed for a number of years. In the vast majority of cases being conducted with other partners, the liaison is described as effective. According to the UK authorities, the Netherlands example was cited as a good indication of operational difficulties that are currently being experienced. While the UK can offer the Netherlands authorities good intelligence from sanitised interception of communication sources, they are unable to accept them, as their domestic legislation requires the source of the intelligence to be clearly identified.

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An example of excellent cooperation exists with Belgium, where – because of the nature of the bilateral relationship that has been forged by the resident Liaison Officers – NCIS has removed the need for letters rogatory for many of the routine enquiries. While letters rogatory are not always required by the Belgian authorities they are in fact provided where there is an operational commitment (to be decided by the DLO). In such cases the DLO's fast-track the application.

5.2.5 Involvement of Europol

The UK Europol National Unit proactively encourages UK teams to make use of Europol in two main areas – using the secure and advanced Europol liaison channel to expedite international requests for assistance, and using the large analytical capability of Europol to provide real-time and effective support for investigations. UK experiences have shown that these and other Europol services are capable of adding real value to the work of law enforcement teams.

It was mentioned, however, that the greatest challenge was making those teams aware of the capabilities on offer and persuading them to overcome any institutional reluctance they may have towards sharing sensitive intelligence with a new and unfamiliar organisation. The key task for Europol therefore concerned effective marketing and communications in the UK. The UK has received no practical technical assistance from Europol because of ongoing concerns at the Europol Management Board about the acceptable limits of Europol's involvement in this area, and because the UK has a strong technical capability in its own right.

The UK has received some expert advice from OC experts at Europol, although not yet on a substantial scale. They expect this area to grow, particularly in regard to the counterfeiting of the euro currency for which Europol will have lead intelligence responsibility. The UK exchanges data with Europol on intelligence projects. The UK considers itself one of the most proactive users in this respect. The volume, significance, and breadth of this intelligence is increasing. As mentioned above, Europol is used for information exchange with Member States (the second most prolific user behind Germany).

5.3 Drugs liaison officers (DLO's)

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5.3.1 Foreign DLO's posted in the UK

The UK sources did not give an exact figure but estimated that at least 45 officers are attached to Embassies and High Commissions in London as representatives of their country for law enforcement purposes. This includes Police, Customs, Immigration and other Agencies.

Some of these are physically sited within NCIS and these include Scandinavia (2 police and customs officers), France (1 police officer), Germany (1 police officer) and Austria (1 police officer). Until recently the UK hosted an officer from Italy who returned to his home country and has not been replaced at the present time.

5.3.2 DLO's posted abroad

The number of UK DLO's at the end of the year 2000 was 65 (NCIS and HMCE), including 3 Europol Liaison Officers. HMCE additionally have 12 Fiscal Liaison Officers whose work includes gathering money-laundering-related intelligence. Country accreditations vary.

According to information provided by the Home Office the following officers are posted abroad:

Netherlands	4	two police and two customs officers
Belgium	2	one police and one customs officer
Italy	1	police officer
France	2	one police and one customs officer
Spain	4	two police and two customs officers
Ireland	1	one police officer (in post as of 5/3/2001)
Morocco	1	one customs officer (closing in July 2001, to be covered from Paris)
Portugal	1	customs officer
Germany	2	one police and one customs officer
Austria	1	police officer
Hungary	1	police officer (opens mid-2001)
Europol	4	two police, one customs and one security service officers.

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Once the current round of post-implementation has been completed, there will be 23 officers in 11 European Countries plus the Europol HQ.

A list of DLO postings worldwide and the UK contact points is at annex D.

They are all tasked from NCIS HQ – International Division in London. All enquiries and requests of the DLO's are routed through NCIS.

5.3.3 Use and coordination of DLO information

DLO's report through NCIS from whence it is disseminated as required or requested. All information and intelligence is deposited on the Alert database which is accessible to the rest of the organisation and partner agencies. This is subject of course to security levels and the nature of the information.

Where DLO's are tasked by operational teams (Police or Customs in the main) to gather information or make enquiries, then the results are sent in the first instance to them.

All Liaison Officers are tasked with the gathering of strategic information. This is returned to NCIS' International Division where it is disseminated to appropriate agencies and departments. A good example is heroin strategic intelligence being forwarded to the *Checkmate* Project.

