



Council of the
European Union

008450/EU XXVI. GP
Eingelangt am 19/01/18

Brussels, 19 January 2018
(OR. en)

9999/02
DCL 1

CRIMORG 45

DECLASSIFICATION

of document: ST 9999/02 RESTREINT UE/EU RESTRICTED

dated: 2 July 2002

new status: Public

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

REPORT ON THE NETHERLANDS

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

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

RESTREINT UE



COUNCIL OF
THE EUROPEAN UNION

Brussels, 2 July 2002

9999/02

RESTREINT UE

CRIMORG 45

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

DECLASSIFIED

RESTREINT UE

TABLE OF CONTENTS

PART 1

1	INTRODUCTION	4
1.1	General	4
1.2	Persons involved in the evaluation.....	4
1.3	Programme	4
1.4	Preparation of the report.....	4
1.5	Structure of the report	5

PART 2

2	GENERAL INFORMATION AND STRUCTURES.....	6
2.1	Government Structures.....	6
2.2	Legal Bases, Regulating Guidelines and Strategies.....	9
2.3	Competent Authorities	11
2.4	Prosecution Services and Judges.....	21
2.5	Training.....	23
2.6	Monitoring.....	25

PART 3

3	INTELLIGENCE.....	27
3.1	General	27
3.2	Financial Intelligence	37

PART 4

4	SPECIAL INVESTIGATION TECHNIQUES	39
4.1	Legislation, Regulations and Procedures	39
4.2	Financial Investigations	39
4.3	Controlled deliveries (CDs)	43
4.4	Controlled money deliveries	46
4.5	Cross border drug transactions.....	46

RESTREINT UE

PART 5

5	COORDINATION AND COOPERATION	47
5.1	Cooperation at national level	47
5.2	Cooperation at international level	51
5.3	Information channels used	51
5.4	Operational Experience	54
5.5	Europol	55
5.6	Drugs liaison officers (DLO's)	56

PART 6

6	EVALUATION OF THE EFFECTIVENESS OF SYSTEMS IN THE NETHERLANDS RELATING TO THE FIGHT AGAINST DRUG TRAFFICKING	59
6.1	Findings	59
6.2	Possible improvements	66

PART 7

7	RECOMMENDATIONS TO THE NETHERLANDS, AND, WHERE APPLICABLE, TO OTHER MEMBER STATES OF THE EUROPEAN UNION	69
---	---	----

ANNEXES

ANNEX A	71
ANNEX B	74

RESTREINT UE

PART 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 Netherlands was the thirteenth 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 Mr. Frank Ferguson (Assistant Chief Investigation Officer, H.M. Customs and Excise, Birmingham, U.K.), Mr. Ted Murphy (Chief Superintendent, Garda Síochána, Dublin, Ireland) and Mr. Luc Decreus (Substituut-procureur-generaal, Gent, Belgium). This team, accompanied by two members of the General Secretariat and one member of the Commission, visited The Netherlands for five days from 12 November 2001 to 16 November 2001.

1.3 Programme

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

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 (Council document 12972/1/99 CRIMORG 171 REV 1) which the Netherlands 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

RESTREINT UE

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 at both 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 Netherlands in the fight against drug trafficking. The report then evaluates the effectiveness of these systems and, finally, the experts draw conclusions and make recommendations.

DECLASSIFIED

RESTREINT UE

PART 2

2 GENERAL INFORMATION AND STRUCTURES ¹

This chapter sets out to describe the institutional and legal framework used in the Netherlands in the fight against drug crime.

2.1 Government Structures

2.1.1 General Structures

In the Netherlands the fight against drug trafficking comes under the responsibility of a number of ministries.

In order to implement Recommendation 1 of the Action Plan to combat Organised Crime the Coordination Committee on Serious Crime (*CC Zwacri*) has been set up and is responsible to the National Public Prosecutor's Office (*Landelijk Parket*). The central task of the National Public Prosecutor's Office is the fight against (international) organised crime. Unlike the 19 district offices of the Supreme Public Prosecutor's Office, the National Public Prosecutor's Office is not restricted to a territorial area but exercises competence over the whole territory of the Netherlands.

The National Public Prosecutor's Office exercises judicial authority over the National Police Force, particularly over the National Investigation Team (*Landelijk Recherche team*). The former furthermore assists the College of Principal Public Prosecutors (*College van Procureurs Generaal*), which determines the national investigation and prosecution policy of the Supreme Public Prosecutor's Office (*OM*) in dealing with organised crime.

Moreover, there is no single authority with exclusive responsibility for law enforcement action in the fight against drug trafficking. The police forces, the specialised police departments – including the Royal Marechaussee (*KMar*) – the Supreme Public Prosecutor's Office (*OM*), Customs, the Fiscal Information and Investigation Service – Economic Inspection Service (*FIOD-ECD*) ² all have operational tasks in law enforcement.

¹ This part is mainly based on The Netherlands authorities answers to the questionnaire.

² The *FIOD* and the *ECD* form one organisation responsible for one core task: combating fraud. However, in combating fraud, they specialise respectively in fiscal fraud and customs fraud (*FIOD*) and in economic fraud (*ECD*).

RESTREINT UE

The Ministry of Justice and the highest authority of the Supreme Public Prosecutor's Office, i.e. the College of Principal Public Prosecutors (*College van Procureurs Generaal*), are – irrespective of politics – especially important in policy-making for the purpose of law enforcement.

2.1.2 Drug policies

2.1.2.1 Coordinating process

At national level a coordinating committee of the various departments involved with drugs holds regular meetings (every 4-6 weeks) at which current affairs and changes in policy and regulations are aligned. Because of the importance of an integrated approach, responsibility for the Netherlands' drug policy is shared by several ministries. The Minister of Health, Welfare and Sport (*VWS*) is responsible for coordinating drug policy and the Opium Act. The Minister is also responsible for the content of Dutch drug prevention and aid policy. The Ministry of Justice is responsible for judicial enforcement, while local government and police matters fall under the Ministry of the Interior. Sensitive matters would be discussed in the Cabinet of Ministers chaired by the Prime Minister.

2.1.2.2 Drugs Report

The last government drugs report was drafted in 1995. Since then progress reports have been submitted to Parliament every two years containing practical developments.

2.1.2.3 Local drug policies

At local level triangular consultations take place between the head of police forces (the Netherlands is divided into 25 police areas with a chief of police in charge), the burgomaster (responsible as administrator of the police force for the public order and security tasks carried out by the regional police) and the Chief Public Prosecutor of the district concerned. Local drug policies are given shape during these consultations within the national legislative framework. This incorporates public health aspects and forms of cooperation between the various sectors (police, justice and public health).

2.1.2.4 Objectives of Netherlands drugs policy

The objective of Dutch drug policy is to prevent and limit the risks associated with drug use, both to the user, to his or her immediate environment, and to society.

It aims at discouraging the demand for drugs and reducing the risks of drug use by pursuing a professional care and prevention policy. According to the Opium Law the possession of drugs is unlawful but anyone caught with a quantity for his/her own use will not be prosecuted and drugs would only be confiscated if the person stopped had committed a crime. Quantities beyond that for the consumer's own use will, however, always be confiscated.

RESTREINT UE

The second element of Dutch drug policy is to prevent young consumers graduating from soft drugs (i.e. cannabis) to hard drugs. Therefore a form of "regulated tolerance" emerged from this policy in which the participants in the game do have to stick to certain rules that have been approved by the Minister of Justice and Parliament.

2.1.2.5 Coffeeshops

In this context the approximately 800 (in 2000) coffeeshops, that have official status and were authorised by the Minister of Justice and drawn up by the College of Principal Public Prosecutors, play a major role. The number has decreased by some 30% since 1997 and they are mostly concentrated in the larger cities of the Netherlands with about 25% in Amsterdam. A coffeeshop owner may sell up to 5 grams of cannabis to a drug consumer provided that he/she is over 18 years of age (16 years ante 1995). Coffeeshops are allowed to store no more than 500 grams of cannabis at any given time; what is unknown is how the cannabis actually reaches the coffeeshop, although drugs trafficking as such is penalised in the Netherlands and targeted by law enforcement.

According to Ministry of Justice sources coffeeshops have not created extra demand for cannabis but attracted more and more foreigners, which is why the maximum single quantity of cannabis to be acquired was reduced to 5 grams.

There are no exact figures but the Ministry of Justice estimated that in a town like Venlo on the Dutch-German border German coffeeshop customers accounted for 50% of the trade.

The only records that coffeeshops are required to keep are fiscal and economic records.

2.1.2.6 Ecstasy (XTC)

The Ministry of Justice stated that production and trafficking of XTC was a major problem in the Netherlands and that a lot had to be done owing to an approach that was completely different from the one pursued in relation to cannabis. In order to counteract the current situation the Ministry of Justice has put forward a plan entitled "A combined effort to combat XTC"; one of its elements is that teams dealing only with XTC will be attached to each *Kernteam* from 2002 onwards.

RESTREINT UE

2.2 Legal Bases, Regulating Guidelines and Strategies

2.2.1 Legal provisions with regard to fighting drug trafficking

2.2.1.1 *Opium Act*

The principal rules for enforcement of the Netherlands drugs policy have been laid down in the Opium Act.

The Opium Act and the Criminal Code constitute laws in the formal sense and are established by the government and the States-General.

Netherlands drugs policy distinguishes between narcotics with an unacceptable public health risk (hard drugs) and lower-risk drugs (i.e. cannabis). This policy of "separating the markets" is reflected in different levels of sentencing. Under Dutch law, the use of drugs does not constitute a punishable offence. In the context of the Opium Act the sanction applied to prohibited forms of behaviour is based on whether or not a narcotic drug is named either on the list of "hard drugs" (list I relating to the Opium Act) or on the list of "soft drugs" (list II relating to the Opium Act).

The law also distinguishes between types of punishable offences, for instance between possession of small quantities of drugs intended for personal use, and possession intended for commercial purposes, which is reflected in a graduated policy in applying criminal law.

2.2.1.2 *Guidelines, Policy rules, Implementing regulations*

Policy rules that are established by the College of Principal Public Prosecutors (*College van Procureurs Generaal*) apply to the prosecuting authorities and all services that carry an investigative power on a nation-wide basis. Policy rules are established in consultation with and following approval by the Minister for Justice. Their latest review dates back to 1 January 2001.

Three policy rules of the College of Principal Public Prosecutors apply as regards enforcement policy under the Opium Act: the Opium Act Order, the Opium Act Directive on hard drugs and the Opium Act Directive on soft drugs.

RESTREINT UE

Opium Law Order

The Opium Law Order mainly deals with the investigation and prosecution of offences under the Opium Act and of persons who have committed these offences. The Order devotes particular attention to the administrative and criminal law aspects of the policy of tolerance vis-à-vis coffeeshops. The focus is also on investigations into waste deriving from synthetic drug laboratories as well as reporting policy in the event of a combination of the Opium Act and environmental offences.

Opium Act Directive on hard drugs

The Opium Act Directive on hard drugs governs the criminal procedure policy with regard to the legal prohibitions relating to the presence of, trading in, production and cross-border transport of substances that appear on list I attached to the Opium Act and the substances designated by General Order in accordance with Article 2(2) of the Opium Act as well as the promotion and/or preparation of such prohibited acts in a certain manner. The relevant articles of legislation are Articles 2, 10 and 10a of the Opium Act. The Directive provides for a system of penalty points concerning five basic offences that can be consulted by the prosecuting authority via a computerised Decision Supporting System (*B.O.S.*).

Opium Act Directive on soft drugs

The Opium Act Directive on soft drugs governs the criminal procedure policy with regard to the legal prohibitions relating to the presence of, trading in, production and cross-border transport of substances that appear on list II attached to the Opium Act. The relevant articles of legislation are Articles 3 and 11 of the Opium Act. The Directive provides for a system of penalty points concerning four basic offences that can also be consulted by the prosecuting authority via the computerised decision supporting system (*B.O.S.*).

Specific guidelines of the Royal Marechaussee (KMar)

Specific guidelines of the Arnhem Supreme Public Prosecution Office apply as regards the special position of the armed forces whereby the Royal Marechaussee (*KMar*) exercises its police tasks as part of the enforcement of the Opium Act.

RESTREINT UE

2.2.2 Cooperation with other authorities and NGO's

The Supreme Public Prosecutor's Office has in coordination with the Ministry of Justice, *inter alia*, concluded memoranda of understanding with the banking and insurance sector. The memorandum of understanding with the transport sector is approaching its conclusion.

2.3 Competent Authorities

2.3.1 Coordinating Committee on Serious Crime (CC Zwacri)

The Coordinating Committee on Serious Crime (*CC Zwacri*) is the advisory body of the College of Principal Public Prosecutors in the field of combating serious organised crime. Part of its duties is to advise on strategy and the allocation of areas of special attention and investigation (reconnaissance) to *Kernteams*. Before *Kernteams* launch an investigation they must have authorisation from the *CC Zwacri*. It is staffed by *Kernteam* unit heads, senior justice officials, representatives of the Ministry of Justice and the Ministry of the Interior and Overseas Territories and the director of the *FIOD-ECD* as well as the Research Division. The National Office of the Public Prosecutor supports the Chairman of the *CC Zwacri*, the person holding the relevant remit from the College of Principal Public Prosecutors, and develops *Kernteam* policy.

When visiting the *Prisma Team* in The Hague the evaluators were informed that below the *CC Zwacri* additional consultative bodies existed that would consider whether a proposal was worth being dealt with by a *Kernteam*.

2.3.2 Working Party on Serious Organised Crime/Interregional Investigation Team (ZGC/IRT)

The task of the *ZGC/IRT* Working Party (*Kernteam* officers and heads) is to provide solicited and unsolicited advice to the *CC Zwacri* on action by *Kernteams* to combat serious organised crime on the basis, in particular, of practical and operational experience. This advice also extends to the development, implementation and evaluation of policy on which operations are based.

The head of the *FIOD-ECD* is permanently represented on the *CC Zwacri*. Customs participate in *CC Zwacri* and *ZGC-IRT* consultations on an ad hoc basis, depending on the problem and/or area of special attention involved.

RESTREINT UE

2.3.3 Police

The present police structure has evolved from a Cabinet decision of 1989. The police are governed by the 1993 Police Act that, according to information given by the Ministry of the Interior, will soon undergo some changes.

2.3.3.1 General Organisation

The Netherlands police force has a strongly decentralised structure; in principle all 26 police forces (25 regional forces and 1 National Police Force) in the Netherlands are responsible for law enforcement in connection with drug trafficking. As regards enforcement in the field of drugs, a distinction is made for practical reasons between public order enforcement and judicial enforcement.

2.3.3.2 Regional Police

The 25 Netherlands regional police forces all have a similar organisational structure based on a national policy framework that will allow for some customised action at local level. Policy thrusts and instructions for subdivisions (local, district, regional and national) may, however, differ depending on the police force.

