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"LAW ENFORCEMENT AND ITS ROLE
IN THE FIGHT AGAINST DRUG TRAFFICKING"
REPORT ON IRELAND

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

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DECLASSIFIED

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PART 1

1. INTRODUCTION

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

1.2. Ireland was the tenth 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.

1.3. The examiners for the evaluation were Mr. Jean Puons (France), Mr. Frank Sole (United Kingdom) and Mrs. Nicole G. Zandee (the Netherlands). This team accompanied by two members from the General Secretariat and one member from the Commission visited Ireland for five days from 23 April 2001 to 27 April 2001.

1.4. The programme for the visit and the list of persons seen during the evaluation visit, and from whom information was received, is at Annex A. Furthermore, a "Glossary of Terms" used in the report is attached for guidance at Annex B.

1.5. Following these meetings, the evaluation team prepared this report, with the assistance of the General Secretariat, based on the observations and conclusions of the experts in the team together with the answers to the Questionnaire (doc. 12972/99 CRIMORG 171 Rev 1) which the Irish authorities provided. The principle purpose of this report is to evaluate the application and implementation at national level of instruments dealing with law enforcement and drug trafficking, of the resulting legislation and practices at national level and of international co-operation in the fight against drug trafficking. The evaluation seeks in particular to assess co-operation and co-ordination between different law enforcement structures and operational practices in them. The main focus of the evaluation is the practical day to day co-operation between different units both at national and international level.

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1.6. The report first describes the organisational structures, intelligence systems, special investigation techniques and methods of co-ordination and co-operation utilised in Ireland in the fight against drug trafficking. The report then evaluates the effectiveness of these systems and finally, the experts draw conclusions and make recommendations.

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PART 2

2. GENERAL INFORMATION AND STRUCTURE¹

2.1. Competent Authorities - General Comments

2.1.1. In Ireland there is a co-ordinated National Strategy that encompasses both supply reduction and law enforcement efforts to combat the drugs problem. Ireland has a broad multi-agency approach to deal with the drugs problem, which has been developed around the four pillars of supply reduction, prevention and education, treatment and rehabilitation and research/information. The different bodies and levels of authority involved in this approach are as follows:

2.1.1.(1). At Ministerial level the Taoiseach (Prime Minister) chairs a Cabinet Committee on Social Inclusion and Drugs. The Committee also includes the "Ministers for Justice, Equality and Law Reform", "Health and Children", "Education & Science", "Environment & Local Government" "Enterprise Trade & Employment", "Tourism Sport & Recreation" and "Social Community & Family Affairs". In addition a Minister of State has been given special responsibility for the National Drugs Strategy.

2.1.1.(2). An Inter-Departmental Policy Group involves senior officials from all of the government departments included in the Cabinet Committee on Social Inclusion and Drugs.

¹ This part of the report is essentially based on the answers Ireland provided to the Questionnaire.

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2.1.1.(3). A National Drug Strategy Team (NDST) is chaired by an official from the Department of "Health & Children"¹ and has representation from the Departments of "Justice Equality & Law Reform", "Education & Science", "Environment & Local Government", "Tourism Sport & Recreation", the Eastern Regional Health Authority, the Garda Síochána (Police), and the Training Authority (FAS) and one person each from the voluntary and community sectors. The team is responsible for ensuring that there is effective co-ordination between Government Departments, state agencies, and the voluntary and community sectors in implementing the Government's drug strategy.

2.1.1.(4). 14 Local Drug Task Forces have been set up in the areas worst affected by drugs, particularly heroin abuse, and all fall under the management of the National Drug Strategy Team. These Task Forces provide a framework for law enforcement agencies to work with other agencies and voluntary and community groups to ensure a co-ordinated response to the drug problem at a local level. Thirteen of the Task Forces are based in the greater Dublin area and one in Cork, Ireland's second largest city

2.1.1.(5). At Regional level, Drug Co-ordinating Committees have been established in health boards. These committees include representatives of the state agencies and voluntary groups involved in reducing the demand for drugs and their overall aim is to ensure that policy and programmes are developed and delivered in an integrated fashion.

2.1.2. Ireland does not have a central co-ordinating body with sole responsibility for the co-ordination of law enforcement efforts in the fight against drug trafficking. However, it does have a National Multi-disciplinary Group on Organised Crime to co-ordinate Ireland's position in relation to European Union (EU) matters.

¹ The evaluators were informed by the Irish authorities after the visit that the NDST was now chaired by an official from the Department of the Taoiseach (Prime Minister) while a representative of the Department of "Health and Children" had a member on the NDST.

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2.1.3. The Government has a strict policy in relation to controlled drugs and there is no provision for personal consumption. The Misuse of Drugs Acts of 1977 and of 1984 and the Orders and Regulations made thereunder set out the Schedules for control on various drugs and scheduled substances and the penalties for offences committed under the Acts.

2.1.4. The law enforcement agencies enforce the legislation and are responsible for combating drug trafficking at an operational level. These agencies comprise the Police, Customs and the Naval Service.

2.1.5. The Customs & Excise Service (which forms part of the Office of the Revenue Commissioners) has primary responsibility for the prevention, detection, interception and seizure of controlled drugs intended to be or illegally imported into the State. The Customs authorities have powers of detention and arrest. However, the detention of arrested persons and subsequent investigations are primarily performed by the Police. Both Customs and Excise and Police National Drugs Unit have national and international responsibilities for combating drug trafficking. The Naval Service provides operational support in cases where there is a maritime dimension.

2.1.6. As far as the Police and Customs are concerned, their respective roles are clarified in a Joint Memorandum of Understanding (MOU) and in an Operational Protocol, which sets out operational guidelines for all personnel. A Joint Task Force (JTF) arrangement exists for cases requiring the assistance of the Naval Service. The JTF operates under operational guidelines of a general nature for the Police, Customs and the Naval Service. The detailed operating procedures are agreed on a case by case basis.