5.3.4 Role of DLO's

DLO's are involved in drug trafficking when the subject matter and level is appropriate for them to be involved. This includes substantial controlled delivery (CD) operations, undercover and participating informant scenarios as well as anything else that it is deemed necessary for an officer to be personally involved. This can include those issues where bilateral involvement is required or even insisted upon by the host country.

Liaison Officers are expected to deal with any enquiry, which relates to serious and organised crime and when they are the most appropriate route bearing in mind the reasons given above.

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Europol officers deal with a whole range of enquiries and their duties are as listed in the mandated areas.

NCIS can always utilise the UK membership of Interpol for any of these enquiries; the circumstances, urgency and seriousness will determine the method to be employed.

5.3.5 DLO's at Europol

In their answers to the questionnaire the UK authorities reported that Europol was used as the proper channel for all controlled deliveries in post, freight and other concealments, unless the CD required the presence of a DLO.

Europol facilitate controlled deliveries on a regular basis with all the EU countries although most cases tend to be with Spain, the Nordic countries and Germany. Europol offer a significant number of deliveries to The Netherlands, who tend to refuse them.

However, where there is a clear operational advantage, they will on occasion accept the proposal. The quantities have no bearing on the Netherlands authorities who will refuse significant packages without reservation. The type of delivery varies from small postal packages to multi-kilo consignments of heroin and cocaine.

On one occasion Europol coordinated a sea-borne shipment of 220 kilos of cocaine to Spain where it was controlled overland to Valencia. The cooperation in almost all cases is excellent. The one difficult area is reported to be Belgium where local circumstances and current reorganisations tend to leave the DLO in control of these issues.

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P A R T 3

6 EVALUATION OF THE EFFECTIVENESS OF SYSTEMS IN THE UNITED KINGDOM RELATING TO THE FIGHT AGAINST DRUG TRAFFICKING

6.1 Findings

6.1.1 General

From the observations the evaluation team was able to make during the visit they were convinced that the United Kingdom is showing a tremendous commitment to fighting drug trafficking. The evaluation team identified a positive and enthusiastic attitude on the part of all practitioners from the agencies visited. All persons encountered evoked a strong sense of professionalism.

Apart from the remarkable examples of efforts against drug trafficking and its effects on a community level, the team was able to identify during its visit to Glasgow ("Mothers against drugs" and the "Glasgow Crisis Centre" – both examples of non-governmental agency-driven efforts), it has not been possible for the group to assess actual law enforcement cooperation at a local level further as the programme did not include any meetings with local law enforcement representatives. Furthermore, it has to be noted that a scheduled meeting with a representative of the Association of Chiefs of Police Officers unfortunately had to be cancelled due to urgent operational commitments; this was particularly regrettable as it would have shed some more light on the role of the ACPO. The team also did not have the opportunity to collect information on Statutory Inspectorates.

The evaluation team gathered the general impression that the UK drug enforcement system was quite complex, being governed by a web of bilateral agreements, memoranda of understanding and a division of legal competences between the UK and the regional level.

6.1.2 Structure of law enforcement

From the insights that the evaluating team has gained while visiting the UK, it has become clear that the UK law enforcement policy and structure has undergone some major redesign in recent years. Notwithstanding the fact that some of the agencies visited had only been operational for a short period the overall impression was that of a sound, strategy-led comprehensive approach. Having said that, due to their recent creation the efficiency of those structures remains difficult to assess.

6.1.3 UK Anti-Drugs Strategy

The UK Anti-Drugs Strategy forming a sub-strategy of a wider social strategy aimed at tackling all the underlying factors of the drugs problem, is delivered and supported from the highest political level. It does address all responsible bodies and their particular duties allowing every enforcement agency to identify with the strategy. The evaluation team therefore considers the UK approach a balanced and integrated model that is worth reflecting on for other European Union Member States.

The authorities interviewed explained that the UK Anti-Drugs Strategy has changed their work in the fight against drugs tremendously. Not only has it led to what is referred to as "seamless" activity against perpetrators from a local to an international level but it has also introduced targets and an evaluating process that is aimed at measuring achievements against the objectives. This also applies to the strategies of the regions and individual authorities when assessing their performance.

The strategy has also led to an increase in strategic intelligence on the drugs scene through the use of more teams from all resources.

The staff of most agencies visited referred to the positive developments experienced, saying that they would have been impossible without the guiding spirit of the national strategies.