2.3.3.3 National Police Force (*Korps Landelijke Politiedienst – KLPD*)

The National Police Force (*KLPD*) has no authority over the regional police forces. Its Criminal Intelligence Unit (*NCIE*) deals with the fight against serious and organised crime. It acts, on the one hand, as a National Criminal Intelligence Centre and conducts, on the other hand, criminal investigations, *inter alia* by the National Investigation Team (*Landelijk Rechercheteam*), set up in 1997. Furthermore it has a supportive role vis-à-vis other law enforcement services by providing special equipment and special units for complex operations.

2.3.4 Inland Revenue (*Belastingdienst*)

2.3.4.1 Customs

Customs remit

The Customs form part of the *Belastingdienst*, or Netherlands Tax and Customs Administration. Lines of communication and responsibility run to the Ministry of Finance, other policy-making departments and the European authorities.

RESTREINT UE

There are seven Customs districts and 29 Customs posts under the direction of Customs. The Customs Information Centre, Customs Laboratory, Central Customs Administration Unit and Central Service for Import and Export provide support for the primary processes within the Customs. As at the end of 2000 the staff complement of Customs stood at 5 500. Since the Customs generally carries out integrated inspections as part of its activities, it is not possible to determine how much funding is devoted to measures to combat narcotics smuggling.

As a law enforcement organisation, the Customs are responsible for monitoring compliance with national and international regulations on the import, export and transit of goods and the levying of excise duties. The relevant tasks and powers are based on the Community Customs Code (CCC), the CCC Implementing Regulation, national Customs and excise legislation and the General Law on National Taxation. The Customs remit also covers the area of non-fiscal laws and regulations (including measures to combat the import, export and transit of narcotics; Article 8 of the Opium Act).

Customs powers

The Customs are above all an inspection body and their involvement with actual investigation is limited. In the performance of their inspection and supervisory duties, the Customs pay particular attention to serious crime-related goods, including narcotic drugs.

The basis of many of the Customs' powers in the area of investigation is laid down in the Code of Criminal Procedure. Customs' activity is confined to exercising its investigating powers up to the initial phase of an investigation. Customs may therefore stop and, if necessary, impound any goods involved in a criminal offence and detain any suspects. A report on the circumstances in which the goods were discovered, together with any statements by possible suspects and the facts ascertained, would then be handed over to the investigating service.

The Fiscal Information and Investigation Service – Economic Inspection Service (*FIOD-ECD*) is in principle assigned the task of investigating criminal offences. Such referrals are determined by means of agreements between the Customs and the *FIOD-ECD*. A somewhat different model applies as a result of the cooperation agreements with the *KMar*.

RESTREINT UE

Customs policies in combating narcotics at external borders

Standing Customs policy provides for adequate external border controls, such as the interception of narcotics. Stopping goods at external borders is, therefore, a major task of the Customs and is included in the Customs Policy Plan for 2001-2005. Active physical and mobile inspections are carried out at external borders, seaports and airports. Sea port inspections involve the use of surveillance units and both seagoing craft and land vehicles. Independent Customs surveillance is provided for the *Waddenzee* and for *Zeeland* coastal waters. The Customs also operate two Coastguard vessels, jointly with other inspection and investigation services. Both fixed and mobile container scanners are also used in the fight against narcotics. Stationary scanners are also in place at the port of Rotterdam and at Schiphol Airport, and the port of Amsterdam is said to be having a fixed container scanner in the foreseeable future. A number of dogs are also used in the fight against narcotics smuggling. Mobile Goods Inspection teams are active at internal borders and although their primary function is to inspect excise goods, they will also contribute in the event of any discovery of narcotic drugs.

2.3.4.2 Fiscal Information and Investigation Service – "Economic Inspection Service" (FIOD-ECD)

FIOD-ECD remit

Like the Customs the Fiscal Information and Investigation Service – "Economic Inspection Service" (*FIOD-ECD*) is a part of the Netherlands Tax and Customs Administration. Any infringements noted by the Customs in the course of the latter's inspection activities are referred to the *FIOD-ECD* for further investigation. Altogether some 1.200 persons are employed by the *FIOD-ECD*, spread over 6 establishments.

The primary task facing the *FIOD-ECD* is the investigation of fiscal and economic fraud. It also has a role in the fight against serious organised crime (including drugs crime) and in monitoring the misuse of chemicals that can be used as precursors. Monitoring duties are assigned to a special team (Chemical Inspection Team) from the *ECD* section of the *FIOD-ECD*.

RESTREINT UE

Powers of the FIOD-ECD

FIOD-ECD officials have general powers to investigate criminal offences (akin to those of the regular police), as laid down in the Code of Criminal Procedure ¹, the Opium Act, the Law on prevention of chemicals abuse and the Law on economic offences. The Chemicals Inspection Team also has powers of inspection borrowed from the General Administrative Law Act.

Enforcement agreement

Each year the *FIOD-ECD* concludes an enforcement arrangement with the Supreme Public Prosecution Office. This arrangement lays down, *inter alia*, the objectives for combating drugs crimes.

The 2001 Enforcement Arrangement *stipulated* that in the course of the year 50 investigations in the area of drugs crime were to be completed; 57 financial experts were to be assigned each year to multidisciplinary investigation teams (mostly to *Kernteam*s) and 10 investigations were to be completed in the area of precursors.

Chemical Inspection Team

The 1995 Law on prevention of the abuse of chemicals ² regulates inspection of the manufacture of and trade in precursor substances. An *FIOD-ECD* team checks that chemical companies are complying with the law. This sector of industry has recently undergone a full investigation and all data belonging to the companies concerned have been stored in a database. In addition, the *FIOD-ECD*, in conjunction with the *USD*, investigates XTC laboratories, specifically to gain an insight into the flows of chemicals used in those laboratories.

¹ Code of Criminal Procedure, Volume One, Title IV et seq.

² This law implements Directive 92/109/EEC of the Council of the European Communities of 14 December 1992 on the manufacture of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances, in conjunction with Regulation (EEC) No 3677/90 of the Council of the European Communities of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.

RESTREINT UE

Kenniscentrum Witwassen

The Centre of Excellence for Money Laundering (*KCW*) was set up to enable the Netherlands Tax and Customs Administration to combat money laundering. It has been operational within the Netherlands Tax and Customs Administration since 15 February 2000 under the responsibility of the *FIOD-ECD*. The *KCW* gathers intelligence, experience and expertise in the field of money laundering, storing information in a digital database using Lotus Notes®.

2.3.5 Royal Marechaussee (KMar)

The Royal Marechaussee (*KMar*), coming under the Ministry of Defence, has an autonomous position on certain matters within the Netherlands police system.

2.3.5.1 Tasks and powers

The *KMar's* policing duties are listed in the Police Act (*Politiewet*) and share the same competencies as the police. Its duties are as follows:

- acting as military police of the Netherlands armed forces;
- policing at Schiphol Airport and at the other Netherlands international airports;
- providing assistance to and cooperation with the police under the Police Act, including assisting the police in combating cross-border crime;
- performing duties assigned to it in or pursuant to the Aliens Act, including manning the border crossing points designated by the Minister for Justice and, as necessary in that connection, performance of policing duties at and in the vicinity of those points and providing cooperation with the arrest or apprehension of suspects or convicted persons.

2.3.5.2 Organisational structure

The *KMar* has a Central Policy Staff Unit at The Hague. Its remit covers six districts ¹, which consist of brigades carrying out primary duties. Each district staff is assigned a Judicial Service (*Justitiële Dienst*) with the following components:

¹ *Noord Brabant-Limburg, Zuid-Holland-Zeeland, Noord-Holland-Utrecht, Gelderland-Overijssel-Flevoland, Noord and Schiphol.*

RESTREINT UE

- operational investigation (tactical and technical);
- information investigation (information investigation and criminal intelligence unit).

The districts are supported by the National Central Judicial Department (*Centrale Justitiële Dienst*) that provides centralised services for analysis and investigation.

KMar's Special Security Duties Squad (*Brigade Speciale Beveiligingsopdrachten*) provides support for all investigation activities in connection with (technical) surveillance and arrest teams.

2.3.6 Coastguard Service

The Netherlands Coastguard Service (*Kustwacht*) is made up of enforcement units from six different ministries, each of which has its own investigative, inspection and/or supervisory tasks in the North Sea area under the responsibility of their appropriate ministries.

Coastguard units do not have full powers of action in every instance. After having taken the initial measures required, a coastguard unit will, therefore, hand over further investigation to the investigation service with primary responsibility.

2.3.7 Multiagency Units (Multidisciplinary Teams)

2.3.7.1 Kernteams

Composition

At supra-regional level the Netherlands also has seven *Kernteams* – multidisciplinary forces – that have been set up since 1994. These are specific teams for combating (supra-regional) organised crime. Six teams are manned by staff originating from at least two/at most eight regional police forces; the seventh team is the National Investigation Team (*Landelijk Rechercheteam*), being a part of the National Police Force (*KLPD*).

RESTREINT UE

Objectives

The political objective of the *Kernteams* was to remedy deficiencies in cooperation.

The *Kernteams'* tasks are twofold: they consist of investigations and information gathering¹. To successfully perform these tasks *Kernteams* have been assigned a number of focal topics, which have been allocated more or less on an *ad hoc* basis.

- *Kernteam Noord- en Oost-Nederland* (Northern and Eastern Netherlands) deals with heroin smuggling by – mainly – Turkish criminal organisations;
- *Kernteam Amsterdam-Amstelland/Gooi en Vechtstreek* concentrates in particular on trafficking in cannabis, mainly by Dutch gangs;
- *Kernteam Haaglanden/Hollands Midden (Prisma Team)* concentrates on cocaine smuggling from Latin America.

The College of Principal Public Prosecutors determines on the basis of a number of criteria, including budgetary criteria, whether an investigation merits "*Kernteam* involvement" .

Staff

The *Kernteams* are staffed with between 50 and 90 persons per team, a total of 420 for all seven *Kernteams*. For administrative purposes, each *Kernteam* is attached to one of the participating regional forces. All 25 regional police forces assign 0,8% of their staff complement to the *Kernteams*. Several disciplines are employed within the *Kernteams*. Attention is focused on any expertise required by the specific investigation. On this basis, the necessary expertise is enlisted for a certain period.

¹ Following the entry into force of the ministerial regulation (*Kernteam* Regulation, 1999 Official Gazette No 121, deriving from the Law on Special Investigation Powers), as from 1 January 2000 *Kernteams* were given two extra tasks. This involves the actual prevention of criminal offences and the provision of support to regional police forces as regards the criminal law enforcement of public order.

RESTREINT UE

Budget

Despite the regional framework, *Kernteams* are funded directly by the Ministry of the Interior and Overseas Territories. 1% of its general budget is dedicated to the police forces, i.e. about € 20m. Apart from this, the Ministry of Foreign Affairs is funding *Kernteams* with approx. € 8,5m in the form of a supplement.

2.3.7.2 *Synthetic Drugs Unit (USD)*

The Synthetic Drugs Unit (*USD*), set up in 1997, forms part of *Kernteam Zuid-Nederland* in s'Hertogenbosch but, with its own funding and reporting structure, it is considered as a separate team. Its general objective is to combat synthetic drug production and trafficking, particularly XTC, amphetamines and variations thereof.

Objectives

The *USD* has four objectives: improving national coordination and processing information and making such information operational; improving the processing and quality of incoming and outgoing requests for legal assistance; qualitative and quantitative support for local public prosecutors, *Kernteams*, regional police forces and special investigation departments during investigations; independent or joint investigations at national and/or international level.

Staff

The *USD's* staff comes from several departments: the police, *FIOD-ECD*, Customs, the National Traffic Inspectorate, the Royal Marechaussee (*KMar*), the National Criminal Intelligence Unit (*NCIE*) and the Supreme Public Prosecutor's Office. At the time of the visit, the team had 46 members and it was planned to reinforce it with a further 15 staff in 2002.

Budget

For 2000, the *USD* investigation team's budget amounted to about € 4m. It was noted that additional resources would be made available as part of the plan to intensify the policy on synthetic drugs.

RESTREINT UE

2.3.7.3 (Cargo) HARC Teams

Punishable narcotics offences are mainly investigated by so-called (Cargo) HARC Teams ¹ (Hit and Run Container Teams). HARC Teams are cooperation groupings between Customs, *FIOD-ECD*, the Royal Marechaussee (*KMar*) and the regular police. These teams are located at the main goods flow points (in this case the Amsterdam and Rotterdam areas and Schiphol – the main airport in the Netherlands –, Roosendaal – border between the Netherlands and Belgium – and Terneuzen/Vlissingen (Flushing)). Cooperation is determined in memoranda of understanding (particularly the deployment of human and other resources).

The HARC teams' input mainly consists of dealing with irregularities established by Customs as part of its inspection activities. Transmission of such irregularities to the *FIOD-ECD* is described in the *Regulation on Customs tasks in connection with the Opium Act*. More detailed provisions have been drafted at regional level in the context of inspection, detailing the procedures for the transmission to the HARC teams of irregularities observed.

2.3.7.4 Schiphol-Team ²

The objective of the *Schiphol Team* is to combat at Schiphol the trafficking of narcotics in passenger airline traffic, trying to deter drug traffickers, screening of passengers and analysis of the investigations conducted. The team is composed of *KMar* and Customs staff, who have reciprocal powers. The total strength of the *Schiphol Team* stands at 39 officers. As a direct result of the note entitled *A combined effort to combat XTC*, the *Schiphol Team* has also, since mid-October 2001, directed its attention to exports of synthetic drugs, in particular.

Since 1 October 2001 an "Exportteam" (10 staff) has been looking particularly into the XTC problem.

¹ At Schiphol airport the term Cargo HARC teams is used, whereas the shorter term HARC team is used elsewhere. Both terms are used without distinction in this survey.

² The Netherlands authorities informed the evaluation team after the visit that according to a newly introduced "Plan of action for drug trafficking at Schiphol" the Schiphol team was being increased by another 30 full-time employees.

RESTREINT UE

2.4 Prosecution Services and Judges

The College of Principal Public Prosecutors (*College van Procureurs Generaal*) acts as the supreme authority in determining the national investigation and prosecution policy of the Supreme Public Prosecutor's Office. Together with its staff, the College of Principal Public Prosecutors constitutes the Prosecutor-General's Office (*Parket-Generaal*), i.e. the national headquarters of the Public Prosecutor's Office. The Supreme Public Prosecutor's Office is responsible for police investigation activities. It is further responsible for investigations by special investigative departments such as the *FIOD-ECD*.

The National Public Prosecutor's Office, located in Rotterdam, is the only prosecutor's office not attached to a court or court of appeal (of which there are 5) and deals with the approach to international forms of organised crime, including drug-related crime.