2.1.7. A significant addition to the capacity of the law enforcement agencies to target criminal activity is the Criminal Assets Bureau. This is a multi-agency body, established by statute, charged with identifying and seizing the proceeds of criminal activity, including money and other assets derived from drug trafficking

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2.1.8. The prosecutor (Director of Public Prosecutions) in the Irish criminal justice system has no direct involvement in the investigation of crime, which is a matter for the National Police Force or other investigating agencies. The prosecutor does not control or direct the criminal investigation and does not have a supervisory role in relation to the investigation. The initial role of the prosecutor is to decide whether the evidence obtained as a result of the criminal investigation is sufficient to justify the commencement or continuation of criminal proceedings.

2.1.9. In a wider context of tackling drugs, the Customs & Excise service has entered into formal, voluntary agreements (MOU's) with a large number of private and public companies. Such companies include airlines, "door to door" couriers, shipping lines, freight companies and road hauliers.

2.2. Prosecution Services and Judges

2.2.1. All decisions in relation to drugs offences (save in relation to summary prosecutions of simple possession of controlled drugs) are made by the Office of the Director of Public Prosecution (DPP). The DPP is a centralised office based in Dublin and is staffed by 14 lawyers¹. The DPP decides in relation to drugs cases referred to it as to whether a prosecution should be taken and as to whether the offence should be prosecuted summarily in the District Court (before one judge) or in the Circuit Criminal Court (before a judge and jury).

2.2.2. In addition to the District and Circuit Criminal Courts, the Central Criminal Court of the High Court deals with sensitive cases. This Court not only deals with sensitive cases such as those involving sexual offences but also deals with cases such as murder, treason and piracy. A Special Criminal Court is also available for cases requiring high security and these usually involve terrorism or major organised crime offenders. In such Special Criminal Courts, cases are heard by 3 sitting Judges and no jury is present.

¹ The Irish authorities informed after the visit that there were now 19 lawyers in the Office of the DPP:

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2.2.3. In Dublin, solicitors employed in the Chief State Solicitor's Office are responsible for implementing the decisions of the Office of the DPP and for representing it in the District Court. Barristers in private practice are instructed by the Office of the DPP to represent it, on a case by case basis, in the higher Courts and are attended on by solicitors in the Chief State Solicitor's Office acting on behalf of the Office of the DPP.

2.2.4. The DPP will direct a case for trial in the Circuit Criminal Court if a case is too serious to be dealt with in the District Court, having regard to the quantity of drugs, the background of the accused or other aggravating circumstances. The maximum penalty that can be imposed in the District Court in relation to any one offence is 12 months imprisonment and up to a maximum of two years upon conviction in respect of two or more offences. If there is a prima facie case against a suspect with regard to the Misuse of Drugs Act a prosecution will follow unless it is not in the public interest. A decision not to prosecute in the public interest is extremely rare in drug cases.

2.2.5. There are no specialised units in the DPP dealing exclusively with drug offences. Similarly, there are no specialist judges with the exception of the recently introduced Drug Court.

2.2.6. On 9 January 2001 a Drug Court was established on an 18-month pilot project basis in Dublin's North Inner City area. The project is designed as an alternative measure for dealing with less serious and non-violent drug offenders. The project is available on a voluntary basis to persons aged 18 or over who have pleaded guilty or have been found guilty of a drug or drug related offence that would ordinarily warrant imprisonment. A rehabilitation programme tailored to meet the individual needs of each offender is provided by the Eastern Regional Health Authority, the Probation and Welfare Service, FAS and the Department of Education and Science with further services sought from other agencies as and when necessary. The Court sits twice a week and each sitting is preceded by a meeting of the Drug Court team and the Judge. The project is being evaluated by expert consultants and the merit of implementing a Drug Court programme on a national basis will be considered following the completion and evaluation of the Pilot Project in Dublin.

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2.3. Police Authorities

2.3.1. Within the Police service, the Deputy Commissioner, Operations has overall responsibility at national level for drug matters. Operationally, (see also part 2.1.5.), the Police National Drugs Unit has a national and international responsibility for combating drug trafficking.

2.3.2. The Police National Drugs Unit has a central office in Dublin where the following personnel are based:

- 1 Detective Chief Superintendent
- 2 Detective Superintendents
- 3 Detective Inspectors (operational)
- 1 Inspector acting as Customs National Liaison Officer
- 8 Detective Sergeants
- 36 Detective Police Officers
- 4 Clerical Officers

2.3.3. Divisional and District Drug Units of the Police National Drugs Unit are established throughout the country in cities and large provincial towns. The priority of these units is to develop intelligence and effect arrests and seizures. Staffing levels in these offices vary in strength from one Detective Sergeant and eight Detective Police Officers to one Sergeant and two Detective Police Officers.

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2.4. Customs Authorities

2.4.1. As stated previously (see part 2.1.5.), the Customs and Excise service has primary responsibility for the prevention, detection, interception and seizure of controlled drugs intended to be illegally imported into the State. Two divisions of the Office of the Revenue Commissioners have responsibility for this enforcement activity and they are the Customs and Excise Enforcement Division and the Customs and Excise Collections Division. Specialised units from both Divisions are located at entry/exit points throughout the country where trained staff are engaged in focusing on intelligence gathering, interception and detection, maritime surveillance and handling drug detector dogs.

2.5. Criminal Assets Bureau

2.5.1. The Criminal Assets Bureau was established in 1996. As stated in part 2.1.7. it is a statutory multi-agency body charged with identifying and seizing the proceeds of criminal activity, including funds and assets derived from drug trafficking. Using legislation such as the Proceeds of Crime Act, 1996, the Bureau may seize criminal assets without the necessity for a criminal conviction or the instigation of criminal proceedings. The Bureau is headed by a Police Chief Superintendent, with staff drawn from the Police, the Revenue Commissioners (Customs and Taxes) and the Department of Social Community and Family Affairs.

2.5.2. The Criminal Assets Bureau has a Legal Officer who is appointed by the Minister for Justice Equality and Law Reform, with the consent of the Attorney General and the Minister for Finance and reports directly to the Chief Bureau Officer.