It therefore seems appropriate to regard the UK strategy-based approach as serving as a forerunner.

6.1.4 Central coordinating authority

From the information that the evaluators had received, it was not completely clear what agency was to be designated as the central coordinating body under Recommendation 1 of the Action Plan to combat organised crime of 28 April 1997. On a political level UKDACU does perform such a function. One agency visited identified CIDA as having such a function. Although this could be understood with respect to operational matters, it seems difficult to assess which authority actually coordinates centrally.

From an operational point of view, however, NCIS provides the central coordinating authority acting as an intelligence clearing house on both a national and international scale.

6.1.5 Prosecution Services

Although there have been some signs of early consultation of the Crown Prosecution Services (division dealing with freezing of assets) that have apparently shown positive effects, the Scottish Crown Office has a more active role in advising the law enforcement side in Scotland as compared to the CPS for England and Wales.

Among other features of the prosecution side, the team was told that requirements for evidence were higher in Scotland than they were in the rest of the UK.

The evaluation team was left with the impression that the CPS did seem to be involved in fighting drug trafficking to a lesser degree than law enforcement. Although this is attributed to the particular features of the UK, the evaluation team concluded that it might benefit the combined effort to fight drugs if the prosecution services were to exchange practices and information. Furthermore, the CPS appeared to be too detached from daily work of law enforcement.

Summarising the individual impressions, it appeared as if the prosecution services played a lesser role as compared to their continental counterparts when it comes to a direct influence on investigations. Although the team did not identify any deficiencies due to non-consultation of the prosecution service, it should not be neglected that the prosecution service's expertise could prove an asset with regard to ensuring the success of an investigation.

6.1.6 Consulting instruments

The evaluation team has been advised that the daily cooperation between the different agencies is efficient and safeguarded by a number of consulting instruments. Due to the specific structure of law enforcement within the UK and according to the information received the consulting instruments have proven to be a valuable instrument in facilitating cooperation at a regional level and across the boundaries of operation areas.

On a very practical level operational protocols have helped to counteract a duplication of efforts and to produce a clear division of competencies, in particular between HMCE and the NCS.

6.1.7 Operational Protocols

From what the team have been told by several agencies visited, the former rivalry between HM Customs and Excise and police forces that had occasionally resulted in reduced operational efficiency has largely been eliminated by the implementation of the Operational Protocols. According to indications from the *Emerging Findings Report* on the Operational Protocol, however, this seems to be more a view that is shared by the management of the appropriate organisations.

As the team did not have the opportunity to gather information about the implications of the Operational Protocols on the operational level, no final assessment of the impact can be given.

From experience it can be deduced, however, that the clear definition of tasks and responsibilities in the protocols has proven to be a major improvement as resources are more efficiently allocated. Even if NCS and HMCE policies, for instance, differ in that the former favour the prosecution of high-class criminals while the latter opts for a disruption of the drugs trade (sometimes very far upstream), the procedure to have negotiations on a protocol was considered a step forward. This has also been confirmed by a recent evaluation conducted by HMCE. They stated that difficulties which had existed in the past have been dealt with at an appropriate level and that an operational protocol should be used for every operation before it starts.

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Although CIDA was designated as the last instance to decide in a case where the negotiating parties are unable to reach an agreement, the evaluators were assured that this has not happened to date.

From the overall information received, the team is of the opinion that the mechanism/instrument of Operational Protocols might serve as an example of how recurring difficulties over competencies in operations where police and customs are involved, could be resolved.

6.1.8 NCIS

NCIS's mission approach that not only focuses on drugs but rather on threats seems to offer a practicable answer in the light of limited human and material resources. The inter-agency approach brings together the intelligence of all law enforcement and security agencies, and from what the team has been shown it appears that the UK has created a potent clearing house.

It was explained to the evaluation team that NCIS's policy was rather to focus on operational intelligence on the top few criminals than to produce short-term successes.

The fact that the SDEA reported a rise in the number of operations since they have been using NCIS as a means of intelligence might serve as an indicator for the growing effectiveness of this agency, even when taking into account the fact that SDEA has been operational for scarcely a year now. On the other hand, however, the team was told that NCS had only received 11% of their intelligence from NCIS. The significance of this figure, and NCIS question its accuracy, is difficult to judge. It seems to be low but the experts understand that it takes no account of the quality of the intelligence provided nor of the range of other enforcement partners to whom NCIS provide intelligence. The team were told that NCIS sometimes had difficulties in persuading enforcement agencies to take on heroin operations, which were perceived to be difficult and complex, although the experts have subsequently been given to understand that those difficulties should not be overstated and that satisfactory solutions are found through negotiation.