Regionally the Netherlands is subdivided into 19 districts, each with its own court and relevant district public prosecutor's office.

2.4.1 Prosecution services specifically competent for fighting drugs trafficking

The Supreme Public Prosecution Office is responsible for any form of criminal law enforcement, irrespective of the investigative proceedings. However, the Supreme Public Prosecution Office also sets the priorities of the investigations and heads the investigations. All investigations take place under the responsibility of a public prosecutor. Any use of coercive methods or special investigation powers is the responsibility of a public prosecutor and will have to be ordered by the latter.

In the Netherlands the prosecuting authorities and examining magistrates have competence to deal with all criminal offences. The prosecuting authorities have competence at national level although they are usually linked to a (district) court. Within the organisation of the Supreme Public Prosecution Office there are experts assigned to specific areas. There is a national coordinating prosecuting authority for synthetic drugs. The latter heads the branch of the Supreme Public Prosecutor's Office of the Synthetic Drugs Unit (*USD-OM*). The *USD-OM* maintains offices at the court in s'Hertogenbosch.

RESTREINT UE

2.4.2 Confiscation Bureau of the Public Prosecutor's Office (BOOM)

The *Kernteams* must notify all their drugs investigations to the *BOOM* with a view to possible forfeiture of crime proceeds. The *BOOM* employs 20 highly specialised staff trained in criminal and civil law and forensic accounting.

Since 1998 the *Cebes* system (Attachment and seizure system) has been in operation in the Netherlands: when a seizure has been made and been processed in the systems of the individual prosecutor's offices, it is transferred electronically to a centralised department of the *BOOM*. That department takes over the practical management of the seized assets from the various public prosecutors in the country and independently takes various management decisions on behalf of the public prosecutor, such as registering the seizure, having estimates carried out, alienation of seizures, arranging securities, selling seized assets etc.

The aim of this operating method is to keep storage costs to a minimum and to obtain as high an income as possible for the purposes of recovery.

2.4.3 Coordination within the prosecution services

In view of the Supreme Public Prosecutor's Office 's authority regarding criminal investigations, every public prosecutor is responsible for steering and coordinating his or her investigations. The general trend is that the Supreme Public Prosecution Office and the police increasingly coordinate their criminal investigations jointly in established consultation structures (e.g. between the 's Gravenhage district and the police *Prisma Team* in the Hague area).

The Synthetic Drugs Unit (*USD*) maintains a network within the organisation of the Supreme Public Prosecution Office by holding regular meetings with contact public prosecutors for synthetic drugs. At these meetings local investigations of some importance into synthetic drugs are discussed, *inter alia*. The *USD* investigation service maintains similar contacts with other investigation agencies.

As regards serious organised crime, police *Kernteams* have at their disposal a number of consultation fora in order to implement, prepare and guide the fight against serious organised crime.

RESTREINT UE

A Working Party on Serious Organised Crime/Interregional Criminal Investigation Team was set up for an information exchange on cases of OC. Within this working party public prosecutors attached to *Kernteams* and heads of *Kernteams* hold consultations about 10 times a year on pending cases in order to identify common points between investigations. This working party is chaired by the National Public Prosecution Office and is preparatory to the Coordination Committee on Serious Crime (*CC Zwacri*).

2.5 Training

2.5.1 Police

A specialist course on combating synthetic drugs has been developed by the Synthetic Drug Unit (*USD*) in cooperation with the Dutch Police Training Centre (*LSOP*). During this course, all subjects which may be relevant in connection with drug trafficking are taught. More general courses cover subjects such as international information-gathering, international judicial assistance (*inter alia* with regard to controlled deliveries), and special investigative powers.

The Institute for the Repression and Investigation of Crime (*ICR*) in Zutphen regularly offers Strategic Crime Analysis instruction courses.

During the last few years, a Strategic Intelligence and Analysis course has been introduced, organised in collaboration between the National Police Force and Europol. This course is aimed at persons who are in charge of comprehensive and/or complex preliminary investigations (e.g. the study of a phenomenon or an exploratory investigation). Furthermore, a three-day course on adequate use of the Analyst's Notebook[®] analysis programme is offered.

2.5.2 Royal Marechaussee (KMar)

The KMar training centre (investigation training school) provides a course on drugs given for drugs detectives from the KMar or other investigative services. Both operational and strategic KMar analysts are trained at the Institute for the Repression and Investigation of Crime.

RESTREINT UE

2.5.3 Inland Revenue

2.5.3.1 Customs

There was no information on special training for Customs officers.

2.5.3.2 FIOD-ECD

FIOD-ECD staff are also trained at Nijenrode University, where financial investigation is taught as a subject.

2.5.4 Prosecution services

2.5.4.1 Judiciary Study Centre Foundation (SSR)

The Judiciary Study Centre Foundation (SSR) organises courses for the judiciary. There are no specific courses on drugs. However, attention is devoted to them indirectly in the various courses in the field of investigation and prosecution.

2.5.4.2 Confiscation Bureau of the Public Prosecutor's Office (BOOM)

The *BOOM* organises an annual educational symposium concerning the forfeiture of assets. It also organises educational sessions with police and judicial officials responsible for coordination of confiscation with their forces/ Public Prosecutor's Offices. In addition, the *BOOM* has a helpdesk available 24 hours per day that will answer questions concerning confiscation from law enforcement services. Bimonthly the *BOOM* circulates an educational/information newsletter called *BOOMnieuws* and regularly circulates case law on confiscation.

2.5.5 Inter-service training

Although no joint training programme exists as such, the services concerned occasionally participate in certain training programmes or parts of them.

RESTREINT UE

The Institute for the Repression and Investigation of Crime (*ICR*) of the *LSOP* in Zutphen organises various courses relating to narcotics for members of the police force, the *KMar* and *FIOD-ECD*. The course on combating drug trafficking has been updated and consists of a set of four modules which meet the demands of the police force: a) Basic Course on Narcotics, b) Narcotics Problems Module, c) Narcotics – Synthetic Drugs and d) Narcotics – Organised and/or Serious Crime. These courses are intended for detectives who are mainly concerned with narcotics and have the task of combating drug use and trafficking.

FIOD-ECD instructors sometimes also provide other investigation services with expertise in the sphere of financial investigation.

Furthermore, *BOOM* accountants act as instructors in police and judicial training courses in the sphere of confiscation.

2.5.6 Financial Investigation Training

In past years a fairly major effort has been made to give further training in financial investigation to the investigation department (police) and the Public Prosecutor's Office. Various courses have been developed and given for that purpose, ranging from basic level to post-academic instruction. Every detective must have followed the basic course in order to be admitted to the post of detective.

2.5.7 Coordination of training

Currently, thought is being given to the consistency between the training courses organised by the Institute for the Repression and Investigation of Crime (*ICR*) and those organised by the training centre of the *KMar*.

2.6 Monitoring

2.6.1 Legality

The Government and ultimately the Parliament are the bodies responsible for assessing whether the resources allocated to law enforcement are used in an appropriate way, and it is in principle the court which checks whether all the mandatory procedures have been respected. Decisions on the relative priority of investigations are taken through the Coordination Committee for Serious Crime (*CC Zwacri*).

RESTREINT UE

2.6.2 Performance monitoring

As to monitoring mechanisms with regard to drug investigations, the Synthetic Drugs Unit (*USD*) will be subject to an effectiveness check to be performed by the Ministry of Justice's Research Institute in 2003. A concluding evaluation is scheduled when the *USD's* mandate expires in 2006 and will decide whether the unit will continue to operate.

2.6.3 Law on special investigative techniques

The Ministry of Justice stated that the Law on special investigative techniques (*Wet Bijzondere Opsporingsbevoegheden*) that came into force in 2000 would be evaluated in 2005.

DECLASSIFIED

RESTREINT UE

3 INTELLIGENCE

3.1 General

3.1.1 Organisation

Criminal Intelligence Units (*CIE*) are linked to the regional police forces. The umbrella unit is the National Research and Information Directorate of the National Police Force (*KLPD*). *CIEs* collect data on subjects and analyse them with a view to possible future investigation.

The National Criminal Investigation Information Service (*NRI*) is a subdivision of the Investigation Division of the National Police Force. The *NRI* records serious and organised crime at national level and acts as the National Crime Intelligence Unit (*NCIE*). The areas covered are the obtaining and transfer of knowledge derived from investigations and the development of information systems which support investigations.

3.1.2 Sources

3.1.2.1 Police

In the Netherlands information management by the police is organised in a decentralised manner up to a certain level. All the police regions have more or less the same types of information system, but the applications they use for this may vary.

From a legal point of view, files kept in these systems are deemed temporary records for the purpose of specific investigation operations. There are no restrictions on the data recorded. Files include both mandatory fields (for structured data) and free text.

Central registers with nation-wide coverage

Records and systems set up centrally or that have nation-wide coverage include:

RESTREINT UE

- the Serious Crimes Records (*Zware Criminaliteit*) and the Provisional Records (*Voorlopige Registers*) of the Criminal Intelligence Units (*CIE*): both are used to store personal data concerning individuals who may be involved in plotting or committing organised crime but are not (yet) considered suspects. Since personal data concerning individuals other than suspects may be kept only for a maximum of four months, the temporary records are continuously updated, with data being either cleaned up or transferred to the Serious Crime Records;
- data deemed of national interest and relating to *CIE* subjects are stored in the records of the *KLPD's* National Criminal Intelligence Unit (*NCIE*). The bulk of these data concern circumstantial evidence that is stored at the beginning of an investigation;
- the Criminal Investigations and Subjects Reference Index (*VROS*) is a national database kept by the *KLPD*: it contains references to data concerning persons appearing in one of the 31 records kept by the Criminal Intelligence Units, i.e. information on ongoing investigations.
VROS and *NCIE* records are interlinked;
- the Identification Service System (*HKS*), used by all regional police forces, contains data on suspects that have been the subject of a police report linking them to a criminal offence (antecedents);
- public databases such as those kept by the Chamber of Commerce (*KvK*) – a national system for storing data on ownership, management and articles of association of companies and other legal persons) and the *Kadaster* – the public office registering data of ownership of real estate.

With the exception of the latter, all information systems are police records. Consequently, access to them is restricted to the general investigating officers as referred to in Article 141 of the Code of Criminal Procedure.

RESTREINT UE

In principle, they are not accessible to other law enforcement agencies, such as special investigation units. Some time ago, however, a derogation was granted to four agencies ¹ that are allowed to keep a Serious Crimes Record under the auspices of the National Police Force. The Netherlands authorities stated in their answers to the questionnaire that certain staff of these agencies would shortly be granted access to police records. Furthermore, access may also be granted to officials other than investigating officers in the case of e.g. analysis projects.

3.1.2.2 *Inland Revenue*

Customs

Any irregularity is notified in the Customs Fraud Databank (*DFB*) application via the Customs districts. This databank is administered by the Customs Information Centre. The data it contains are used for risk analysis, with selection profiles being established for the purpose of Customs controls.

FIOD-ECD

The *FIOD-ECD* uses a database containing fiscal data. Since investigations are conducted through the *FIOD-ECD*, more detailed information will be provided as a result of any follow-up investigation, including interrogation, initiated by the *FIOD-ECD*

3.1.2.3 *Royal Marechaussee (KMar)*

The records used by the *KMar* are not different from those used by the police.

DECLASSIFIED

¹ a) the Fiscal Intelligence and Investigation Department/Economic Inspection Department (*FIOD-ECD*), b) the General Inspectorate of the Ministry of Agriculture, Fisheries and Nature Management (*Algemene Inspectiedienst*), c) the Investigation Department of the Ministry of Public Health, Regional Planning and the Environment (*Dienst Recherche*) and d) the Social Intelligence and Investigation Department (*Sociale Inlichtingen- en Opsporingsdienst*) currently being set up at the Ministry of Social Affairs and Employment.

RESTREINT UE

In criminal investigations by *KMar*, members of the investigation teams will draw upon the Criminal Intelligence Bureau (*BRI*) attached to the district-based Criminal Investigation Unit (*Districtsrecherche*). Questions will either be answered using as far as possible open sources and (general police) records, or referred to the relevant *CIE*. The *KMar Infodesk* currently being set up was also expected to start playing a role towards mid-January 2002.

The *KMar* keeps a single *CIE* record and only the head of the *CIE* himself or his deputy have the authority to release data from these records.

In addition to the standard information systems used by other law enforcement services, *KMar* investigating officers may be granted authorisation to access the *KMar* police records, including:

- Business Processes System (*BPS*), containing general information on the daily business process in relation to the *KMar*'s duties as listed in Article 6;
- Financial Support Bureau (*BFO*), focusing more specifically on financial matters;
- Environmental Management System (*MMS*), containing inter alia information on waste from the manufacture of synthetic drugs;
- Passenger Handling System (*PAS*), particularly relevant to border control and related police duties.

KMar investigations and persons who are the subject thereof are further stored in *VROS*. Any data stored here can be retrieved only indirectly via *KMar*-authorised staff.

With the exception of the *CIE* record, all data stored by the *KMar* are administered by a day-to-day record administrator appointed within the *KMar* for those data.

The specialised narcotic drugs teams (*Schiphol Team* and *Cargo HARC Team*) also draw upon the Criminal Intelligence Office (*BRI*) and the *KMar*'s *CIE* at Amsterdam's Schiphol Airport.

RESTREINT UE

3.1.3 Information exchange – domestic

All investigative services are considered as Criminal Intelligence Units (*CIE*) and are therefore eligible to exchange information among themselves.

In order to ensure that relevant information is also available to other law enforcement authorities, a range of working methods is employed. The physical storage of relevant data is in automated databanks which are in principle accessible to other investigation services and other departments of the same investigation service. Access is governed by the Police Records Act and by separate privacy rules for each information system. The *Kernteams*, special investigation services (e.g. the *FIOD-ECD*) and Customs have concluded MoU's governing the mutual exchange of investigative information.

3.1.3.1 Exchange between regional police and Kernteams

The various police regions and *Kernteams* hold monthly consultations. In addition, any large-scale and complex investigations by *Kernteams* are assessed once they are finished. All intelligence is made available to the Public Prosecutor's Office or to the Criminal Intelligence Unit (*CIE*).

To store data on specific investigations, *Kernteams* often use the *Octopus* application. The particulars of individuals who have attracted the attention of Criminal Intelligence Units (*CIE* subjects) are stored in a separate register that can be accessed throughout the country via the CID-subject index (*CIDSI*). The *Zuid-Nederland Kernteam* has since 1997 been exchanging online information (including CID information) with the participating regional police forces.

Drugs intelligence

The Ministry of Justice's Scientific Research and Documentation Centre (*Wetenschappelijk Onderzoek- en Documentatiecentrum*) produces an organised crime analysis situation of the Netherlands every second year.