2.5.3. The relevant legislation underpinning the establishment and operation of the Criminal Assets Bureau consists of: the Criminal Assets Bureau Act of 1996 (CAB Act); the Proceeds of Crime Act of 1996; Disclosure of Certain Information for Taxation and Other Purposes Act of 1996 and Amendments to the Revenue Acts and to Social Welfare Acts. The Proceeds of Crime (Amendment) Bill, 1999, which amends the Proceeds of Crime Act, 1996, in a number of technical respects, is currently before Parliament.

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2.5.4. The CAB Act sets out the powers and functions of the Bureau, together with provisions for administrative and operational matters and ancillary provisions. The Bureau is a body corporate with: perpetual succession; an official seal; power to sue in its corporate name and power to acquire, hold and dispose of land or an interest in land, or any other property.

2.5.5. The Act, which established the Criminal Assets Bureau, provides for anonymity of certain bureau officers, that is officers of the Revenue Commissioners or of the Department of Social, Community and Family Affairs, as well as members of staff of the Bureau.

2.6. Training

2.6.1. Specialised Police units receive training on subjects, which include agent handling; undercover operators; controlled deliveries; test purchasing; use of technology; investigative techniques, and general procedures. Drugs identification training is also provided. Additionally, crime analysis training is available to specialist police staff.

2.6.2. All financial investigators received specialist training from a programme devised by an interdisciplinary team drawn from the Money Laundering Investigation Unit (MLIU), the Police National Drug Unit, the Criminal Assets Bureau, Customs and Excise, Revenue Officials, Forensic Accountants, Financial Institutions, lawyers and representatives from various Public Bodies.

2.6.3. International training in the form of exchange programmes, seminars and conferences is also available to police personnel. Crime analysts receive strategic analysis training at Europol.

2.6.4. Customs Officers in the Customs Anti-Smuggling Teams receive training according to their needs and allocated work areas. Such training includes: basic and advanced legal courses; awareness of legal powers; intelligence training; procedures relating to cash seizures; rigid inflatable boat (RIB) handling; dog handling courses and drug precursor training.

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2.6.5. Training provided by the police and customs services is usually undertaken by their own respective personnel. Similarly, training is not co-ordinated between the services as it is devised and delivered on the basis of their separate drug enforcement roles. However, where there is a common role, some joint training programmes do take place.

2.6.6. Under section 19 of the Courts and Court Officers Act 1995, anyone who wishes to be considered for judicial office must undertake in writing beforehand, that they are willing to undertake training courses as may be required by the Chief Justice or the President of the Court to which they are appointed. Funding for training is provided for under the Act.

2.6.7. The Judicial Studies Institute was established in 1996 and organises professional training seminars and conferences for the judiciary and also exchange visits with other jurisdictions. The institute has established contacts with similar training bodies in the UK, it participates in EU funded programmes of education and is actively involved with the European Union of Administrative Judges.

2.7. Monitoring

2.7.1. In the Police "Corporate Strategy Document of 2000-2004", the "rigorous enforcement of laws in relation to drugs", is one of six strategic goals which the organisation is committed to achieving.

2.7.2. As part of Police strategy, the organisation publishes an "Annual Policing Plan", which outlines the priorities and objectives for each successive 12 month period. Each district is obliged to submit its own policing plan, which includes objectives and key action points. Benchmark targets are established which set out priorities and evaluate the success of the plan in achieving the desired results.

2.7.3. The Police Commissioner also produces an "Annual Crime Report", which contains statistical information on drug seizures made by all enforcement agencies. Such information assists with the formation and direction of policy as well as with the deployment of resources.

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2.7.4. Customs assessment of performance and implementation is regularly carried out through normal management functions, internal and external audits and special reviews. A major internal review of the operation of the Customs National Drugs Team was carried out by the Revenue Commissioners during 1999 and was completed in March 2000. The review embraced all aspects of the Customs role in combating drugs trafficking. A "steering group" has been put in place to oversee implementation of the recommendations of the review group. The Office of the Revenue Commissioners, of which Customs is a part, produces a statement of strategy (Corporate Plan), which sets out the agenda for the Office for a three-year period. The statement sets out strategies and performance indicators, which are to be achieved. There is an in-built review mechanism to monitor progress.

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PART 3

3. INTELLIGENCE

3.1. Data Banks

3.1.1. The National Criminal Intelligence Unit based at Police Headquarters in Dublin has the responsibility for the collection, evaluation, analysis and dissemination of all Police intelligence relating to serious and organised crime. Intelligence is reported to this unit by way of a "confidential report form" using the standard 4&4 evaluation system. The information/intelligence is then made available to the relevant operational unit.

3.1.2. All members of the Police service have exclusive access to a Computer Database known as P.U.L.S.E. (Police Utilising Legal Systems Effectively). This system contains a wide variety of information including criminal records; suspect/stolen vehicles; vehicle registration details; missing persons; details of prosecutions and warrants.

3.1.3. The Customs service collects confidential data on drugs trafficking from a wide variety of sources and utilises the following data banks:

3.1.3.(1). The Common Registration System (CRS) contains profiles on all taxpayers.

3.1.3.(2). The Companies Registration Office (CRO) contains information on all companies registered in Ireland.

3.1.3.(3). Flexible Access to "Single Administrative Document" (SAD) Transactions (FAST). This system allows for the running of reports for analysis purposes using specific criteria on all Import/Export declarations of goods imported from/ exported to third countries.

3.1.3.(4). Historical Data System (HDS) contains details of declarations, which have been electronically transmitted to customs.

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3.1.3.(5). Motor Vehicle Taxation (MVT). This system is for the first registration of all vehicles (new & second-hand) declared for use in the state and has a search facility to view historical transactions.

3.1.3.(6). The National Vehicle and Driver File (NVDF). This database identifies the registered owners of vehicles. The source information is obtained from the vehicle registration records maintained by local authorities.

3.1.3.(7). NARCNET (Narcotic Network) is a "real time" database, which contains records of all drug seizures, drug related vehicle searches and international drug smuggling trends.