6.1.9 Intelligence database

With its common intelligence database, NCIS does possess a valuable asset for sharing data with other agencies by offering a broad base for valid assessments.

Although NCIS is the agency that centrally stores data from the its participating agencies in a database, it was not clear to the evaluation team from which sources the data are actually derived.

6.1.10 Financial intelligence

The UK FIU located within NCIS's Economic Crime Unit is situated in a relevant place as its competence to appoint the service that will deal with the individual case ensures that any duplication of efforts will be avoided.

According to the information the team has received on the exchange of financial data between fiscal and law enforcement authorities examples of difficulties have been reported. The evaluators were told that *The Proceeds of Crime Bill* to be introduced in Parliament ¹ will contain provisions to remedy the shortcomings and facilitate an easier exchange process.

6.1.11 Confiscation of the proceeds of crime

The evaluation team was told that further improvements were expected in the near future as regards confiscation for which the *Proceeds of Crime Bill* will envisage a number of measures. The bill provides for the establishment of an Assets Recovery Agency which would investigate and remove offenders' wealth accumulated through criminal activity, it will introduce new powers for investigating the proceeds of crime; strengthen procedures for restraining and confiscating a defendant's assets in criminal cases; extend the existing powers for customs and police officers to seize drug cash (and cash derived from any criminal activity) discovered on import or export and to secure its forfeiture; modernise and unify the criminal offences of money laundering; and introduce the civil recovery scheme and a new scheme for the taxation of criminal gains. It is also planned to tighten up on the FATF 40 recommendations regime.

6.1.12 Financial investigations

The team was told that compulsory financial investigations are carried out by HMCE on every case, while no indication was given that this was the case during police investigations.

¹ The evaluation team was told after the visit that the Bill would be introduced on 18 October 2001.

6.1.13 Controlled deliveries

NCIS admitted that, although in theory they were in charge of all controlled deliveries made by local police authorities, it could not be established whether single operations were carried out without their consent or knowledge. NCIS emphasised that for reasons of good practice it would be advisable to contact them. Since, however, CD's are mostly carried out via Interpol or Europol channels they considered it difficult to be circumvented.

6.1.14 Coordination and cooperation – general

It was not possible to finally assess the quality and volume of international cooperation as the evaluation team did not receive many examples of bilateral or international cooperation. There was, however, a clear tendency on the part of the agencies concerned to prefer bilateral cooperation to the Europol channel.

6.1.15 Flagging

The flagging system has to be regarded as being, in principle, a good means of ensuring information exchange on targets that might be of interest to a particular service although there appeared to be some deficiencies.

From NCIS the evaluation team learnt that only 30 % of the cases were flagged; NCIS sources stated that the flagging system was a "compromised" database.

Local operations could be reported to a national focal point within the police and customs.

6.1.16 Cooperation between prosecution and law enforcement services

From what the team has been told, cooperation between prosecution and law enforcement services seemed to vary depending on the region and agency concerned. While cooperation between HM Customs and Excise and CPS in England and Wales seemed to be slightly closer than with the police, this has to be attributed to historical developments of the roles between prosecutors and agencies. It cannot be determined to what extent a lack of or a low profile cooperation has had an impact on the working of the anti drug effort.

6.1.17 Interagency cooperation

In the light of fighting drug trafficking, the UK has a number of examples of interagency cooperation, either on a strategic or a more operational level. From the visits to NCIS and SDEA the evaluation team has learnt that the interaction of different agencies and bodies under a single umbrella can enhance sharing their expertise and knowledge, thus having a stronger effect on the combined effort to tackle drug trafficking. The SDEA in particular pointed out that due to the involvement of HM Customs and Excise a greater degree of mission success was observed. From NCIS the team heard that intelligence from the secret services augmented the common intelligence base via the CIDA group.

Although there appears to be a "natural" need for UK agencies to liaise with each other, considering their large number and the various ways in which they have created interagency mechanisms, the evaluation team found that their approach might also be worth emulating by law enforcement in other countries as this engagement in interagency cooperation seems to have produced some promising results.