In the more specific area of drugs, the National Network of Drugs Expertise (*NND*) has been established, which frequently exchanges electronic data concerning *inter alia* (new) *modi operandi* of drug smugglers.

RESTREINT UE

Web-based information sources

The Police Drugs Net (*PDN*) is a network that can be accessed via a protected Internet website. It is used *inter alia* by those involved in *Kernteams* to give notification of and discuss current developments in drug trafficking and how to deal with them. It can also be used for alert messages that ensure the latest information on synthetic drugs. Currently the Police Information Net (*PKN*) is under development, an Internet site providing *inter alia* investigation-technique information and expertise to other investigation services.

Theme days

The *Kernteams* organise "theme days" for key police and justice officials. Last year such theme days were held by the Synthetic Drugs Unit and the *Prisma Team*.

3.1.3.2 Inland Revenue

Customs

Customs has a National Intelligence Centre (*DIC*) that is attached to the seven Customs districts. In principle, there are no restrictions upon the exchange of information relating to drugs, provided that fiscal confidentiality is not affected.

FIOD-ECD

The *FIOD-ECD* informs the National Criminal Investigation Information Service (*NRI*) of the *KLPD* about investigations. Data and methods used in the investigations are registered by the *VROS*. In addition, the data of the investigation are registered in the *FIOD-ECD*'s internal system *GEFIS* – Integrated Fraud Information System and the *BPS/RBS*.

FIOD-ECD obtains information from Europol and the *NRI*. Europol and *NRI* databases can be consulted via these links while *FIOD-ECD* investigative teams obtain information directly from the regional police.

It is foreseen that the *FIOD-ECD* will have its own *CIE* section in the near future, placing input and exchange of sensitive information on a par with the regulations governing the police. A request from the Public Prosecutor's Office is required for the exchange of information on taxes. Provided the relevant regulations are complied with, the input and exchange of sensitive information do not cause any special difficulties.

RESTREINT UE

A reporting centre for suspicious shipments of designated chemicals has been set up within the *FIOD-ECD* with regard to precursors. On the basis of a number of indicators, a shipment would be regarded as suspicious and should be notified to the *FIOD-ECD* by the business community. The information obtained is recorded in various files with the *FIOD-ECD*.

3.1.3.3 (Cargo) HARC Teams

One of the basic principles behind the establishment of the (Cargo) HARC Teams is to obtain information which can form the basis for initiating follow-up investigations. To this end, data from investigations which have been carried out are stored in a database. Use of the database remains limited to the (Cargo) HARC Team. Information from the database is exchanged with other teams only with the authorisation of the public prosecutor under whose responsibility the investigation is carried out.

3.1.3.4 Royal Marechaussee (KMar)

The *KMar* uses the drugs records in the *RBS* and *BPS*. For processing "hard" data, recording takes place in the identification service system (*HKS*).

3.1.3.5 Difficulties

In their answers to the questionnaire, the Dutch authorities, however, stated that during an ongoing investigation the individual investigative services would be reluctant to exchange data unless it was operationally necessary. In such cases bilateral negotiation mechanisms existed in order to ensure that information could be exchanged under such circumstances.

Another reason for reticence would be of a more judicial nature and concerns the protection of the private life of suspects and confidentiality of the investigative techniques and tactics used. As persons named as being possibly involved in organised crime are not officially considered being suspects immediately, the collection, storage and processing of data concerning these individuals is subject to special guarantees. These persons are referred to as *CIE* subjects, whose data are stored in *CIE* files. However, as the Customs authorities primarily have an inspectorial mission, access to *CIE* information has not been settled. This has caused some operational problems, particularly in multi-agency groups.

On the other hand, the *KMar* reported that the exchange of information with other services including the Customs authorities does not raise any problems.

RESTREINT UE

Furthermore, since the introduction of the Special Investigative Powers Act the scope for collecting information has been limited in part in comparison with the previous situation.

In the answers to the questionnaire the Dutch authorities noted that it was a problem at the practical level that the police regions were using various different information systems. From an organisational viewpoint, it was therefore difficult to set up a national police databank although the fact that the Directory of Criminal Investigations and Subjects (*VROS*) and Focal Points for Information (*IKP's*)¹ had been created was regarded as a solution.

Nevertheless, it was also noted that as a result of the existing structures, information was still frequently being exchanged in writing.

3.1.4 Information exchange -international

3.1.4.1 Legal Bases

The transmission of data from police records to police authorities abroad is regulated by the Police Records Decree. Although the decree does not precisely define "police authorities", they have to be responsible for law enforcement. The Decree further stipulates the transmission of data by the *KLPD* via the International Networks Division (*Dienst Internationale Netwerken*). Exchanges must always be for police use only.

3.1.4.2 Channels used

For data exchange, the police has five channels at its disposal: Europol, Interpol, SIRENE as well as the foreign liaison officers posted in the Netherlands and the Dutch liaison officers posted abroad. Further, formal exchange channels are the Public Prosecutor's Office and the Office for International Mutual Legal Assistance in Criminal Matters (*Bureau Internationale Rechtshulp in Strafzaken*) of the Ministry of Justice.

¹ An IKP forms part of the NRI and actively collects information in a number of specific crime areas. The IKP obtains this information mainly from the regional Infodesks, which have a broad range of systems for deriving information from open and covert sources. On request the Infodesks collect information concerning suspects, addresses, firms, etc. In this way, they relieve the investigative teams. In addition, the Infodesks are contact points for requests for local (police) information by other regional bodies or investigative services.

RESTREINT UE

3.1.4.3 Exchange of soft data

In general, it may be said that much greater restraint is sought in the provision of "soft" data than in the provision of "hard" data.

The rules governing the Serious Crimes Record (*Zwacri Register*) of the National Criminal Intelligence Unit (*NCIE*) stipulate conditions regarding the provision of "soft" information to a foreign country: data may only be provided to foreign police authorities through the intermediary of the *NCIE* or under arrangements made with such police authorities that have been approved by the Minister of Justice in accordance with the Decree.

Without prejudice to the rule mentioned above, data may be provided to foreign police authorities only in consultation with the Public Prosecutor attached to the Criminal Intelligence Unit (*CIE-Officier van Justitie*).

Where provision of data takes place without the intermediary of the *NCIE* it must receive a copy.

3.1.5 Intelligence – use and impact

3.1.5.1 Police

The regional police forces and the *Kernteams* principally engage in operational and strategic crime analysis.

The most common strategic analysis product is crime situation analysis (*CBA*). Several of the *Kernteams* have been producing *CBAs* within their special remits over the last couple of years. The *Amsterdam-Amstelland/Gooi en Vechtstreek Kernteam*, for instance, was said to focus on risk analysis of key target groups in drugs trafficking. It was estimated that this approach would enable law enforcement services to act proactively, thereby frustrating the criminal system. *KLPD* also produces crime situation analysis on drugs on a regular basis.

RESTREINT UE

3.1.5.2 *Synthetic Drugs Unit (USD)*

The *USD* drafts an annual report on all synthetic drug confiscations in the Netherlands and abroad, as far as they relate to the Netherlands. The reports serve as a basis for policy decisions on priorities. These reports may also be used by Inland Revenue in order to devise and/or adjust control profiles (risk profiles). At the request of the *USD*, Customs will make analysis of certain companies and goods flows both to assist ongoing investigations and to acquire an insight into the nature and volume of trade in certain commodities. In the year 2000 Customs made a risk analysis of precursors in cooperation with the Synthetic Drugs Unit. The objective was to advise Customs officials confronted with precursors in the course of their routine work, in order to make for a more balanced use of staff. In the answers to the questionnaire it was announced that the *USD* would soon begin to conduct a crime situation analysis concerning the production of, and trafficking in, synthetic drugs in cooperation with the Ministry of Justice's Scientific Research and Documentation Centre.

3.1.5.3 *Inland Revenue*

Customs

Data of the Customs Information Centre (*DIC*) are used, *inter alia*, for purposes as described in the case of the *USD* and to draw up risk profiles of freight and cargo and forwarders thereof.

FIOD-ECD

Every *FIOD-ECD* branch has one or two members who have received the Criminal Analysis training given by the police. These officers record and refine information which has already been collected. On this basis, connections can subsequently be made which can provide the starting point for a new investigation. The most frequently used programme is Analyst's Notebook[®].

RESTREINT UE

3.1.5.4 *Royal Marechaussee (KMar)*

KMar mainly performs operational analysis to assist investigation teams. Strategic analysis by *KMar* is still in the development phase and is confined a) to specific components of *KMar* tasks and b) to special issues that are chosen on an annual basis at national level.

KMar produces hardly any specific case analysis on drugs alone. Its analysis is generally confined to *CIE* subjects or related criminal organisations. In cooperation with the *USD*, the Schiphol Judicial Department has already used the analysis for risk profiling.

The evaluators were informed that some analysis capacity would be shifted from mid-January 2002 onwards as part of intensifying the action against synthetic drugs. The Dutch authorities pointed out, however, that problems might arise from combining the *CIE* data with information from other sources for analysis purposes as access to the former was restricted.

3.2 Financial Intelligence

3.2.1 Units

3.2.1.1 *Unusual Transactions Reporting Office (Meldpunt Ongebruikelijke Transacties – MoT)*

MoT is an administrative body within the Ministry of Justice that is the clearing house for receiving reports on unusual transactions from those who are obliged by law to report to this service. *MoT* received some 50 000 disclosures out of which approximately 15 000 were forwarded to *BLOM*.

3.2.1.2 *BLOM (Bureau Landelijk Officer van Justitie Meldingen Ongebruikelijke Transacties)*

BLOM is the National Criminal Intelligence's financial intelligence unit. *BLOM* receives those reports on unusual transactions from *MoT* that bear enough evidence to be treated as suspicious. *MoT*, *BLOM* as well as the regional local police forces in the Netherlands are using an information highway in order to speed up the screening process: at the time of the mission, about 90% of unusual transactions were reported electronically. The FIU stated, however, that they were aiming at 99% by the end of the year 2001.

RESTREINT UE

BLOM employs an advanced mechanism that compares *MoT* data received during the day overnight against *VROS* in order to provide the investigators with quick results on financial aspects of crime. The mechanism has proved successful as about 30% of the disclosures transmitted from *MoT* to *BLOM* were *VROS* matches. *BLOM* uses special software that automatically detects, selects and profiles the cases and creates files automatically; furthermore, it also features automated operations that provide automatic intelligence products.

Since the terrorist attacks of 11 September 2001, the *MoT* and *BLOM* have reviewed their policy so that *BLOM* can access *MoT*'s database directly.

3.2.1.3 *FIOD-ECD's Kenniscentrum Witwassen*

The *Kenniscentrum Witwassen* is feeding a special database with intelligence that has been gathered by the unit. Anyone in the Netherlands Tax and Customs Administration may access this database, which contains, for example, descriptions of frequently occurring methods of laundering and indicates how, and in which tax returns, these methods may be traced. The digital database also contains case law, a framework of legal concepts and articles on money laundering. A database containing particulars of dozens of cases involving laundering can also be consulted.

3.2.2 **Hit And Run Money Laundering-approach (HARM)**

The Hit And Run Money Laundering-approach (HARM) is characterised by the fact that no in-depth investigations into the underlying offences are carried out. Although no statistics were available, law enforcement nevertheless estimated that 80 to 90 per cent of HARM cases were connected with drug trafficking. HARM has been operating since 1 April 2001 and according to the National Criminal Information Service a variety of collateral success has been achieved.

RESTREINT UE

4 SPECIAL INVESTIGATION TECHNIQUES

4.1 Legislation, Regulations and Procedures

A new law on special investigative powers (*Wet Bijzondere Opsporingsbevoegheden*) from 2000 regulates a comprehensive inventory of special investigative techniques.

A public prosecutor is authorised to decide on the use of special investigative techniques except bugging and interception of telecommunications. Several other special methods are subject to the discretion of an examining magistrate or the Ministry of Justice. Certain powers may have to be reviewed by the Central Review Committee (*CTC*), consisting of 2 chambers with 7 members (from the public prosecutor's office and the police). The *CTC* advises the College of Principal Public Prosecutors about any planned use of special investigative powers or methods, including the protection of witnesses and promises to witnesses in criminal cases. The College takes the final decision on their admissibility for the conditions under which they may be implemented.

Every fortnight applications for the use of special investigative techniques will be reviewed and authorised for a limited period; a special procedure is in place for urgent cases.

4.2 Financial Investigations

4.2.1 Legislation, Regulations and Procedures

The so-called "Clean-them-out"-legislation (*Pluk-ze*) introduced financial investigations relating to proceeds of drug trafficking and other forms of lucrative crime. Under this legislation offenders can be stripped of any benefits derived from drug trafficking. The Public Prosecutor's Office must show probable cause that the offender is actually involved.

To this end, it may launch a criminal financial investigation during which, subject to authorisation by the examining magistrate (*Rechter-commissaris*), coercive measures may be applied.

The police may launch a simple financial investigation; in more complex cases the police will be assisted by a Financial Investigations Bureau, whilst cases involving organised crime will be handled by the Public Prosecutor's Office, forensic accountants and other legal experts belonging to the Public Prosecutor's Forfeiture Legislation Bureau (*BOOM*). A financial investigation may be commenced both before and after conviction.

RESTREINT UE

Recently, a legal provision was introduced making money laundering a punishable offence in itself¹; and as from 1 January 2002 the money laundering legislation will be further tightened by extending the range of professions that will be obliged to submit their unusual transaction reports to the *MoT*.

4.2.2 Services involved in financial investigations

4.2.2.1 Police and Inland Revenue

Small-scale financial investigations

Uniformed police deal with small-scale street dealing in drugs. They have been provided with user-friendly software to calculate the profits generated by that dealing. In principle, such calculations are made once the proceeds reach €450.

Tactische Recherche

Tactical Criminal Investigation Units (*Tactische Recherche*) are always directly involved in drug investigations by the police. They are assisted by financial investigators. By contrast, "external" experts called in to help would be indirectly involved in the actual criminal case being investigated. Units specialising in financial investigations are now active in all police regions.

Complex financial investigations

More complex criminal financial investigations are frequently entrusted to multidisciplinary teams whose members are trained in tactical and financial matters. Such teams are mostly headed by an experienced and appropriately trained police official. They may be composed of specialists from, e.g., the narcotics division of the regular police, the Financial Crime Bureaux (*BFR*) and special investigation units, such as the *FIOD-ECD*. In principle, all *FIOD-ECD* staff have the authority to conduct financial investigations into drugs trafficking. Depending on the type of case being

¹ Before the change in the law, the so-called "heler-steler" (receiving = stealing) rule was found to be an obstacle. Money laundering was only punishable as an independent offence as a form of receiving stolen goods. The criminal who laundered *his own* income from drugs transactions could not be prosecuted for receiving or money laundering. Receiving is regarded in the Penal Code as benefiting from *another person's* offence.