3.1.3.(8). Operations Manager (Maintained by the EC). This system combines AFIS, MAR-INFO and MAR-SUR. AFIS (Antifraud Information System) is a worldwide e-mail system for customs services. MAR-INFO and MAR-SUR both contain international information on sea traffic whilst MAR-INFO also contains details of fiscal/drug seizures.

3.1.3.(9). "Sea-searcher" is an internet system, which allows for the tracking of the movements of ships around the world and is linked to the Lloyds shipping register.

3.1.3.(10). "Land Registry" is another internet system, which identifies the owners of properties.

3.1.3.(11). Customs Enforcement Network (CEN) gives worldwide access to information on seizures of drugs, fiscal goods and prohibited goods. The source information is transmitted from customs administrations to the headquarters of the World Customs Organisation that maintain the database.

3.1.3.(12). "EUCARIS" (European Car and Driving Licence Information System) provides on-line access to the vehicle registration files of the UK and Netherlands, which can be interrogated using a vehicle registration number to obtain vehicle details and/or to confirm if a vehicle has been reported stolen.

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3.2. Use of Data by Police and Customs.

3.2.1. The National Criminal Intelligence Unit of the Police carries out the analysis of all intelligence. The various Specialist Units are responsible for the collection of this intelligence and it is then made available to the National Criminal Intelligence Unit. Both tactical and strategic analysis is carried out by the National Criminal Intelligence Unit. Such an approach allows the Police to identify trends amongst those involved in organised crime to identify individuals or groups who are involved in differing forms of criminality.

3.2.2. Trends identified are also used as the basis for briefing Government in support of educational and publicity strategies concerning demand reduction.

3.2.3. The Annual Crime Report (see 2.7.3.) contains statistics and other information, which is utilised with regard to the formulation and direction of policy and the deployment of resources. This report is available to other relevant agencies.

3.2.4. The Customs National Freight Intelligence Unit prepares traffic profiles of travellers, vehicles and vessels, which are continuously revised and updated against established or emerging international trends. The National Freight Intelligence Unit also provides specific intelligence packages to staff at points of importation with a view to the interception/detection of drugs. Such packages contain details of historic transactions/movements, details of directorships when companies are involved and identify shipping lines and hauliers.

3.2.5. When the intelligence received or developed is of a high quality, an Interception Message is issued to the operational unit/s concerned. In other cases, such as where the intelligence is based on trends, risk analysis, etc. a Background Message is issued to operational units to consider what enforcement action should be taken.

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3.2.6. Customs personnel prepare strategic reports on marine traffic from countries known to be high risk for drugs. These reports ensure that operational resources are focused on traffic with the highest risk in order to minimise any disruption to the movement of legitimate traffic. Such information and strategic reports have focused operational resources to areas of highest risk without interfering with the movement of legitimate traffic.

3.3. National and International Sharing of Data

3.3.1. Information is exchanged between the Police, Customs and the Naval Services via the National Liaison Officers appointed by both Police and Customs. The National Criminal Intelligence Unit of the Police service can also be utilised for the exchange of Police Intelligence.

3.3.2. On January 12, 1996 a "Memorandum of Understanding" (MOU) was signed between the Customs and Police concerning their relationship in the field of drugs law enforcement and was endorsed by the Government Ministers responsible for these agencies. Section 9 of this Memorandum calls for the "full exchange" of information and intelligence on drug smuggling between the two agencies and the facilitation of such exchange. However, there are restrictions concerning the exchange of information such as those imposed by the Data Protection Act and the Postal and Telecommunications Act.

3.3.3. The Joint Task Force of the Police, Customs and Navy established by the MOU (see 2.1.6) is utilised to exchange information on specific drug smuggling operations. Recently a Working Protocol established by all three relevant agencies agreed to establish a liaison network throughout the country in an effort to exchange information at a local level.

3.3.4. The exchange of intelligence within the Police service is carried out under agreed policy, which has been determined at management level, and is in most cases on a "need to know basis". The fact that the National Criminal Intelligence Unit is aware of the targets of the various units facilitates the dissemination of the intelligence.

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3.3.5. Details of modus operandi are available to all Police through the computerised crime reporting system and intelligence bulletins distributed throughout the force.

3.3.6. Each piece of intelligence disseminated, includes a reference to the level of risk attached to it. The dissemination takes place on the understanding that the constraints placed on the use of any piece of intelligence is respected. Should it be necessary to review the risk attached to the intelligence then this can be facilitated within the process and will include the person submitting the piece of intelligence. The safety of the source is always the main concern of all those involved in the cycle.

3.3.7. In the Customs service access to sensitive information is protected by system configuration. Apart from any restriction, which a foreign customs service might place on the disclosure of information passed on a customs-to-customs basis, there are no constraints on the Customs & Excise service in relation to the exchange of crime data and intelligence.

3.3.8. Under the provisions of the Disclosure of Certain Information for Taxation and Other Purposes Act, 1996, the Revenue Commissioners may disclose information to a relevant member of the Police service which they (the Revenue Commissioners) have reasonable grounds for believing relates to the activities of a person who has derived profits from an unlawful source or activity and may be valuable to a relevant investigation and in the public interest.

3.3.9. The Police exchange intelligence with agencies abroad on a Police to Police basis and with Europol and Interpol. The Garda Síochána (Police) also have Liaison Officers in London, Paris, The Hague, Madrid and at Europol and Interpol Headquarters.

3.3.10. The Police have generally experienced good co-operation with other EU Law Enforcement Authorities. Difficulties have arisen on occasion because of legal restrictions and the non-compatibility of different EU Legal systems. In the Irish system the source of certain information is protected whereas in other countries such sources are made known. The disclosure of sensitive information in Ireland could endanger the personal safety of an informant.

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3.3.11. "Soft" (uncertified) information can be provided legally, but it has to be treated as such which minimises its importance.