In this context the experts also regarded the common training initiative between police and HM Customs and Excise as a valuable asset that could possibly lead to a greater compatibility of the operational training requirements.

6.1.18 DLO's

Although the UK possesses an extensive DLO network, the evaluation team did not receive any particular reports concerning specific difficulties arising from their tasking. Apparently the system is working well with the particular example of cooperation with Belgium where the DLO channel is chosen to speed up the information process even without a letter rogatory. From NCIS, which is sharing the mass of European LO business, voices were heard that they would not be particularly in favour of LO's shared with other European countries as they rather opted for bilateral operation of LO's. NCIS nevertheless was in favour of a stronger involvement of Europol, stating that they intended to pass all controlled deliveries through Europol as it was regarded as beneficial to all parties.

6.1.19 Cooperation with Non-Governmental Organisations (NGO's)

The evaluation team did not gain a broad insight into cooperation with non-governmental organisations. They were, however, informed that cooperation with NGO's was conducted on a voluntary basis.

Although the team did not speak to members of one of the Drug Action Teams and did not have the opportunity to learn about their actual operational experience, they can be considered as a recognised model for ensuring cooperation between law enforcement and other players at the local level.

6.2 Possible improvements

6.2.1 Prosecution Services

As mentioned in 6.1.5 and 6.1.16, the evaluation team identified room for a stronger role of the prosecution services in all parts of the country. Although there are efforts in Scotland towards a more specialised role for the prosecution services by introducing drugs courts and a more consultative role, utilisation of the resources of the prosecution services should be considered at an earlier stage. HM Customs and Excise as well as the police could profit from the expertise prosecution service staff could provide, particularly to ensure later success in court.

6.2.2 NCIS/NCS

With reference to 6.1.8, the evaluation team was surprised to learn that apparently only 11% of the intelligence received by the NCS originated from the NCIS. It would be worthwhile to look into the reasons why the NCS only receives/needs so little intelligence from the national agency responsible for crime intelligence.

6.2.3 Financial investigations

As mentioned in 6.1.12, the evaluators were informed that apparently only HM Customs and Excise conducted financial investigations on every drug case. It would therefore be appropriate to suggest that the police should also consider compulsory financial investigations in certain drug cases.

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6.2.4 Flagging

According to information provided by the NCIS, only 30% of the cases in the national database were flagged (cf. 6.1.15) – a ratio which appeared to be quite low. The authorities concerned may therefore wish to look into reasons why cases are not flagged so as to avoid information-overlapping as far as possible.

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7 RECOMMENDATIONS TO THE UNITED KINGDOM AND, WHERE APPLICABLE, TO OTHER MEMBER STATES OF THE EUROPEAN UNION

The evaluation team found it appropriate to make a number of suggestions for the attention of the UK authorities. This should not detract from the fact that UK has a justly deserved reputation for adopting an integrated policy with regard to drug trafficking that allows a flexible response by employing deterrence, prevention and help. It appeared to the evaluation team that cooperation in general terms works well between the different players and that all practitioners are highly motivated and dedicated to their tasks.

The experts would like to summarise their suggestions in the form of the following recommendations:

to the United Kingdom:

- should continue and evaluate after a certain time the encouraging operational work that has been started on a regional level (e.g. with the Scottish Drugs Enforcement Agency) (cf. 6.1.2)
- should consider a more efficient use of the prosecution services by promoting their specialisation in the area of drugs trafficking and making a greater use of their legal expertise for the benefit of law enforcement (cf. 6.1.5, 6.1.16 and 6.2.1)
- might consider where appropriate a co-location of authorities at an operational level (vis-à-vis intelligence) which seems to augment their efficiency (cf. 6.1.17)
- should look into joint training of law enforcement; in this respect the common training initiative is considered valuable and should be developed into a common feature between NCS and HM Customs and Excise that could lead to greater compatibility of the operational training requirements (cf. 6.1.17)

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- should, if appropriate, define more clearly the central points of contact responsible for the respective matters (cf. 6.1.4)
- should introduce the obligation for police investigations to be accompanied by financial investigations (cf. 6.1.12 and 6.2.3)
- should try to increase the level of flagging at the NCIS to avoid overlapping investigations concerning serious crimes (cf. 6.1.15 and 6.2.3)
- might consider to widen the flagging system to incorporate regional investigations of criminal offences as well as national ones (cf. 6.1.15)
- should consider language training for the prosecution services so as to facilitate liaison with their European counterparts
- might examine whether there are actual difficulties encountered by NCIS in persuading enforcement agencies to take on operations regarding particular commodities and, if so, how they should be addressed (cf. 6.1.8 and 6.2.2)

to other European Union Member States:

- should consider the UK example of an anti-drugs strategy as a balanced and integrated model as it allows for implementation with individual players (cf. 6.1.3)
- should consider whether a mechanism/instrument like the Operational Protocol used between HM Customs and Excise and police might serve as a model of how recurrent disagreements over competencies in joint customs/police operations could be resolved (cf. 6.1.7)

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- should consider the UK approach of interagency cooperation if they have to operate in a similar diversified environment (cf. 6.1.17)
 - should consider the use of encrypted web-based technology in dealing with Suspicious Transaction Reports (STR's) to streamline their reporting facilities (cf. 3.2).
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VISITING PROGRAMME AND LIST OF PEOPLE SEEN

Monday 14 May 2001

10.30 Meeting with UK Anti Drugs Coordination Unit (UKADCU)

William Keown, Assistant Director

4 Central Buildings

Matthew Parker Street

London SW1H 9NL

Contact: 0207 270 1852

14.00 Buffet lunch and meeting with Home Office and Crown Prosecution Service (CPS)

Home Office: Peter Storr (Head of Policing Organised Crime Unit)

Anna Howard (Action Against Drugs Unit)

Dennis Evans (Judicial Cooperation Unit)

CPS: Simon Jeal

Neeta Amin

Peel Room

Home Office

50 Queen Anne's Gate

LONDON SW1H 9AT

Contact: 0207 273 4070

Tuesday 15 May 2001

Am Free

14.00 Meeting at the National Criminal Intelligence Service

14.00 – 14.35 Vince Harvey (Director, UK Division)

Questions

14.45 – 15.05 D McClelland (CIDA/HIU)

Questions

15.15 – 15.35 A Wright (CIU/CCDB)

Questions

15.45 – 16.00 Coffee

16.00 – 16.20 N Wilson (Synthetics)

Questions

16.30 – 16.50 R Drobert (Precursor Chemicals/CCIU)

Questions

17.00 – 17.20 A Blezzard (PIU/Money Laundering)

Questions

17.30 – 17.50 C Drake (SRDU/Analytical Methods)

Questions

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18.00 – 18.20 M Crago, Head International Branch (DLO's)
Questions

NCIS
Spring Gardens
LONDON

Contact: 0207 238 2410

Wednesday 16 May 2001

10.00 Meeting with Her Majesty's Customs and Excise (HMCE).

10.00 – 11.45 Meet Derek Bradon, Deputy Chief Investigation Officer
Custom House
Lower Thames Street
LONDON

Taxi:

12.00 – 13.45 Interview with Kevin Costelloe, Head of Drugs Policy
Room 6
New King's Beam House
22 Upper Ground
LONDON SE1 9PJ

Contact: 0207 865 4888

14.00 Meeting with the National Crime Squad (NCS)

Lunch
Det Chief Supt Neil Giles
William Hughes, Director General

NCS
Bessborough Street
Pimlico
LONDON SW1V 2WF

Contact: 0207 238 2523

Thursday 17 May 2001

Visit to Scottish Drugs Enforcement Agency (SDEA)

10.00 Meeting with James Orr (Director), Matt Hamilton (National Drugs Coordinator),
Robert Lauder (Head of Operations) and Stephen Whitelock (Head of Intelligence)