RESTREINT UE

investigated, other officials – such as accountants or Customs officials – may also be involved. The number of investigators with financial training seconded by those units varies case by case and also depends upon the scope and nature of the investigation. The fact that a case concerns organised crime and/or has international ramifications is a major factor here.

Staff

At the end of 2000 the staff complement of the 26 departments concerned and the Financial Investigation Bureaus (*BFO*) totalled 200, including 157 financial experts and investigators, assisted by 18 administrative staff, under the authority of 26 managers.

4.2.2.2 Royal Marechaussee (KMar)

For its investigations *KMar* uses the expertise provided by financial investigators from its Central Judicial Department (*Centrale Justitiële Dienst*) or by the Financial Investigations Bureau (*BFO*) of its Judicial Department (*Justitiële Dienst*) at Schiphol Airport.

The financial investigators were trained at the Police Institute for Crime Control and Criminal Investigation Science (*Politie Instituut voor Criminaliteitsbeheersing en Recherchekunde*) at Zutphen and all have equal rank. Personnel capacity permitting, at Schiphol airport in particular the *KMar* also conducts criminal financial investigations – along the lines of the tactical criminal investigations by, e.g., the Schiphol team or the HARC Team. A criminal financial investigation may be pursued up to two years following the principal case. It is reported that international cooperation in this area is considered extremely laborious. The *KMar* has a total of 10 trained financial investigators of Higher/Secondary vocational education level (*HBO/MBO*).

4.2.3 Practical experience

4.2.3.1 Public Prosecutor's Office

From 2002 onwards the new confiscation law will come into force for public prosecutor's offices. This provides for a compulsory confiscation order in the case of financial and serious drugs offences. This practical law is expected to give a specific stimulus to financial investigation and confiscations; it focuses even more on seizure in such cases. Experience has shown that cases of confiscation where assets have been seized are dealt with more effectively than those without.

RESTREINT UE

Since September 2000, the *BOOM*, in cooperation with the Ministry of Justice's International Office on Mutual Assistance in Criminal Matters (*BIRS*), has employed a member of staff dealing with international issues in the area of mutual assistance and enforcement relating to confiscation investigations. This job sharing between *BIRS* and the Public Prosecutor's Office was considered very useful and worthwhile as the knowledge gained can be employed in other cases. Furthermore, it was seen as valuable to have specialist knowledge concerning information exchange, seizure and sale of seized assets, but also with operational contacts in various countries.

4.2.3.2 Police

The *Amsterdam-Amstelland/Gooi en Vechtstreek Kernteam* calculated that last year in four investigations they confiscated criminal assets of between € 3,2m and € 13,6m (a total of € 33,6m). It is expected that through confiscation operations in 2001 € 19m, and in 2002 € 14,5m, will be seized. In 2000 the Inland Revenue claimed a tax payment of € 13,6m from one criminal, using information collected in the course of an investigation. Last year the *Kernteam* completed a total of 12 investigations into financial crime.

The Financial Crime Department of the National Police Force in 2000 recorded 95 cases connected with narcotic drugs, comprising 988 suspicious transactions involving narcotic drugs. Of the suspicious financial transactions recorded in 2000, 10% were connected with drug trafficking. Asset confiscation connected with drug trafficking is not recorded separately in the statistics. This department reported that on the whole international cooperation had greatly improved in recent years, certainly as far as EU Member States are concerned. As regards the conduct of financial investigations, seizure and confiscation, the possibilities were seen to be improving. Investigations into a predicate offence, where necessary, however, are said still to require a lot of work and regularly constitute an obstacle to prosecution.

4.2.3.3 Customs

The Customs at Schiphol Airport has been looking out for significant transfers of cash money and in a number of cases it was possible to link the transfer of money to drugs-related crime.

RESTREINT UE

4.2.4 Exchange of fiscal information

Specific legal provisions and regulations provide the circumstances and conditions under which the tax authorities may comply with requests for information. On certain conditions, the legal confidentiality requirement can be waived and the Inland Revenue's services may pass on fiscal information. A decision of the Public Prosecutor's Office or the court is not required.

Tax authorities would, in the case of a legal obligation, pass information on to other administrative bodies. Requests from the Public Prosecutor's Office for information serving the purposes of investigating and/or prosecuting crime are always answered.

Passing on of information by tax authorities on their own initiative is only possible if the information is important for and will probably be used to prevent or repress abuse or misuse of public financial regulations. The Customs authorities may also pass on information concerning irregularities in the field of public policy, security, public health and environment.

A regulation on the passing on of information by the tax authorities serves as guidelines for the staff of the tax authorities.

Information exchange between the police and Netherlands Tax and Customs Administrations takes place in principle on the basis of an MoU. There is no need for the intervention or approval of the courts and none is involved.

4.3 Controlled deliveries (CDs)

4.3.1 Legal bases, regulation, requirements

Rules for controlled deliveries of drugs are laid down in Article 126 et seq. of the Code of Criminal Procedure; they have to be authorised by a public prosecutor.

In the case of a request for mutual assistance, Article 152(i)(2) of the Code of Criminal Procedure applies. That Article states that a request for application of Article 126 et seq. of the Code of Criminal Procedure must be forwarded to the Public Prosecutor without delay.

RESTREINT UE

4.3.2 Availability

The Netherlands authorities do provide a 24-hour/seven-day response (outside office hours via the Netherlands SIRENE Bureau) in obtaining a decision on a request for a controlled delivery. A special unit of the National Police Force is responsible for coordination of international requests for cross-border surveillance: the National Cross-border Surveillance Coordination Reporting Centre.

A surveillance team can in general be launched within a very short time (less than one hour). This applies *a fortiori* for a Schengen surveillance team, given that these teams are specifically required to take action within the framework of cross-border surveillance on the basis of the Schengen Convention. This is viewed as a very good resource by foreign authorities.

4.3.3 Operational experience

4.3.3.1 Coordination of Controlled Deliveries

Public Prosecutor's Office and National Police Force

Coordination of controlled deliveries in questions relating to drug trafficking at international level is on an ad hoc basis at the initiative of the public prosecutor concerned or the National Police Force, respectively. Europol can be involved in this.

The International Networks section of the National Police Force in fact operates merely as a relay for the delivery of documents from one competent authority to another. This is at present without prejudice to the content of the requests. According to the answers given in the questionnaire, the International Networks section takes the view that the Europol liaison channel is only made use of for the transmission of official documentation where the National Police Force is actively involved in their preparation and/or execution.

Police coordination and employment of Europol

Police coordination is the responsibility of the National Cross-border Surveillance Coordination Reporting Centre. This unit has direct lines to reporting centres in other countries.

Where two or more EU Member States are concerned, Europol is called in. The Dutch authorities stated that Europol's handbook on controlled deliveries was a very useful instrument in supporting CDs within the Member States.

RESTREINT UE

In addition, the network of liaison officers present within Europol is regularly employed to deal quickly with controlled deliveries and surveillance. In very specific cases, and on an individual investigation basis, valuable support has also been provided by Europol's analysis section.

Bilateral and multilateral coordination of CDs

Controlled deliveries are also arranged through direct contacts between the competent authorities in the various EU Member States as well as through the intermediary of national liaison officers.

The Interpol channel is also regularly used to exchange formal requests for judicial assistance upon which a controlled delivery needs to be based.

Royal Marechaussee (KMar)

The Judicial Section of the KMar at Schiphol Airport is regularly asked for assistance in connection with controlled deliveries. Frequently, execution and further coordination is left to the Cargo HARC Team that will be facilitating the necessary arrangements and will obtain assent from the appropriate prosecutors

4.3.3.2 Difficulties

In their answers to the questionnaire the Netherlands authorities stated that *KLPD's* International Networks section had reported a number of bottlenecks with regard to cooperation with other countries:

- In some European countries it is sometimes difficult to obtain an official request for judicial assistance.
- Within the European Union there is (still) nothing approaching equality in the use of frequencies for mobile phones, direction-finding equipment and other means of communication.

RESTREINT UE

- Central reporting points are not always very easily accessible in neighbouring countries.
- Capability problems are encountered in a number of countries.

4.4 Controlled money deliveries

Although money is not mentioned in those provisions of the legislation which relate to controlled deliveries, a controlled delivery of money would be feasible given the wording of Article 126 et seq of the Netherlands Code of Criminal Procedure. Controlled delivery of money may also be used in combating money laundering.

The Convention on mutual assistance and cooperation between customs administrations ¹, which was ratified by the Netherlands in 2001 and came into force the same year, contains a provision on controlled deliveries. It does not exclude controlled deliveries of money, provided there are grounds to suspect that an offence has been committed.

The Netherlands authorities gave an example to explain the policy that might be applied: it has sometimes happened that intelligence has been received to the effect that large sums of money are being exported via Schiphol Airport for the purpose of purchasing a batch of narcotics. While in a particular case it would have seemed preferable from the point of view of the law on financial crime to opt for an attachment or seizure based on Article 10a of the Opium Act, the public prosecutor chose to confiscate the drugs in order to collect more evidence.

4.5 Cross-border drug transactions

Cross-border drug transactions take place in the form of controlled deliveries.

There is no particular legislation covering the replacement of drugs by a legal substance in cross-border drugs transactions. This method may be applied at the request of a foreign judicial authority. In criminal cases brought to the court in the Netherlands this method would result in problems of evidence, as the Code of Criminal Procedure states that a guarantee must be given that the drugs will ultimately be confiscated.

In addition, systematic surveillance (Article 126g of the Code of criminal procedure, in conjunction with Schengen and other Treaties) may be exercised in the case of cross-border cooperation.

¹ Cf. Tractatenblad 1998, No 174.

RESTREINT UE

5 COORDINATION AND COOPERATION

5.1 Cooperation at national level

5.1.1 Information exchange between law enforcement services

At present, the information exchange between law enforcement services is not effected via a central contact point.¹ The most important instrument to prevent a duplication of efforts and operational interference is the *VROS*. By checking *VROS*, it can be established whether the subjects of the investigation are already under investigation in other areas. Under the present system, customs intelligence is passed on to the *KLPD* Information Research Directorate's reporting point after discovery during a Customs check, while intelligence from police investigations is passed on to Customs. This information may subsequently be used again in the risk analysis context for the purposes of the Customs inspection process. To facilitate information exchange, Customs intend to second a staff member of the Customs Information Centre to the *KLPD*'s Information Research Directorate at Zoetermeer by the end of 2001.

According to *KMar*'s Criminal Investigation section all its investigations and related *CIE*-subjects are put at the disposal of the *VROS*. Furthermore, the *KMar* passes on *CIE*- subjects and vital data relating to an investigation by computer on a weekly basis for processing in the so-called Black Box. Relevant information is exchanged via interfaces with, or hits by, other investigative teams.

DECLASSIFIED

¹ Recommendation 19 of the Action Plan to Combat Organised Crime refers to the central national contact point in the following terms: "With regard to the Europol Convention, the central national unit referred to therein should be the contact point on behalf of all law enforcement authorities in the Member States. It is advisable that existing contact points, such as the Interpol NCB, Sirene bureaux, etc., should be brought together in this central contact point or, at least, that close relations between such units should be established".

RESTREINT UE

5.1.2 Multidisciplinary teams

5.1.2.1 *Kernteams*

As already described above the Netherlands, besides 25 regional police forces, has seven *Kernteams*, i.e. six interregional investigation teams, most of which were set up in 1994, and a National Investigation Team which has been operational since 1997. The function of the teams is to carry out policing tasks to enforce the legal system in respect of organised crime on an interregional, national or international scale ¹. The policy objective since the introduction of the *Kernteams* has been to entrust them with investigative and other tasks as established by the College of Principal Public Prosecutors following advice from the Coordinating Committee on Serious Crime (*CC Zwacri*). When an investigation calls for cooperation with Customs, there is Customs involvement.

Most *Kernteams* are involved chiefly in combating narcotics trafficking. Although the *Randstad Noord en Midden and Rotterdam/Rijnmond Kernteam* and the National Investigation Team do not regard drug trafficking as coming within their specific remit, these teams are also frequently involved in investigating narcotics smuggling.

5.1.2.2 *Synthetic Drugs Unit (USD)*

In the specific field of synthetic drugs, the *USD* plays a coordinating role in the exchange of information and also in the prevention of duplication. In practice, overlaps do occur, but efforts are made to avoid them as far as possible through mutual consultation between the investigating services and the Public Prosecutor's Office where arrangements are made for the conduct of the investigations.

The MoU on the *USD* provides that within it all departments participating are obliged to exchange information with access to all information systems being a key feature. It also waives the legal confidentiality requirement in the case of *USD* staff.

5.1.2.3 *Fiscal Information and Investigation Service – Economic Inspection Agency (FIOD-ECD)*

The *FIOD-ECD* informs *KLPD's* National Investigation Information Unit (*NRI*) of investigations preliminary to prosecution. The data and methods used in such investigations are recorded via the *VROS*. Investigative data are subsequently recorded in internal systems.

¹ Article 2 of *Kernteam* Regulation, 2000.

RESTREINT UE

5.1.2.4 (Cargo) HARC Teams

The (Cargo) HARC Teams that are designed to generate information that could provide the basis for initiating follow-up investigations store data relating to their investigations in a dedicated database. Use of the database is confined to a single HARC Team.

Information from the database can only be exchanged with other teams by authorisation of the public prosecutor under whose responsibility the investigation is being carried out. The exchange of information (for instance data from tax dossiers) within a group, such as *Kernteam* and HARC Teams, is in principle always covered by an MoU. The input and exchange of sensitive information is subject to strict rules.

5.1.3 Cooperation of Kernteams with non-police bodies

A few years ago *Kernteam Noord- en Oost-Nederland* entered into a cooperation grouping with the International Police Institute at Twente University. Last year two staff members of that Institute joined the *Kernteam's* Information Department to carry out crime picture analysis.

The *Kernteam Noord- en Oost-Nederland* also cooperates with the Eastern Europe Institute. An annual contract was concluded with that Institute to take on an Eastern Europe expert and acquire further expertise from that Institute.

The *Kernteam Amsterdam-Amstelland/Gooi en Vechtstreek* has indicated that the *FIOD-ECD's* expertise can be applied to almost all investigations carried out by that team. That is why a choice was made in favour of a cooperation arrangement with the *FIOD-ECD's* Amsterdam headquarters. In principle two staff members of that department take part in all investigations.

5.1.4 Operations

5.1.4.1 Customs cooperation with other services

In addition to the regular physical inspections by the Customs authorities at external borders, they cooperate with the Coastguard, *KMar* and the regular police for specific operations. The various services participating in these units have concluded MoU's to promote good cooperation. The Customs authorities also take part in *ad hoc* investigations by the police under the direction of the Public Prosecutor's Office. They also take part in mobile checks at EU internal borders in cooperation with the *KMar*, the regular police and the National Police Force (*KLPD*).