3.3.12. The exchange of intelligence between Irish Customs and foreign customs agencies can be done under the Naples Convention of 1967 and the Nairobi Convention 1977. Bilateral Memoranda of Understandings with H.M. Customs and Excise in Northern Ireland, H.M. Customs and Excise ("Maritime Service") and US Customs allow for such sharing of information. As a member of the World Customs Organisation (WCO), Irish Customs also exchange intelligence through their Regional Intelligence Liaison Office (RILO) using the Customs Enforcement Network (CEN).

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PART 4

4. SPECIAL INVESTIGATION TECHNIQUES

4.1. Financial Investigations - Legislation and Guidelines

4.1.1. The Criminal Justice Act, 1994 is the main legislation dealing with money laundering and the proceeds of criminal activity. This Act gave effect to EC Directive 91/308 on Money Laundering and introduced provisions concerning confiscation proceedings, reporting of suspicious transactions by banks and other financial institutions and international co-operation.

4.1.2. Under the Criminal Justice Act of 1994, the standard of knowledge required to convict a person of a money laundering offence is based on the criminal standard of proof (beyond reasonable doubt). It is not necessary to establish a particular predicate offence in respect of a money laundering offence. All that is necessary to establish is that the property was the proceeds of drug trafficking or other criminal activity as opposed to a particular act of drug trafficking or other criminal offence. The prosecution must also prove that the defendant committed the money laundering act for the purpose of avoiding a prosecution or the making or enforcement of a confiscation order against him. Legislation has been published which provides for the abolition of the requirement that the prosecution must also prove that the defendant committed the money laundering act for the purpose of avoiding a prosecution or the making or enforcement of a confiscation order against him. This legislation will be brought forward during the next Parliamentary session. The maximum penalty for a money laundering offence is 14 years.

4.1.3. Irish legislation on freezing and confiscation of criminal proceeds is provided for on both a civil and criminal basis. Confiscation orders under the criminal process can only be secured upon conviction in a criminal court.

4.1.4. Confiscation orders are provided for in the Criminal Justice Act, 1994 for drug and non-drug offences. In addition, restraint and freezing orders are permitted in the case where proceedings have been instituted against the individual.

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4.1.5. The enactment of the Proceeds of Crime Act, 1996 (POCA) allowed for the seizure and civil forfeiture of property resulting from criminal activity. This Act allows for the seizure of criminal assets without the necessity for a criminal conviction or the instigation of criminal proceedings.

The objectives of the Criminal Assets Bureau, as set out in the Criminal Assets Bureau Act, 1996, are:

- a) the identification of the assets, wherever situated, of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,
- b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
- c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).

The Bureau has used a variety of tools to achieve its objectives, including Proceeds of Crime Orders and tax assessments.

4.1.6. In 1996 Ireland ratified and fully implemented the 1988 Vienna Convention and the Council of Europe Conventions of 1959 and 1990.

4.1.7. Financial Investigations by the Police in relation to Drug Trafficking are carried out under General Criminal Law, which utilises specific statutory provisions, which have been enacted to assist in these investigations.

4.1.8. The Criminal Justice (Drug Trafficking) Act, 1996 allows for the arrest and detention of suspects for periods up to seven days subject to certain conditions being fulfilled for the conducting of investigations in relation to drug trafficking.

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4.2. Financial Investigations - Competent Authorities

4.2.1. In Ireland, the Police National Drugs Unit has dedicated Officers tasked with the carrying out of financial investigations into suspects who are targeted by that Unit. Money Laundering investigations are carried out by the Money Laundering Investigation Unit (MLIU) of the Garda Bureau of Fraud Investigation.

4.2.2. In addition, major financial investigations are carried out by the Criminal Assets Bureau in identifying the proceeds of crime and when action is being taken for confiscation or forfeiture under the Proceeds of Crime Act, or under the various Revenue powers or the powers assigned to the Department of Social, Community and Family Affairs Officers assigned to the said Bureau.

4.2.3. The remit of Customs and Excise in relation to the seizure and investigation of assets is largely confined to drug related cash detected at points of exit and entry to the State (Criminal Justice Act, 1994, Section 38). Customs can also seize under the Proceeds of Crime Act where a Court Order has been obtained

4.2.4. The Assistant Commissioner of Crime, Security and Traffic has responsibility for the operational direction of the Police National Drugs Unit, the Garda Bureau of Fraud Investigation and the Criminal Assets Bureau. All of these units meet and undertake joint investigations as and when appropriate. Their respective terms of reference and staffing levels are as follows:

4.2.4.(1). The Criminal Assets Bureau is responsible for the identification, tracing and seizure of the proceeds of criminal activity including the seizure of the proceeds of drug trafficking (see also 2.5.). It has 1 Detective Chief Superintendent, 1 Detective Superintendent, 2 Detective Inspectors, 4 Detective Sergeants, and 16 Detective Police Officers, 6 Inspectors of Taxes, 3 Inspectors of the Minister for Social, Community and Family Affairs and 2 Officers of Customs and Excise. In addition, the Bureau has trained analytical and professional members of staff including a Bureau Legal Officer, a forensic accountant, an Information Systems Manager who assist in the investigations.

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4.2.4.(2). The MLIU of the Garda Bureau of Fraud receives disclosures of suspicious transactions from banks and other financial institutions. It has 1 Detective Inspector, 2 Detective Sergeants and 4 Police Detectives who are assisted by trained forensic accountants who work in house and obtain technological assistance from the Computer Crime Investigation Unit attached to the Garda Bureau of Fraud Investigation. Additionally, the Garda Bureau of Fraud Investigation has nine dedicated officers involved in financial investigations. Moreover, 2 Detective Sergeants in each of the 24 Police Divisions have been trained how to conduct money-laundering investigations relative to Drug Trafficking and other serious crime.

4.2.4.(3). The overall staffing position of the Police National Drugs Unit has already been detailed in part 2.3. The Unit receives relevant information from the MLIU for enquiry. One Officer is specifically allocated to financial investigations in relation to drug trafficking.

