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## DECLASSIFICATION

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Subject:	Recommendation for a Council Decision authorising the Commission to negotiate with the United States an amendment to the EC/US Agreement on customs cooperation and mutual assistance in customs matters ("Container Security Initiative (CSI)") - Political agreement
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Delegations will find attached the declassified version of the above document.

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

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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 4 March 2003**

**6829/1/03**

**REV 1**

**RESTREINT UE**

**CID 6**

**UD 20**

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## **NOTE**

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From: the General Secretariat  
To: the Permanent Representatives Committee (Part I)  
No. Cion prop. : 5644/03 CID 2 UD 5 USA 4 - SEC(2003)53 final RESTREINT UE  
Subject : Recommendation for a Council Decision authorising the Commission to negotiate with the United States an amendment to the EC/US Agreement on customs cooperation and mutual assistance in customs matters ("Container Security Initiative (CSI)")  
- Political agreement

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1. On 21 January 2003, the Commission presented a proposal for a mandate from the Council to negotiate with the United States an expansion of the scope of the existing EC/US Agreement on customs cooperation and mutual assistance in customs matters in relation to the Container Security Initiative.
2. The Working Party on Customs Union (Customs Legislation and Policy) examined the above issue at its meetings on 24 January, 3 February and 21 February 2003. Additional meetings were held by Customs Attachés on 10 February and 4 March 2003.

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3. Delegations will find in the Annex a Presidency compromise text for a negotiation directive regarding the EC/US Agreement on customs cooperation and mutual assistance in customs matters, following discussions at the Customs Attachés meeting on 4 March 2003.<sup>1</sup>
4. The Permanent Representatives Committee (Part I) is invited to examine this text with a view to reaching agreement and to forward it to the Council.

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<sup>1</sup> At this stage, all delegations maintain a general scrutiny reservation. The Danish delegation entered a parliamentary scrutiny reservation.

**DRAFT**  
**COUNCIL DECISION**

**authorising the Commission to negotiate with the United States an expansion of the EC/US  
Agreement on customs cooperation and mutual assistance in customs matters**

The Council, on the recommendation of the Commission, authorises the Commission to negotiate an expansion of the EC/US agreement on customs cooperation and mutual assistance in customs matters to extend its scope within European Community competence.

The Commission will conduct negotiations in consultation with the Special Committee appointed by the Council to assist it in this task and in accordance with the negotiating directives set out in Annex.

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## NEGOTIATION DIRECTIVES FOR AN EXPANSION OF THE EC/US AGREEMENT ON CUSTOMS COOPERATION AND MUTUAL ASSISTANCE IN CUSTOMS MATTERS

### I. NATURE OF THE EXPANSION OF THE AGREEMENT

1. The general objective of the expansion of the agreement will be to intensify customs cooperation within the framework of the existing agreement on customs cooperation and mutual assistance in customs matters, which entered into force on 1 August 1997.<sup>1</sup>
2. The aim of the expansion of the agreement will be to establish, within the limits of Community competence, a legal basis for a cooperation framework ensuring that general customs control of legitimate trade takes due account of security concerns. The expansion shall also ensure facilitation of legitimate trade in the transatlantic movement of goods and create equal levels and standards of controls for US and EC operators in conformity with our international commitments.
3. Article 5 of the Agreement on customs cooperation and mutual assistance in customs matters remains in force and will continue to apply to determine the relations between the expanded EC/US agreement and any bilateral agreement concluded between EC Member States and the United States, including declarations of principle agreed in application of such bilateral agreements.
4. The negotiations will be conducted with the aim of agreeing by mutual consent with the United States, as provided for in Article 3 of the existing agreement, to expand the existing agreement to cover specific control areas in respect of which the EC has competence, with a view to increasing the levels of customs cooperation and supplementing them, in accordance with customs legislation on both sides.

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<sup>1</sup> OJ L222 of 12.08.1997

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5. It will be for the two parties to explore the concrete possibilities for customs cooperation in pursuit of the above-mentioned objectives.
6. Article 23 of the existing agreement, allowing for unilateral termination within three months after notification, will apply as regards the expansion of the agreement.

## II. CONTENT OF THE EXPANSION OF THE AGREEMENT

1. The scope of the existing customs cooperation will be extended to allow the competent authorities of both parties to co-operate in developing actions in specific control areas in respect of which the EC has competence, based on customs techniques and procedures applied to the legitimate movement of goods with a view to ensuring a co-ordinated approach on customs controls in conformity with our respective international commitments and the principle of reciprocity. The following actions would in particular be envisaged, with account being taken of the need to ensure that the relevant provisions of the existing EC/US agreement on customs cooperation and mutual assistance, which concern confidentiality, data protection and use of information, apply also to this specific action:
  - The definition of key information for the identification of high-risk consignments, and how to collect and exchange it between the competent authorities in order to ensure the effective application of risk management techniques;
  - The establishment of common definitions for controls and an agreement on how these definitions can be used to identify high-risk movement of goods;
  - The co-ordination of positions to be taken on these issues in the framework of multilateral discussions;
  - The development of a common approach in order to carry out practical actions in this domain in conformity with our respective international commitments.
2. The expanded agreement will be without prejudice to the obligations to which the contracting parties are bound under other international conventions to which they are signatories, as already provided under Article 5 (1) of the current agreement.

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3. The Joint Customs Cooperation Committee, consisting of representatives of the customs authorities of the Contracting Parties, will remain the competent body to take decisions by mutual consent under Article 22 (2) of the existing Agreement also in the amended fields of customs cooperation.

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## Draft statements to be entered in the Council minutes

### **JOINT STATEMENT BY THE COUNCIL AND THE COMMISSION ON COMMUNITY COMPETENCIES**

1. The Council and the Commission agree that the negotiations to expand the present agreement between the Community and the United States of America will be conducted by the Commission in conformity with Article 300 (1) of the Treaty and in the presence of the Presidency.
2. Since negotiation directives given to the Commission are limited to Community competencies, the Council reserves the right to examine in the appropriate fora any question concerning the application of the TEU that might arise during the negotiations and require action by the EU.<sup>1</sup>

### **JOINT STATEMENT BY THE COUNCIL AND THE COMMISSION ON OBLIGATIONS IMPOSED UNDER OTHER AGREEMENTS**

The Council and the Commission recall that the expansion of the existing Agreement will be complementary, within the limits of Article 5 of this Agreement, to the bilateral agreements, including Declarations of Principle, between Member States and the United States insofar as the non-Community aspects of the bilateral Agreements are in no way affected by the expansion of this Agreement.

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<sup>1</sup> Commission reservation