12.00 Lunch – depart

SDEA
Osprey House
Inchinnan Road
Paisley PA3 2RE

Contact: 0141 302 1102

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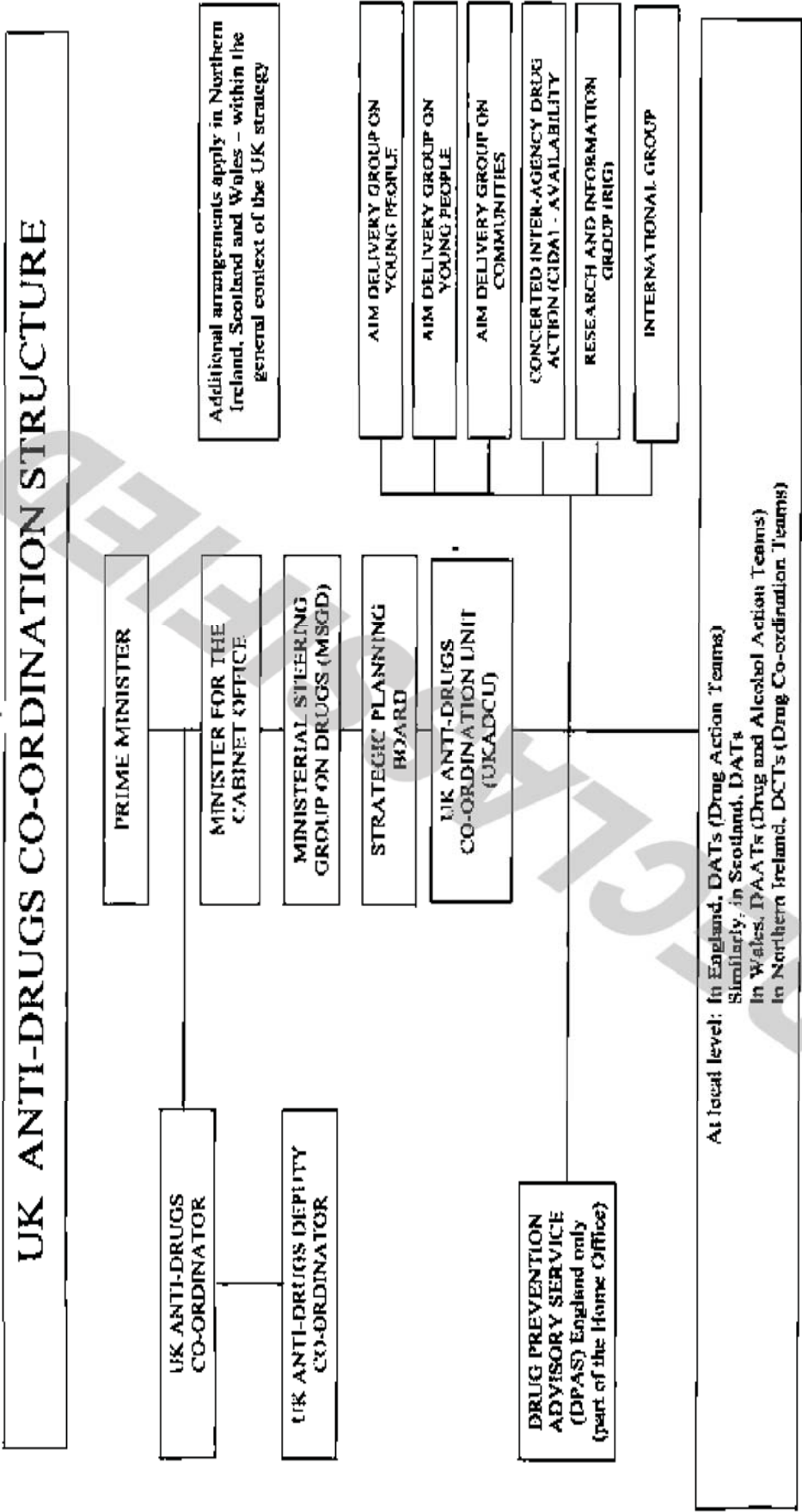
Friday 18 May 2001

- 09.00 Meeting with Commander Andy Hayman (Secretary to Association of Chief Police Officers (ACPO) Drugs Committee).
10.00 Meeting with Peter Storr/Richard Rhodes (Policing Organised Crime Unit)

Room 1026
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

Contact: Alan Robinson
Policing Organised Crime Unit
0207 273 4070
alan.robinson@homeoffice.gsi.gov.uk

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ANNEX C

LIAISON OFFICER'S POSTING	ACCREDITED FOR
BRIDGETOWN (Barbados)	Guadeloupe Martinique St. Vincent and Grenadines Grenada Dominica St. Lucia
KINGSTON (Jamaica)	Dutch St. Marteen Cuba St. Kitts St. Nevis Puerto Rico French St. Martin Antigua Barbuda Dominican Republic Bahamas Haiti
LOS ANGELES	
MIAMI	Anguilla British Virgin Islands Cayman Islands Montserrat Bermuda Turks & Caicos Belize
NEW YORK	Canada
WASHINGTON	USA (country clearance)