4.2.5. Financial investigations are initiated in drugs cases when: suspects are targeted as part of an operation; following the arrest/prosecution of a suspect for Drug Trafficking or Money Laundering and or when a suspect is subject of a financial disclosure pursuant to Section 57 of Criminal Justice Act, 1994. Cases are allocated to the specialist units detailed in part 4.2.1. if the investigation is national or committed by organised criminals. However, if the investigation is locally based it is controlled by the local Police Units.

4.2.6. Money Laundering Investigations invariably involve a number of jurisdictions. Incoming requests for information are normally received in Ireland by the Detective Chief Superintendent of the Garda Bureau of Fraud Investigation. Memorandums of Understanding (MOU's) are the preferred method for the exchange of financial intelligence with European partners. Consideration is being given to entering into Memorandums of Understanding (MOU) with other FIU's.

4.3. Controlled Deliveries

4.3.1. The Europol Manual on Controlled Deliveries gives a full description of Ireland's commitment to and implementation of policies in this specialist area.

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4.3.2. Controlled Deliveries are co-ordinated and facilitated through the Police National Drugs Unit and Customs National Drugs Team. Channels of communications prior to and or during a controlled delivery operation may be made through Europol, Interpol, Garda Liaison Officers, or direct contact between National Units. The majority of communications are usually directed to individuals on a bilateral basis.

4.3.3. Europol has not been involved to date in co-ordinating and facilitating controlled deliveries. Interpol, Dublin may facilitate controlled deliveries.

4.3.4. Under the terms of the M.O.U. and Operational Protocol, between Police and Customs, all controlled deliveries are decided at senior management level in both organisations and are executed jointly by selected liaison teams.

4.3.5. While there is no specific provision to facilitate controlled money deliveries there is no legal barrier to allowing a controlled delivery of cash. The Garda Bureau of Fraud Investigation has operated a number of successful operations in this regard, which has led to the arrest and prosecution of suspects involved in Money Laundering.

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PART 5

5. CO-ORDINATION AND CO-OPERATION

5.1. Co-ordination and Co-operation at National Level

5.1.1. The Police have sole responsibility for inland enforcement whilst the Customs have primary responsibility for interception and seizure of controlled drugs intended to be smuggled or illegally imported to the State. In all cases the primary investigative role rests with the police.

5.1.2. The guidelines for the working relationship between Police and Customs are set out in a MOU and in an agreed working protocol, which defines the role of each service in drug enforcement activities. This includes arrangements for the exchange of information and intelligence. The arrangements do not distinguish between case and non-case related issues.

5.1.3. The co-ordination of investigations between police and customs is conducted through Liaison Officers. Nominated Police and Customs Liaison Officers are in place at both Head Offices and at regional level to facilitate information and intelligence exchanges.

5.1.4. The statutory exchange of information between Police and Revenue authorities under certain conditions is provided for by the Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.

5.1.5. Information is also exchanged regularly between Law Enforcement Officers and Officers of the Department of Social, Community and Family Affairs.

5.1.6. More formalised examples of co-ordination and co-operation are provided by the Criminal Assets Bureau (see 2.5) and the Joint Task Force procedures (see 2.1.6.).

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5.1.7. Because there are no specialised prosecution units, the question of co-operation in the investigative process does not arise. However, the Director of Public Prosecutions (DPP) and the other parts of the prosecution service work with the law enforcement agencies on a case by case basis. However, the prosecutor is not in charge of the investigation and his or her role is confined essentially to that of legal advisor. If certain coercive measures are required, it may be necessary to seek judicial authorisation. Thus, to search a premise a search warrant will be required from a District Court Judge or Peace Commissioner. Likewise, it may be necessary to seek judicial authorisation for the purpose of extending a suspect's custody under the Criminal Justice (Drug Trafficking) Act of 1996.

5.2. Co-ordination and Co-operation at International Level

5.2.1. The Irish Government has recently completed bilateral agreements of a multi-disciplinary nature with the Russian Federation, Poland and Hungary. Discussions are ongoing with a number of other countries. In addition, MOU's between the Irish Police and the Police Forces of the Russian Federation, Egypt and Hungary have been agreed.

5.2.2. Police co-operation at international level is conducted through various channels such as: Garda Liaison Officers (GLOs); rogatory requests; "police to police" basis or via the offices of Europol and Interpol. The criteria for using a particular channel depends on the nature of information to be exchanged, the level of urgency of the enquiry and the speed with which it is required and the country and competent authority with whom it is to be exchanged.

5.2.3. Requests from national law enforcement agencies are forwarded to the Liaison and Protection Section in Police Head Quarters, where the request is then processed. Replies received from Interpol, Europol and the GLOs are channelled back to the requesting unit and the National Criminal Intelligence Unit is informed of all such transactions. Exact figures are not available but each channel would generally be used on a daily basis.

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5.2.4. Specialised law enforcement services in the Police have worked with Europol with regard to the use of the information exchange system and have received training on various subjects. At the request of the Irish authorities, Europol organised a training course on criminal intelligence analysis for Irish personnel. The course took place in Dublin and was conducted by the Head of the Europol Analytical Department.

5.2.5. One note worthy instance of co-operation is exemplified in the results of a European project under the auspices of the OISIN Programme. A project was organised by the Irish Police in 1998 and included the Netherlands, Belgium, Germany, Spain and Portugal, as fellow participants. Special drug traffickers were targeted during the period of the eight-month project. Several of the targets were arrested in each of the participating countries. In addition several substantial seizures of drugs and firearms were effected. Offences of money laundering were detected and criminal assets were identified.

5.2.6. Customs and Excise exchanges information with other Customs Services under the provisions of the Naples Convention 1967 and the Nairobi Convention 1977. In 1999, 138 Mutual Assistance Requests were received and 364 Mutual Assistance Requests sent.

5.2.7. The Customs service has a bilateral agreement with the USA concerning mutual assistance between Customs administrations drawn up in accordance with recommendations of the World Customs Organisation.

5.2.8. Arrangements regarding the appointment of a Customs Officer to the Europol National Unit have been agreed between the Police and Customs services.