RESTREINT UE

5.1.4.2 *Sharing of equipment*

If necessary, equipment of the services taking part in the cooperation agreements is used. For air operations, use can also be made of the Naval Air Arm, which also participates in the Coastguard. National Police Force aircraft can also be used on an ad hoc basis. Frequent use is made of the regular police force's diving experts.

5.1.4.3 *Working relationship between specialised police and Netherlands Tax and Customs Administrations*

There is no coordinated cooperation between most police *Kernteams* and Netherlands Tax and Customs Administrations, except in the case of the Synthetic Drugs Unit. Customs officers participate in the unit in a liaison role, and information is usually exchanged between the Synthetic Drugs Unit and Customs (specifically the Customs Information Centre) through them. With a view to the coordination of activities, regular operational and policy consultations are held between the heads of the Synthetic Drugs Unit, the Customs Information Centre and the (deputy) Director of FIOD-ECD.

An MoU is currently being drawn up between the *PRISMA Team* and the Customs authorities (in this case the HARC Team). To date, there have not yet been any joint patrols, training or use of each other's equipment. At the operational level, there is cooperation with the Customs authorities on an *ad hoc* basis. This is also the case with the *USD* and the *Amsterdam-Amstelland/Gooi and Vechtstreek Kernteam*.

The *FIOD-ECD* and the Public Prosecutor's Office conclude an annual enforcement arrangement specifying which products (completed investigations) the *FIOD-ECD* will offer to the Public Prosecutor's Office. These include the assistance that the *FIOD-ECD* will provide in the framework of combating serious organised crime and involve approximately 57 full-time employees per year. Requests for assistance are mainly made by the police *Kernteams*.

RESTREINT UE

5.2 Cooperation at international level

5.2.1 Bilateral and multilateral agreements

The Netherlands has concluded bilateral mutual assistance agreements with many countries. One aim of these is to make arrangements for exchange of information between law enforcement agencies.

5.2.2 Joint teams

The Netherlands stated that, upon entry into force of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, joint teams are to be established under that Convention.

5.3 Information channels used

5.3.1 Incoming

In international legal assistance, depending on the provisions of a mutual assistance agreement, the Netherlands receives judicial and police requests for legal assistance through the Ministry of Justice, the public prosecution service, Interpol, Europol and liaison officers stationed in the Netherlands and abroad. Such incoming legal assistance requests are passed on to one of the nine International Coordination Centres (*ICCs*) for further processing. An *ICC* is a collaborative relationship between the public prosecution service and the police. Responsibility for carrying out judicial and police requests for legal assistance lies with the public prosecutor.

Increasing numbers of incoming requests for legal assistance are being recorded in a national recording system, *LURIS*, which came into operation in 2001. Progress in carrying them out can also be monitored by means of that system. Once requests for legal assistance have been processed, the resulting documents are usually sent back through the same channels. In time, all judicial and police requests for legal assistance will be recorded in *LURIS*.

5.3.2 Outgoing

The Netherlands also issues judicial and police requests for legal assistance via the bodies referred to above. In future, those requests too will be recorded in *LURIS*.

RESTREINT UE

Police *Kernteams* make extensive use of international requests for legal assistance, Netherlands and foreign liaison officers, Europol and Interpol for exchange of information. In certain cases, police units abroad are contacted directly, particularly in other EU Member States, but also in some other countries.

5.3.3 Direct contacts of Kernteams

The *Noord- en Oost-Nederland Kernteam* maintains close links with investigation units from Turkey and various central and eastern European countries. At both strategic and operational level, visits have also been paid to drug producing source countries (particularly sources of opium and heroin). The *Kernteam* has made arrangements with the National Police Force for a direct cooperation and information exchange with the force's liaison officers stationed in Moscow, Budapest, Warsaw and Istanbul. In 2000 the North and East Netherlands *Kernteam* took part in the Interpol millennium project, in cooperation with the National Police Force. This involved exchanging information on individuals in connection with eastern European organised crime.

The *Prisma Team* makes extensive use of the National Police Force's liaison officers stationed in Latin America. In that team's view, international cooperation involves, on a basis of mutual trust, exchanging information, thus supporting and coordinating one another's investigations, while a joint targeting of strategically active criminals enables the results from various investigations to be pooled. In 2000, the *Prisma Team* worked in consultation with police units from countries including the United Kingdom, Belgium, Germany, Brazil, Colombia and the Netherlands Antilles. Domestic and foreign delegations have also been received for working visits to the *Kernteam*.

RESTREINT UE

5.3.4 Customs

In the Netherlands, the Customs Information Centre is responsible for implementing cooperation, under the various mutual administration assistance agreements that have been concluded between customs authorities in Member States of the EU and under agreements between the EU and third countries.

With regard to synthetic drugs, information is also exchanged under the 1988 Vienna Convention. The chemicals monitoring team within the *FIOD-ECD* is responsible for this.

For some types of intelligence, there are specific information-exchange systems, including MARINFO, BALKANINFO and YACHTINFO. The Customs Information System (CIS) can also be regarded as such a system for information relating to both the first and the third pillar.

5.3.5 Royal Marechaussee (*KMar*)

Involvement of Europol (and/or Interpol) by the *KMar* is channelled via its Central Judicial Unit and the *KLPD*'s national criminal intelligence bureau. Involvement of liaison officers by the *KMar* is also channelled through the latter unit.

5.3.6 Operational Units at Schiphol Airport

Operational units at Schiphol Airport have built up, over the years, an extensive network of international contacts, both within Europe and beyond.

Increased use has latterly been made of Europol for information exchange within Europe, often at the express wish of the requesting country.

5.4 Operational Experience

5.4.1 Kernteam

In the answers to the questionnaire the *Amsterdam-Amstelland/Gooi en Vechtstreek Kernteam* described cooperation with authorities in other EU Member States as generally good. This *Kernteam* reported some cases where a request to an authority abroad had immediately elicited a counter-request, that could not be met. This had subsequent repercussions for the answers to the Netherlands' request. The team frequently comes up against foreign units which consider that authorities in the Netherlands do not always deal with their requests properly and with due care.

The *Prisma Team* noted that, in comparison with some years ago, cooperation with foreign investigating teams has been intensified, both within Europe and beyond. Last year, in particular, saw the start, in a number of Latin American countries, of four investigation projects conducted in parallel with the *Kernteam's* criminal investigations. Although those are temporary projects, what should be structural collaborative relationships have been entered into with the foreign investigating teams.

5.4.2 Synthetic Drugs Unit (USD)

The Synthetic Drugs Unit reported that cooperation with specialised authorities in other EU Member States was generally good, both with police and with Customs, although differences existed. While there was a daily information exchange with the appropriate agencies in Germany, cooperation with some European countries was said to be less efficient and it was often unclear what channel to use in order to reach the right unit or individual.

5.4.3 Royal Marechaussee (KMar)

From *KMar's* experience with a case relating to the UK it was reported that cooperation on all sides before and during an operation worked well, but that the post-operational process was considered difficult and slow.

The reasons for this were attributed to differences in legal systems and insufficient familiarity with those systems. This has reportedly resulted in detailed discussions about Dutch law regulating special investigative techniques and operating methods during the proceedings in court.

RESTREINT UE

5.4.4 Yachtinfo and Marinfo systems

Experience over the years with the YACHTINFO and MARINFO systems, designed to keep law enforcement officers informed of developments in drug smuggling on yachts and in containers, has been positive.

5.4.5 Precursor tracking

No difficulties have been experienced in exchanging information on trafficking in precursors. The systems described above can also be used for exchanging information on precursors.

5.5 Europol

There are a number of occasions when Dutch law enforcement bodies have cooperated with Europol. Concerning the tasks to be performed by police *Kernteam*s, any relevant information collected by *Kernteam*s is to be made available to Europol via the National Police Force. Agreements on procedures were concluded in 2000, enabling them to be applied as from 2001.

Last year the *Noord- en Oost-Nederland Kernteam* participated in two Europol projects (Analytical Work Files), one involving Turkish heroin smuggling and another involving East European organised crime.

In the year 2000 the *Prisma Team* participated in a meeting of experts on Latin America organised by Europol. Last year the *Prisma Team* proposed to Europol that a large-scale international investigation operation into the strategy of a criminal organisation be incorporated into an Analytical Work File. Moreover, the *Prisma Kernteam* made further use last year of Europol's services to exchange information with law enforcement services in other EU Member States and to compare telephone numbers under the COCAPHONE project.

RESTREINT UE

5.6 Drugs liaison officers (DLO's)

5.6.1 Foreign LO's posted in the Netherlands

The following countries have drugs liaison officers posted in the Netherlands: Belgium, Germany, Poland, Hungary, Israel, the United Kingdom, France, Spain, Norway, Turkey, Australia, the United States, Canada, South Africa, Sweden and Denmark. They are established in the Netherlands in the embassies of the countries involved. Exceptions are the South African liaison officer (stationed in London), the US FBI (Brussels) and the American Secret Service (Paris). Liaison officers usually represent the police and Customs, more specifically the United States Customs, the Federal Bureau of Investigation, the Drug Enforcement Agency, the Secret Service (all US), the Royal Canadian Mounted Police and Her Majesty's Customs and Excise (United Kingdom).

5.6.2 Dutch LO's posted abroad

Fifteen Dutch liaison officers are stationed in the following countries: Colombia, the Netherlands Antilles, Turkey, Hungary, Poland, Thailand, Pakistan, Russia, France and Spain. Some liaison officers' remits also cover neighbouring countries.

Given that Customs is entrusted with supervisory and not with investigatory tasks, no drugs liaison officers have been stationed abroad by Customs. The Fiscal Information and Investigation Service (*FIOD-ECD*) has not posted any such liaison officers abroad either.

5.6.3 Use and coordination of DLO information

The National Police Force (*KLPD*) is the first point of contact for foreign liaison officers. It is responsible for introductions, coordination and intermediary services in respect of these officials and it supervises their activities. The central authority carries out these activities under the supervision of the National Public Prosecution Office of the Public Prosecution Service. Kernteams and/or individual investigation teams and the Public Prosecution Service in the Netherlands usually give liaison officers concrete requests and tasks. However, these are usually submitted to liaison officers through the intermediary of the central authority so as to guarantee proper national coordination and alignment.

RESTREINT UE

As a result of a working party's report on the present system of placement of and support for Netherlands liaison officers abroad, the current approach was said to have improved at the end of 2001.

Netherlands DLO's may use intelligence gathered only as police information. They are not (as yet) under a formal obligation to report to a central authority (the National Police Force) although they are in close contact with it. They currently use various channels.

5.6.4 Role of DLO's

Liaison officers specifically for drugs do not exist for every country. In principle, the activities of Liaison Officers are not confined to drugs cases alone. The same applies to foreign liaison officers in the Netherlands, given that the Netherlands does not impose any restrictions on the kinds of offences which foreign liaison officers may deal with in their activities as intermediaries.

Experience has shown however that liaison officers whose tasks cover a broad range of crime intervene primarily in drug-related investigations.

Netherlands liaison officers abroad play an important part in (larger) international (drug) investigations. They set up the first contacts with the various investigative agencies and often oversee the use of special investigation techniques such as controlled deliveries. They also play an important part in intercepting drug transport abroad. They are attentive to swift exchanges of information. They are also involved in the coordination of international investigations taking place simultaneously in several countries, with each country tackling one or a part of an organisation.

Netherlands DLO's provide support and act as intermediaries in major and ancillary legal assistance of interest to their country. They have no investigative competence. They are also involved in exchanges of information on other offences.

RESTREINT UE

5.6.5 Customs liaison officers ¹

The Netherlands has posted Customs liaison officers to the Federal Republic of Germany, France and the United Kingdom. There is also a Customs attaché posted at the Permanent Representation of the Kingdom of the Netherlands in Brussels, who maintains relations with the Belgian Customs authorities and the European Commission, including OLAF. In addition to their general duties, such liaison officers are also involved, where appropriate, in the exchange of drugs intelligence between the Netherlands and the relevant authorities in the country in which they operate.

DECLASSIFIED

¹ The Netherlands authorities informed the evaluators after their visit that as of mid-2002 a customs liaison officer will be stationed in Poland.

RESTREINT UE

PART 3

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

6.1 Findings

6.1.1 Contrast between law enforcement effort and the Netherlands' international role in drug trafficking

The evaluation team was convinced that the Netherlands law enforcement agencies visited are pursuing their tasks in a very professional and well-organised manner. It was all the more surprising, however, that this effort apparently had no effect on the present situation in the Netherlands as the country remains a centre of drug trafficking and production.

6.1.2 Drugs Policy with regard to Coffeeshops

The Netherlands has opted for a policy of dividing the drugs market into hard and soft drugs that has given rise to a phenomenon unique among the EU Member States: the coffeeshop. In these premises the consumption of cannabis, although its possession is illegal, is tolerated under certain circumstances. Trafficking in drugs, however, is a criminal offence so that the delivery of drugs to the coffeeshop remains a crime; nevertheless, coffeeshops are allowed to offset the price of cannabis purchases against their tax.

In the opinion of the Netherlands authorities the coffeeshop policy was a solution no different from the mechanisms in place in other EU Member States for dividing up the drugs market and allowing a greater degree of social control.

The Ministry of Justice stressed that out of 146 investigations into organised crime conducted in 2000, 45 were related to cannabis. Despite this fact the evaluation team was not completely convinced as to the consistency of the policy with respect to coffeeshops; the experts had the impression that a loophole remained concerning the implementation of a consistent back-door policy that would look into the supply side of the coffeeshops.

This assumption was sustained by the absence of any reliable data concerning the owners of coffeeshops and their possible links with organised crime, on the one hand, and the integration of the coffeeshops into everyday businesslife of when it came to their paying taxes.

RESTREINT UE

It was interesting to note that the Ministry of Justice side appeared not to be at ease with the policy on drugs, stating that soft drugs were not associated with "soft" crime.

On the one hand the experts are aware that a number of EU Member States are surprised at the apparently tolerant attitude of the Dutch in allowing the existence of coffeeshops. On the other hand the experts noted that from their own experience a significant number of EU Member States are pursuing their own experiments.

6.1.3 Drug tourism relating to coffeeshops

A recent study ¹ has shown that despite the introduction of the five-gram rule, an equal or even greater number of soft drug tourists visited the coffeeshops as compared to pre-1996. As this has actually been undermining the local authorities' intention to contain the phenomenon, the experts wonder why the Netherlands is tolerating drug tourism.

6.1.4 Updating of drugs strategy

Although progress reports on the Netherlands drugs strategy have been submitted biennially to Parliament since 1995, no new proposal, taking into account latest research and enforcement developments as well as the international context, has been produced since then.

6.1.5 Cooperation: Jurisdictional boundaries

The team was told that the non-alignment of police districts and prosecutors' districts had caused the odd failure of cases with links across those jurisdictional boundaries.