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
ANKARA	Turkey Romania Azerbaijan Georgia Armenia
ISTANBUL	Turkey
NICOSIA	Cyprus Greece Israel Lebanon Syria Egypt Jordan
RABAT	Morocco Mauritania Tunisia Senegal
SOFIA	Bulgaria Yugoslav Republic of Macedonia Serbia
WARSAW	Poland Ukraine Lithuania Latvia Estonia Belarus
BOGOTA	Central America Mexico Panama Costa Rica
BRASILIA/SAO PAULO	
BUENOS AIRES	Uruguay Chile

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
CARACAS	Venezuela Trinidad & Tobago Guyana Surinam French Guiana Aruba Curacao Bonaire
LIMA	Bolivia Peru Paraguay
PANAMA	
QUITO	
SANTA CRUZ	
BANGKOK	Thailand Malaysia Laos Singapore Indonesia Philippines Australia New Zealand Myanmar Japan China Korea Vietnam Cambodia Taiwan
BOMBAY	India Sri Lanka Maldives

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
DUBAI	UAE Saudi Arabia Kuwait Oman Yemen Bahrain Qatar
ISLAMABAD	Pakistan Afghanistan Tajikistan Uzbekistan Turkmenistan Kyrgystan Kazakhstan Iran
KARACHI	

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
LAGOS	Nigeria Ghana The Gambia Cape Verde Islands Guinea Sierra Leone Ivory Coast Togo Benin Cameroon Gabon Central African Republic Burkina Faso Niger Chad Mali Liberia Guinea-Bissau
NAIROBI	Kenya Eritrea Ethiopia Somalia Tanzania Uganda Sudan Rwanda Burundi
NEW DELHI	India Nepal Bangladesh Bhutan

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
PRETORIA	South Africa Namibia Botswana Mozambique Zambia Zimbabwe Democratic Republic of the Congo Mauritius Madagascar Seychelles Swaziland Lesotho Comoros Islands Malawi Reunion Islands Angola
BONN	Germany
BRUSSELS	Belgium Luxembourg
DUBLIN	Ireland
HONG KONG	Thailand China Singapore
MADRID	Spain Portugal
MOSCOW, RUSSIA	
PARIS	France
ROME	Italy
THE HAGUE	Holland
GERMANY	Switzerland
AUSTRIA	Czechoslovakia Hungary

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LIAISON OFFICER'S POSTING	ACCREDITED FOR
ITALY	Malta Albania
BELGIUM	Luxembourg
NETHERALNDS	
EUROPOL	

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List of Acronyms, Abbreviations and Terms

ACRONYM U ABBREVIATION TERM	ORIGINAL ENGLISH	TRANSLATION OR EXPLANATION
ACSPO	Association of Chief Police Officers	
CIDA	Concerted Inter-agency Drugs Action Group	
CIDA/HIU	Concerted Interagency Drugs/Heroin Intel. Unit	
CIU/CCDB	Cocaine Intel. Unit/Consolidated Coenteragency Data Base (seizure + flow of cocaine)	
CPS	Crown Prosecution Service	
DAT	Drug Action Team	
DPAS	Home Office Drugs Prevention Advisory Service	
DPI	Home Office Drugs Prevention Initiative	
DTA	Drug Trafficking Act	
HMCE	Her Majesty's Customs and Excise	
HS(D)	The Cabinet Sub-Committee on Drug Misuse	
MDA	Misuse of Drugs Act	
MSGD	Ministerial Steering Group on Drugs	
NCIS	National Criminal Intelligence Service	
NCS	National Crime Squad	
NIM	National Intelligence Model	

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ACRONYM U ABBREVIATION TERM	ORIGINAL ENGLISH	TRANSLATION OR EXPLANATION
NSLEC	National Specialist Law Enforcement Centre	
OCSG	Organised Crime Strategy Group	
PEST	Political, Economical, Sociological, technological	
PIU	Performance + Innovation Unit	
RIPA	Regulation of Investigatory Powers Act	
RUC	Royal Ulster Constabulary	
SCIO	Scottish Criminal Intelligence Office	
SCS	Scottish Crime Squad	
SDEA	Scottish Drug Enforcement Agency	
SIR	Strategic Intelligence Requirement	
SRDU	Strategic Research + Developement Unit	
STSU	Scottish Technical Support Unit	
UKDACU	UK Anti Drugs Coordination Unit	