5.2.9. The Department of Health & Children is responsible for the issuing of licences for possession and movement of controlled drugs and scheduled substances. Co-operation is maintained by the Department with both the Police and Customs services.

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5.3. Liaison Officers

5.3.1. A Fiscal Liaison Officer (FLO) is attached to the Embassy of the United Kingdom in Dublin and the UK authorities have also recently appointed a Garda Liaison Officer (GLO) to the Embassy in Dublin.

5.3.2. Four GLOs have been appointed to Madrid, The Hague, London and Paris. The GLO in Madrid also has responsibility for Portugal and Morocco. The GLO based in The Hague has responsibility for Holland, Belgium and Germany. The GLOs are tasked by a national control body to make enquiries and make contacts with international agencies. In addition Liaison Officers have also been appointed in Europol and Interpol headquarters.

5.3.3. A Customs and Fiscal Attaché has been appointed at the Irish Embassy in London. The Attaché has responsibility for liaison with H.M. Customs and Excise on both drug related and fiscal matters. The Attaché also makes contact with fellow Attaches in the other London embassies and is tasked by Customs and Excise Enforcement Branch.

5.3.4. Intelligence gathered by GLOs is channelled through a national office initially and subsequently to specialist units. In matters of an urgent nature, they may deal directly with the specialist unit.

5.3.5. The Attaché at the London Embassy facilitates the exchange of information/intelligence on a customs-to-customs basis and reports to a national desk Officer in Customs and Excise Enforcement Branch.

5.3.6. None of the Liaison Officers or the Customs Attaché has an investigative role.

5.3.7. The Irish police have good experience of using Europol Liaison Officers (ELOs) in operational cases especially where a number of Member States are involved. The role of the ELO has largely been to facilitate the exchange of information and to a lesser extent in the co-ordination of operational issues. Two examples of this experience are as follows:

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5.3.7.(1). Assistance provided in the detection of a money laundering case involving an Irish subject who had utilised the Austrian Banking Services. The Irish subject was a suspect for and was subsequently convicted of murder of an Irish journalist, Veronica Guerin in 1996.

5.3.7.(2). The Ecstasy Logo Project and the cocaine logo project (COLA) is a further example of the utilisation of the Europol specialist services. Ireland is a regular contributor to this programme.

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PART 6

6. EVALUATION OF THE EFFECTIVENESS OF SYSTEMS IN IRELAND RELATING TO THE FIGHT AGAINST DRUG TRAFFICKING: STRUCTURE, INTELLIGENCE, SPECIAL INVESTIGATION TECHNIQUES AND CO-ORDINATION AND CO-OPERATION

6.1. General Comments and Possible Improvements

6.1.1. The experts noted a very strong commitment by the Irish authorities at all levels to combating drug trafficking and other related drug problems. All practitioners displayed good technical awareness and appeared to be highly motivated and professional in their approach.

6.1.2. All questions asked by the experts during the evaluation were related to one degree or another to various international instruments relating to co-operation 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 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 co-operation 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 practises).
- 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.

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6.1.3. All of the suggestions made in this part are based on the evidence found by the experts and on the input received from persons seen during the evaluation visit to Ireland. The evaluation team realises that some of the suggestions are based on experiences with other legal systems and traditions and that all of them might not fit into the Irish system. Several of the suggestions made are of a minor nature, but some may be considered to be more fundamental. The experts have of course not considered resource implications in making these suggestions.

6.2. Structure

6.2.1. The evaluation team was impressed by the personal involvement of the Prime Minister and the Minister for Justice, Equality and Law Reform in tackling the drug problem via their membership of the Cabinet Committee on Social Inclusion and Drugs. This body was seen as symbolic of the high priority given to drug issues in Ireland. Moreover, the experts consider that it sets a clear example both nationally and internationally of the importance of personal involvement at all levels of society in combating drugs.

6.2.2. In Ireland the experts found a very organised framework for the delivery and implementation of drug strategy which encompasses the four pillars of supply, prevention, treatment and research. The Irish "model" not only allows for high level direction such as from the Cabinet Committee but also encourages a "bottom up" approach by taking into account the views and findings of the Local Drugs Task Forces which are deployed in high risk drug areas. The Local Drugs Task Forces come under the management of the National Drug Strategy Team, which has representatives from key stakeholders, and the Police. There are currently no Customs representative involved in the National Drug Strategy Team. The experts were informed after the visit, however, that the situation was under review.

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6.2.3. It was clear to the experts that the bulk of Ireland's drug problems are largely confined to the capital city of Dublin. This is evidenced by the fact that the majority of the 14 Local Drugs Task Forces are based there. Given that, the experts consider that the existence of some 4 stakeholder bodies (the Cabinet Committee, Interdepartmental group of senior officials, the National Drug Strategy Team and the Local Drugs Task Forces) charged with responsibility for delivering strategy, appeared to be complicated and that consideration could be given to shortening this functional chain.

6.2.4. Ireland has formed a National Multi-disciplinary Group on Organised Crime to co-ordinate its position in relation to EU matters. However, the experts consider that this does not fulfil the requirements of Recommendation 1 of the Action Plan to Combat Organised Crime of 28 April 1997. This recommendation calls for the formation of a central co-ordinating body with responsibility for the co-ordination of law enforcement efforts in the fight against drug trafficking. The evaluation team considers that this matter should be addressed.

6.2.5. The results of a governmental review concerning drug strategy for the period 2001 to 2008 are due to be published in May 2001¹. It is known that the review will make up to 100 recommendations aimed at strengthening each of the 4 pillars that underpin the existing strategy. The experts were given an overview of this evaluation process and admire the thorough and considered work undertaken which included consideration of strategies adopted by other EU Member States and the outcomes of academic research. The experts applaud this evaluation process and look for an early acceptance and implementation of the findings.

6.2.6. The launch of the revised Drug Strategy will provide a good opportunity to keep the drugs issue in the public consciousness. However, the experts found that the National Drug Strategy Team has no media policy. This is a matter that the experts consider should be examined.