6.1.6 Operational Coordination: Central contact point

Although mechanisms existed to safeguard the exchange of information with other countries, there was no central coordinating point with regard to operational matters.

6.1.7 Coordination: Controlled Deliveries

The evaluators were astonished to learn that the *KLPD's* International Networks section had reported a number of bottlenecks with regard to cooperation in conducting controlled deliveries. They particularly referred to a lack of compatibility of technical equipment, difficulties in obtaining official requests for judicial assistance as well as difficulties in accessing central reporting points in neighbouring countries.

¹ See: Korf, Dirk et al.: Coffeeshops, jeugd end toerisme, Den Haag 2001, p. 146.

6.1.8 Multidisciplinary approach

The Netherlands is employing a number of genuine multidisciplinary teams, manned by members of the different law enforcement services and agencies. The evaluation team noted the effectiveness and the sharing of resources and intelligence and considers it to be a model that could be studied by other Member States of the Union, particularly for airports where the nature of air traffic calls for coordinated and swift action by all the services concerned.

6.1.9 Kernteams – Interregional Police Teams

The *Kernteams* appeared to be a remarkable example of multidisciplinary units, incorporating law enforcement staff from the different services as well the prosecutor's office. The close links between police and other law enforcement officers on one side and prosecutors on the other facilitate the efficient conduct of investigations.

With a view to the organisation of police in the Netherlands the evaluators also found it appropriate to designate single Kernteams as centres of excellence for a particular drug.

Despite the fact that from an organisational perspective *Kernteams* do have the potential to overcome the traditional barriers between the different law enforcement services engaged in fighting drug trafficking, the coordination mechanisms that were encountered by the evaluation team were not always convincing. On one occasion it was stated that in the event of problems, persons involved "would have a meeting", though there is no guarantee that this more formal agreement would actually facilitate cooperation.

Systematic information and intelligence sharing within the *Kernteams* could surely be regarded as an asset to Dutch law enforcement. However, the evaluators also identified a lack of synergy between the *Kernteams* assigned to the regional structure combined with national competencies.

6.1.10 Drug-specific training for judges

Although it is conceded that judges have a fair level of experience in dealing with drugs cases, the absence of drug-specific training for judges could be regarded as a disadvantage.

RESTREINT UE

6.1.11 Financial intelligence and investigations

The tightly interlocked system of the different agencies that are engaged in fighting financial crime and money laundering was shown to be of an exceptionally high standard. The electronic data exchange between *MoT*, *BLOM* and regional/local police forces and the matching procedure with *VROS* seems to work very efficiently. In this way operations are streamlined, both to ensure quick investigation and to safeguard the interests of the business community. The experts regard the suspicious transaction reports (STR's) as a mechanism that should be considered by other EU Member States.

6.1.12 Upstream detection

The Netherlands follows a policy of detecting drugs as far upstream as possible, thus using resources in known countries of production and hubs of international traffic to gather intelligence at the earliest possible stage. This general policy of fighting drugs before they enter the country is seen as a valuable approach that should be considered by those EU MS who do not yet pursue such a policy.

The evaluation team was informed by the Netherlands authorities after the visit that further efforts had been made to deal with the growing influx of cocaine smugglers at Schipol airport. The Cabinet "Plan of action for drug trafficking at Schiphol" that was presented to Parliament in January 2002 provides for future measures in order to strengthen the upstream detection approach.

6.1.13 Restricted facilities for processing cocaine smugglers at Schiphol

When the evaluation team visited the detention facilities for drug traffickers that were carrying swallowed narcotics at Schiphol Airport, they were stunned by the fact that the number of cells limited the number of drug traffickers that could be processed. In fact the services concerned reported that sometimes there might be dozens of swallowers on a single flight, a number far beyond the capacity of the detention facilities. Notwithstanding the fact that additional facilities in a hospital in Scheveningen are being used and that the facilities visited were of a very high standard, it was evident that the availability of special prison cells at Schiphol obviously affects enforcement policy.

6.1.14 Sentencing policy

One person said to the review team that the sentencing policy was considered to be lenient. Traffickers in cocaine were generally said to receive one year in prison per kilogram. In reality, however, they were said to be released after a far shorter period than the actual sentence, even if they had smuggled a far greater quantity.

6.1.15 Access to airline and cargo data

According to the services present at Schiphol airport, there were no MoU's in place with airline

RESTREINT UE

companies and freight forwarders other than the Dutch carrier KLM to gain intelligence from their databases. Although Customs revealed that cooperation with private companies was not bad, regulated access to private databases for intelligence purposes could ensure a more stable procedure for the services concerned.

6.1.16 Staff of Schipholteam ¹

Since its introduction in 1993 the number of staff of the Schipholteam has been left unchanged while the number of passengers has doubled. It therefore seems appropriate to reconsider the strength of the Schipholteam in order to ensure the same level of vigilance as at the time of its introduction.

6.1.17 Special Investigative Techniques Legislation

The legislation governing the use of special investigative techniques appears to be a good example of clearly structured and meaningful legislation that it could benefit other EU MS to look at.

6.1.18 Availability of centralised data bases

Although the Netherlands law enforcement services have the Reference Index of Investigations and Subjects (*VROS*) this database only covers names of suspects under investigation and is heavily dependent on the input by the *Kernteam*s. The experts were therefore not convinced that the current regime would facilitate the detection of phenomena that only become visible when applying an overall perspective.

This also applies to the combination of national and international information as required by the *Kernteam*s.

6.1.19 Data protection: informing of suspects after an investigation, different handling

From what the experts learnt, a suspect had to be informed about the fact that data concerning his person had been stored in automated police records.

Furthermore, the team was told of experiences that different data protection regimes within the European Union could lead to difficulties once a case was brought to court.

¹ The Netherlands authorities informed the evaluation team after the visit that, according to a newly introduced "Plan of action for drug trafficking at Schiphol", the Schiphol team was being increased by another 30 full-time employees.

RESTREINT UE

6.1.20 Access to Chamber of Commerce's (KvK) register

Kernteam have direct access to the Chamber of Commerce's register, which helps them to uncover official connections between companies that would otherwise not be possible to retrieve.

Furthermore, the *Prisma Team* reported that they had access to other public registers.

The policy of allowing law enforcement direct access to such registers facilitates intelligence and investigation work and can therefore be regarded as a practice that could be considered by other EU Member States.

6.1.21 NND's Internet-based information systems

The initiatives launched by the National Network Drugs Expertise (*NND*) in setting up an internet-based information system via the Police Drugs Net (*PDN*) appear to be a valuable contribution to bringing up-to-date information to every level of law enforcement. The network relies on volunteers and the *NND* would surely benefit from a more professional framework.

6.1.22 Scanning Facilities at Maasvlakte, Rotterdam

In the harbour of Rotterdam the team was informed that, despite the fact that similar installations existed in Finland, Germany, France and Belgium, an informal information exchange was hampered by the absence of regulatory agreements between the different Member States. It was reported that this was hindering the building up of expertise but also the swift exchange of information on new trends in trafficking. Expertise on detecting drugs and other goods on this equipment is gained through experience, however, which would best be facilitated by a close networking of the few existing scanner stations within the EU.

Furthermore, the evaluators were informed by Customs that the screening procedure was deemed to be hindering the flow of goods. Although conscious of the need for an unobstructed flow of merchandise for economic reasons, the evaluators considered such accusations an unsustainable disregard for public security interests. On the contrary, they were of the opinion that in view of the number of containers passing through Rotterdam, an even greater number should be x-rayed as these facilities constitute a very valuable means of providing an economical screening procedure with a high success rate in discovering drug vaults.

It was interesting to note that Customs at Rotterdam harbour reported that tighter controls by law enforcement were a disadvantage for a harbour in competitive terms.

6.1.23 Interception of telecommunications

Considering the fact that the interception of telecommunications can be a useful means of information, particularly in the field of drugs crime, the experts considered it important to note the following: despite the fact that Dutch law requires service providers to make interfaces for wire tapping available, law enforcement agencies reported difficulties that had occurred as a consequence of market liberalisation and following diversification of technical standards.

The evaluators were stunned by the fact that location data from cellular phones could only be obtained if there was a magistrate's order to intercept and a communication was actually taking place.

Furthermore, the police stated that encryption would pose a technical and legal problem in the near future.

6.1.24 Involvement of Europol

As stated in their answers to the questionnaire the Netherlands services have often perceived Europol's involvement as a source of delay (ranging from a few days to as long as weeks). Where Europol acts as an intermediary, there has been (at Europol's own express request) no direct contact with the recipient, with the result that information sent tends in practice to pass through too many hands. Apart from delay, this also in practice results in watered-down or unclear information.

6.1.25 Coordination of Liaison Officers from EU Member States

During the visit to the *Prisma Team*, members of the staff stated that it was important, in expanding the international exchange of information, also to streamline cooperation between liaison officers posted to South America by various EU Member States. They emphasised that operational aspects would benefit from such cooperation. The evaluation team found it appropriate to endorse this opinion.

6.1.26 Confiscation and seizure of assets

By systematically looking into drug investigations with a view to a possible forfeiture of assets by the specialised unit *BOOM*, the Netherlands has installed a system that relieves law enforcement officers in the field while injecting greater expertise into this often neglected task. Furthermore, processing of the proceeds by *BOOM* seems to ensure greater benefits for the public.

RESTREINT UE

6.1.27 Implementation of International Instruments

All questions asked by the experts during the evaluation were related in one way or another to various international instruments relating to cooperation between law enforcement authorities on a national and international level with regard to drug trafficking. Unless specifically commented upon within this report, the experts were assured that all actions concerning the following related instruments have been or are in the process of being adopted:

- The Action Plan to combat organised crime of 28 April 1997.
 - The Joint Action of 14 October 1996 (concerning liaison officers).
 - The Joint Action of 29 November 1996 (concerning cooperation between customs authorities and business organisations).
 - The Council Resolution of 29 November 1996 (concerning drug tourism).
 - The Joint Action of 17 December 1996 (concerning approximation of laws and practices).
 - The Joint Action of 9 June 1997 (concerning targeting criteria and collection of customs and police information).
 - The Joint Action of 16 June 1997 (concerning synthetic drugs).
 - The Joint Action of 3 December 1998 (concerning money laundering).
- The United Nations Conventions of 1961, 1971 and 1988.

6.2 Possible improvements

6.2.1 Drugs Policy with regard to Coffeeshops

Being aware of the fact that coffeeshops do constitute a unique approach to achieve a division of the drugs market and that the policy on them has already been tightened during the last few years, the experts found it nevertheless appropriate to recommend a stricter and more consistent control of supply to the coffeeshops as a discrepancy between the law on drugs trafficking and actual practice appeared to be evident.

RESTREINT UE

In order to obtain a clearer picture of the owners of coffeeshops and their possible links to organised crime, the work underway on a pilot project to gain intelligence on the involvement of coffeeshop owners in other economic activities and their financial engagements should be continued.

6.2.2 Drug report

Although the drug report dating back to 1995 has been updated biennially, the evaluation team found it appropriate to suggest that a new drugs plan be considered as it would allow for a possible re-alignment that would take into account all the latest research and enforcement experience.

6.2.3 Coordination: Controlled deliveries

Considering that the Netherlands constitutes a turntable for drug trafficking in Europe and despite the fact that a lot of initiatives have been launched in the past, there appears to be room for improvement at the EU level in order to facilitate the coordination of controlled deliveries. The experts therefore found it appropriate to suggest measures that would help ensure easy access to central reporting points throughout the Union, ensure the provision of judicial assistance in a timely manner by all Member States and promote the idea of compatibility for technical equipment used in cross-border operations.

6.2.4 Centralised data bases

A national computer system could not only be an asset to prevent regionally stored information from staying undetected, it would also facilitate the employment of analytical tools. As there is apparently a need to link the databases of the *Kernteam*s as well as combine information from the national and international level, the experts suggest looking into whether the creation of a national database would benefit law enforcement in the Netherlands.

6.2.5 Detainment facilities at Schiphol ¹

Taking into account that the restricted number of detainment facilities at Schiphol airport was determining the pursuit and prosecution policy with regard to swallowers, the experts regarded it as appropriate to consider enlarging the detainment capacity for suspected drug traffickers at Schiphol.

¹ The evaluation team was informed after the visit that the detainment capacity at Schiphol and throughout the country for holding persons suspected of smuggling cocaine has been increased.

RESTREINT UE

6.2.6 Pre-boarding checks on flights from Curaçao to Schiphol ¹

Despite the upstream policy that is promoted by the Netherlands it seems to be evident, given the limitations imposed on law enforcement by the detainment capacity at Schiphol airport and beyond, that more consistent pre-boarding action is required in Curaçao to reduce the influx of drug couriers. As higher sentences do not seem to offer a solution it could be useful to consider introducing an obligation to hold a visa for boarding the flight in Curaçao.

Consideration could be given to introducing a visa obligation for Ghanese and Nigerian nationals wishing to enter Curaçao.

6.2.7 Low level of sentencing

From what the team was told at Schiphol, the current sentencing policy for traffickers arriving at the airport represented no deterrent. It is therefore suggested that sentencing procedures might have to be re-addressed.

6.2.8 X-Ray Scanning Facilities

Due to the economy of the scanning process and the high probability of detection the team suggests considering the deployment of scanning facilities at EU external borders.

The existing x-ray scanners within the EU are major investments and should be exploited to the highest possible degree. The evaluators therefore suggest that, despite existing initiatives on a small scale, networking among the stations in Europe should be formalised in order to allow a swift exchange of experience on *modi operandi* and aspects of technical handling of the scanners.

To counteract evasive action by cargo companies in harbours with a lower screening profile the evaluation team suggests that benchmarking be considered for harbours in order to ensure an equal level of control of sea harbours inside the EU.

6.2.9 Access to airline data

To facilitate access by law enforcement to company databases of airlines and freight forwarders for intelligence purposes, a European-scale instrument could be considered, e.g. direct access to reservation systems that contain an abundance of data that might be exploited for the benefit of better intelligence products.

¹ The "Plan of action for drug trafficking at Schiphol" drafted shortly after the evaluation visit provides for several measures that comply with the proposals made by the evaluation team.

RESTREINT UE

7 RECOMMENDATIONS TO THE NETHERLANDS, 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 Dutch authorities. This should not detract from the fact that The Netherlands 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 in general terms cooperation 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 Netherlands:

- Should take steps to determine lines of supply and amounts to coffeeshops as well as to contain supplies to coffeeshops (6.1.2 & 6.2.1)
- Should adhere to the law in order to control the amount of drugs handled in coffeeshops (6.1.2)
- Should gain more intelligence concerning the owners of coffeeshops and their possible involvement in organised crime (6.1.2 & 6.2.1)
- Should consider a re-draft of the 1995 drug report (6.1.4 & 6.2.2)
- Should consider a centralised national criminal database beyond the *VIROS* (6.1.18 & 6.2.4)
- Should implement the upstream approach by introducing stricter controls in the Netherlands Antilles in order to relieve the facilities at Schiphol Airport and to pursue a proactive prosecution policy that is not dictated by circumstances (6.1.12 & 6.2.6)
- Should reconsider the staffing of the Schipholteam in order to bring it into line with the growth in passenger traffic at Schiphol Airport (6.1.16)
- Should consider the construction of additional detainment facilities at Schiphol in order to alleviate the present situation (6.1.13 & 6.2.5)

RESTREINT UE

- Is invited to examine whether its low level of sentencing does have any deterrent effect (6.1.14 & 6.2.7)
- Should designate a central contact point for operational matters (6.1.6 & 6.2.3)
- Should consider drug-specific training for judges (6.1.10)
- Should reconsider the information policy towards suspects (6.1.19)
- Should consider institutionalising the National Network Drugs Expertise (*NND*) (6.1.21)
- Should formalise access by law enforcement to databases of airlines and freight forwarders (6.1.15 & 6.2.9)

to other European Union Member States:

- Should study the Netherlands system of multidisciplinary teams (6.1.8 & 6.1.9)
- Should elaborate on the Netherlands system of confiscation and seizing of assets (6.1.26)
- Should look at the Netherlands system of financial intelligence, particularly the employment of computer-assisted methods to handle and analyse large amounts of STR's (6.1.11)
- Should look at the Netherlands legislation on special investigative techniques as clearly structured and meaningful legislation (6.1.17)
- Should facilitate and promote exchange of information between scanning facilities in the different EU Member States (6.1.22 & 6.2.8)
- Should consider a common policy with regard to controls in sea harbours in order to counteract evasive action by shipping companies (6.1.22)
- Should be aware of the possible threat from a lack of capability on the part of law enforcement to intercept encrypted data traffic (6.1.23)
- Should look into the possibility of streamlining EU Member States' drug liaison officer operations by sharing resources and coordinating efforts (6.1.25)

Visiting programme and list of people seen

Monday 12 November

Ministry of Justice, The Hague

- 11:00 Reception with coffee and tea
- 11:15 Welcome by Mr S. van Hoogstraten, Director International Criminal Affairs and Drug Policy
- 12:00 Introductory presentation on Dutch drug law enforcement policy and Dutch drug laws by Mr L. Erkelens, Head of the Drug Unit of the Directorate International Criminal Affairs and Drug Policy

Stout, The Hague

- 13:15 Lunch

Ministry of Justice, The Hague

- 14:30 Presentation on the organisation and functioning of the police by a representative of the Ministry of Internal Affairs and Kingdom Relations
- 15:15 Presentation on the organisation of public prosecution and the judiciary by Mr O. van der Veen of the Public Prosecutors' Office (College van Procureurs-Generaal)
- 16:00 Coffee and tea-break
- 16:15 Presentation on special powers of investigation by Mr J.C.P.M. Boogers of the General Office of the Public Prosecutor (Landelijk Parket)
- 17:00 Closing remarks of the day
- 17:15 Informal drink

Tuesday 13 November

Court of Justice, The Hague

- 9:30-12:00 Presentations on the Prisma Team by representatives of The Hague Public Prosecution Office and Regional Police (Korps Haaglanden)

National Police Service (Korps Landelijke Politiediensten), Zoetermeer

- 12:30 Lunch offered by the Korps Landelijke Politiediensten
- 13:30 Presentation on the National Drug Assessment Centre (Nationaal Netwerk Drugsexpertise), by Mr H. Copray, Chief Superintendent, Regional Police (Korps Amsterdam-Amstelland), vice-chairman of the Nationaal Netwerk Drugsexpertise, and Mr A. Elissen, Ministry of Justice, Project Coordinator PHARE Synthetic Drugs Project, chairman of the Nationaal Netwerk Drugsexpertise

RESTREINT UE

- 14:30 Presentation on the National Criminal Information Service (Dienst Nationale Recherche Informatie) by Mr J. Jansen and Mr T. van der Heijden of the Korps Landelijke Politiediensten
- 15:30 Coffee and tea-break
- 15:45 Presentation on the International Networks Service (Dienst Internationale Netwerken) by Mrs M. Touissaint of the Korps Landelijke Politiediensten
- 16:45 Closing remarks of the day

Wednesday 14 November

Schiphol airport

- 9:00 Welcome
- 9:15 Short introductions by Mr C.B.C. Kuis (Koninklijke Marechaussee), Mr E. de Jager (FIOD-ECD) and Mr W. Pera (Customs)
- 10:00 Presentation by Mr J. de Lange and Mr Robin de Jong of the Schiphol-team
- 11:00 Participation in an action undertaken by the Schiphol-team and visit to the airport
- 12:00 Lunch
- 13:00 Presentations by Mr R. in 't Veld, Mr R. Ligthart and Mr R. de Bakker of the CargoHARC-team
- 15:00 Presentations by Mrs M. Remie of the Intelligence Team Money Laundering (Kennisteam Witwassen)
- 16:00 Presentation by Mrs A. Nienhuis of the Public Prosecution Office of the Haarlem-Schiphol District
- 17:00 Informal drink

Thursday 15 November

Port of Rotterdam (Maasvlakte)

- 9:30–11:30 Visit to the container scanner on the Maasvlakte (Port of Rotterdam) with presentation on the spot

Unit Synthetic Drugs / Special Police Department Southern Netherlands (Unit Synthetische Drugs / Kernteam Zuid), Eindhoven

- 13:00 Lunch
- 14:00 Presentations on the activities and functioning of the Unit Synthetic Drugs and meeting with Mr M. Witteveen, Head Public Prosecution USD and Mr P. Reijnders, Head of Police USD
- 15:45 Coffee and tea-break
- 16:00 Continuation of presentations

RESTREINT UE

Restaurant Le Bistroquet, The Hague

19:00 Dinner hosted by Mr S. van Hoogstraten, Director International Criminal Affairs and Drug Policy

Friday 16 November

General Office of the Public Prosecutor (Landelijk Parket), Rotterdam

9:30 Presentation by a representative of the General Office of the Public Prosecutor on organised crime handling and procedures (ZwaCri and ZwaCri-precEDURE)

10:15 Presentation by a representative of the Bureau for the Confiscation of Properties of the Public Prosecutor's Office (Bureau Ontneming Openbaar Ministerie)

10:45 Coffee and tea-break

11:00 Presentation on international aspects

11:45 Regional police Rotterdam, presentation of activities by Mr Nijboom of the Regional Investigation Service (Organised Crime) (Regionale Recherche Dienst (Zware/Georganiseerde Criminaliteit)), Regional Police (Korps Rotterdam-Rijnmond)

12:45 Closing

DECLASSIFIED

RESTREINT UE

ANNEX B

List of Acronyms, Abbreviations and Terms

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
-	<i>Kustwacht</i>	Coastguard Service
-	<i>College van Procureurs Generaal</i>	College of Principal Public Prosecutors
	<i>Parket-Generaal</i>	Prosecutor General's Office
-	<i>Landelijk Parket</i>	National Public Prosecutor's Office
-	<i>Landelijk Rechercheteam</i>	National Investigation Team
-	<i>Meldpunt Landelijk Coördinator Grensoverschrijdende Observatie</i>	National Cross-border Surveillance Coordination Reporting Centre
-	<i>Tactische Recherche</i>	Tactical Criminal Investigation Units
-	<i>Wet Politierregisters</i>	Police Records Act
-	<i>Besluit Politierregisters</i>	Police Records Decree
-	<i>Voorlopige Registers</i>	Provisional Records
-	<i>Stafbureau Noorzee Officieren van Justitie</i>	North Sea Justice Officials Staff Bureau
-	<i>Commissie Noordzee Officieren van Justitie</i>	North Sea Justice Officials Committee
-	<i>Dienst Internationale Netwerken</i>	International Networks Division of KLPD
-	<i>Kadaster</i>	Public office registering data of ownership of real estate

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
-	<i>Wetboek van Strafvordering</i>	Code of Criminal Procedure
-	<i>Registratiekamer</i>	Data protection authority
-	<i>Politiewet</i>	Police Act
-	<i>Besluit Ontneming van wederrechtelijk verkregen voordelen en belastingheffing</i>	Decree on Forfeiture of Illegally Obtained Benefits and Taxation
-	<i>Richtlijn voor strafvordering ontneming</i>	Instructions On Criminal Procedure Relating To Forfeiture
-	<i>Aanwijzing Ontneming</i>	Directive on Forfeiture
-	<i>Dienst Internationale Netwerken</i>	International Networks Division
-	<i>Rechter-commissaris</i>	Examining Magistrate
-	<i>Centrale Justitiële Dienst</i>	Central Judicial Department of the Royal Marechaussee
-	<i>Districtsrecherche</i>	District-Based Criminal Investigation Unit of KMar
-	<i>Algemene Inspectiedienst</i>	General Inspectorate of the Ministry of Agriculture Fisheries and Nature Management
-	<i>Dienst Recherche</i>	Investigation Department of the Ministry of Public Health, Regional Planning and the Environment
-	<i>Sociale Inlichtingen- en Opsporingsdienst</i>	Social Intelligence and Investigation Department

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
-	<i>Wetenschappelijk Onderzoek- en Documentatiecentrum</i>	Scientific Research and Documentation Centre (of the Ministry of Justice)
-	<i>Belastingdienst</i>	Netherlands Tax and Customs Administration
BFO	<i>Bureaus Financieel Onderzoek</i>	Financial Investigation Bureaux
BFO	<i>Bureau Financiële Ondersteuning</i>	Financial Support Bureau
BFR	<i>Bureaus Financiële Recherche</i>	Financial Crime Bureaux
BIRS	<i>Bureau Internationale Rechtshulp in Strafszaken</i>	Office for International Mutual Legal Assistance in Criminal Matters
BLOM	<i>Bureau Landelijk Officer van Justitie Meldingen Ongerbruikelijke Transacties</i>	National Criminal Intelligence's financial intelligence unit
BOB	<i>Bijzondere Opsporingsbevoegheden</i>	Special Investigative Techniques
BOOM	<i>Bureau Ontnemingswetgeving Openbaar Ministerie</i>	Public Prosecutor's Office for Forfeiture Legislation Bureau
BOS	<i>Beslissing Ondersteunend Systeem</i>	Computerised decision supporting system
BPS	<i>BedrijfsProcessenSysteem</i>	Working Processes System
BRI	<i>Bureau Recherche Informatie</i>	Criminal Intelligence Bureau, KMar
BSB	<i>Brigade Speciale Beveiligingsopdrachten</i>	Special Security Duties Squad of the Royal Marechaussee

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
CBA	<i>Criminaliteitsbeeldanalyse</i>	Crime situation analysis
CCC	-	Community Customs Code
CC Zwacri	<i>Coördinatie Commissie Zware Criminaliteit</i>	Coordination Committee on Serious Crime
CD	-	Controlled Delivery
CIDSI	-	CID-subject index
CIE	<i>Criminele Inlichtingen Eendheid</i>	Criminal Intelligence Units
CTC	<i>Centrale Toetsingscommissie</i>	Central Review Commission
DFB	<i>Douane Fraude Bestand</i>	Customs Fraud Databank
DIC	<i>Douane Informatie Centrum</i>	Customs Information Centre
DLO	-	Drug Liaison Officer
ECD	<i>Economische Controle Dienst</i>	Economic Inspection Service
FIOD	<i>Fiscale Inlichtingen- en Opsporingsdienst</i>	Fiscal Information and Investigation Service
GEFIS	<i>Geïntegreerd Fraude Informatie System</i>	Integrated Fraud Information System
HARC	-	Hit And Run Container Teams
HARM	-	Hit And Run Money Laundering
HBO	<i>Hoger Beroeps Onderwijs</i>	Higher vocational training
HHP-AH	<i>Handhavingsplan Algemene Handhaving</i>	
HKS	<i>Herkenningsdienstsysteem</i>	Identification-service system

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
ICC	-	International Coordination Centre
ICR	<i>Instituut voor Criminaliteitsbeheersing en Recherchekunde</i>	Institute for the Repression and Investigation of Crime, Zutphen
IKP	<i>Informatie Knooppunt</i>	Focal Point of Information
KCW	<i>Kenniscentrum Witwassen</i>	Centre of Excellence for Money Laundering
KLPD	<i>Korps Landelijke Politiedienst</i>	National Police Force
KMar	<i>Koninklijke Marechaussee</i>	Royal Marechaussee
KvK	<i>Kamer van Koophandel en Fabrieken</i>	Chamber of Commerce
LSOP	<i>Landelijk Onderwijs- en Kenniscentrum voor de Nederlandse politie</i>	Dutch Police Training Centre
LURIS	<i>Landelijk Registratie Systeem Rechtshulp in Strafzaken</i>	National Register for Mutual Legal Assistance
MBO	<i>Middelbaar Beroeps-Onderwijs</i>	Secondary vocational training
MMS	<i>Milieu Management System</i>	Environmental Management System
MoT	Meldpunt Ongebruiklijke Transacties	Dutch Financial Intelligence Unit, Ministry of Justice
MoU	-	Memorandum of Understanding
NCIE	<i>Nationale Criminele Inlichtingen Eenheid</i>	National Criminal Intelligence Unit

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
NGO	-	Non-governmental organisation
NND	<i>Nationaal Netwerk Drugsexpertise</i>	National Network Drugs Expertise
NRI	<i>Nationale Recherche Informatiedienst</i>	National Intelligence and Information Service within the KLPD
OLAF	-	European Anti Fraud Office
OM	<i>Openbaar Ministerie</i>	Supreme Public Prosecutor's Office
PAS	<i>Passagiers Afhandelingssysteem</i>	Passenger Handling System
PDN	<i>Politie Drugs Net</i>	Police Drugs Net
PKN	<i>Politie Kennisnet</i>	Police Information Net
PKHN	<i>Permanente Kontaktgroep Handhaving Noordzee</i>	Standing Contact Group on Enforcement in the North Sea Region
RBS	<i>Recherche Basis Systeem</i>	Basic Investigation System
SAGITTA	-	Computer System used by Customs
SSR	<i>Stichting Studiecentrum Rechtspleging</i>	Judiciary Study Centre Foundation
USD	<i>Unit Synthetische Drugs</i>	Synthetic Drugs Unit
VROS	<i>Verwijzingsindex voor RechercheOnderzoeken en Subjecten</i>	Reference Index of Investigations and Subjects

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL DUTCH	ENGLISH TRANSLATION OR EXPLANATION
Xpol	-	
XTC	-	Ecstasy
ZGC/IRT	<i>Werkgroep zware georganiseerde criminaliteit / Interregionaal recherche team</i>	

DECLASSIFIED