¹ The Irish authorities informed the evaluation team before the finalisation of this report, that the governmental review was published in May 2001 and that the new government policy document entitled "Building on experience - National Drugs Strategy 2001-2008" was launched the same month:

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6.2.7. It was evident that individually, law enforcement agencies maintain their own strategies linked to management planning systems which link the setting of operational targets to performance measurement systems and to resource management techniques.

6.2.8. Most of the "core" legislation relating to drug trafficking and financial investigations is relatively recent and the provisions are comprehensive and support strong and effective law enforcement. Other instruments and mechanisms such as the Freedom of Information Act, the Data Protection Act and the Independent Police Complaints Board ensure that proper checks and balances are in place for the management and control of the law enforcement agencies. However, the evaluation team found that an increased level of awareness amongst some practitioners concerning the requirements and regulations of the Data Protection law is required.

6.2.9. In Ireland, the legislation provides for the imposition of mandatory minimum sentences in drug cases where the value of the drugs involved is £10,000 or over. One concern to the experts is that no benchmarking mechanism or formal guidelines exist. The Irish authorities informed, however, that this matter had been addressed within the Law Reform Commission that concluded the Irish system to be working well within their legal tradition.

6.2.10. The evaluation team notes that Ireland has no guidelines relating to the classification of drugs.

6.2.11. Currently, lawyers at the office of the Director of Public Prosecutions (DPP) have little or no direct contact with the courts. They maintain an independent decision making role from the law enforcement agencies and from the prosecutors of the Chief State Solicitors Office. The experts learnt that the "Nally" report recommends that the office of the DPP and the criminal division of the Chief State Solicitors Office should merge into one management structure with the DPP assuming command of the new organisation. The evaluation team supports this proposal. Not only will the new structure keep the office of the DPP in closer contact with the courts but it will enforce their decision-making role.

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6.2.12. The DPP and the other parts of the prosecution service work with law enforcement agencies in offering advice. However, the experts believe that this is only on a case by case basis and that a more formal and consistent mechanism ought to be considered for developments in case law and practice.

6.2.13. The evaluation team understands that the office of the DPP does not advise on all cases prosecuted and that in certain cases of possession for personal use Police Officers will present the facts of a case to the court instead of a Solicitor. However, the evaluation team noted that there was no involvement of the DPP's office in those cases.

6.2.14. At the office of the DPP, the experts were told of certain delays in the receipt of forensic reports, which can cause delays to the judicial process. This is a concern, which should obviously be addressed.

6.2.15. One initiative which the experts were made aware of was the "Drug Court" which was established on a 18 month pilot project basis in Dublin's North Inner City area in January 2001 (see 2.2.6.). The experts believe that the results of this pilot project will be of interest to other EU Member States.

6.2.16. During their visits to the Customs service, the experts were informed that they are in the process of implementing the results of an "Enforcement Review". This will extend the numbers of staff engaged on anti-smuggling duties and make them more flexible across the range of Customs responsibilities. The evaluation team supports these changes.

6.2.17. The experts were told by Customs staff in Rosslare of the need for a "Vehicle Licence Plate Recognition System" to facilitate more effectiveness and efficiency. It is known that the Customs Service is already considering the purchase of a mobile scanner.

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6.2.18. Ireland does not operate a "Confiscation of Assets Fund" which enables law enforcement agencies to appropriate for their own operational purposes assets seized and forfeited as a result of drug trafficking. The experts think that such a scheme is deemed worthy of consideration by the Irish authorities.

6.3. Intelligence

6.3.1. The experts were impressed both by the PULSE database operated by the Police and by the NARCNET database operated by the Customs Service (see parts 3.1.2 and 3.1.3 (7)). Both systems have been specifically designed for the operational needs of the respective organisations. Nonetheless, the evaluation team believes that there would be merit in circulating the essential details of each system to other EU Member States for information.

6.3.2. Notwithstanding the merits of the NARCNET system, the experts were not convinced that intelligence and information held on it is correctly stored in accordance with Data Protection legislation. It appeared to the experts that once entered into the system, data is rarely reviewed or deleted with data protection issues in mind. Moreover, the experts were not convinced that intelligence and information held on the NARCNET system is correctly utilised. In spite of risk assessment procedures, they were surprised by the emphasis some practitioners put on the selection of passengers for examination on the basis of experience and intuition only.

6.3.3. No inter-agency "flagging" system of targets exists between the Police and Customs services. At best, such an absence can give rise to the potential for "double work" and delay the effective and efficient handling of intelligence. At worst, such an absence could jeopardise the success of planned operations.

6.3.4. It was clear to the experts that the Police National Criminal Intelligence Unit performs a valued role in the gathering and utilisation of intelligence to meet both operational and strategic objectives.

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6.4. Special Investigation Techniques - Financial Investigations

6.4.1. The Criminal Assets Bureau is already well known to many law enforcement agencies around the world as an effective state weapon in the fight against organised crime. However, the experts consider that there would be a benefit to circulating the salient points of the Bureau's work, terms of reference and legislative basis to other EU Member States for information and consideration.

6.4.2. The Money Laundering Investigation Unit (MLIU) also performs some excellent work. It is to this body that the banks and other financial institutions must report details of suspicious transactions. The experts noted that the Irish authorities have not developed an agreed definition of what constitutes a "suspicious transaction", although some guidance is provided in the relevant Guidance Notes for Credit and Financial Institutions. One view expressed to the review team was that a formal definition might inhibit the reporting of transactions. A contrary view was that a formal definition would encourage more reporting because clear guidelines would be set. This subject has been previously considered by the Irish authorities but the experts think it important enough to have a further re-examination.

6.4.3. The MLIU has a working relationship with the Revenue Commissioners service. The experts take the view that this relationship should be formalised so that performance can be properly measured and reviewed.

6.5. Special Investigation Techniques - Controlled Deliveries and Other Specialist Investigation Techniques

6.5.1. The experts noted that in Ireland no law exists with regard to controlled deliveries and believe that consideration ought to be given to this matter.

6.5.2. The Irish Police are currently developing a policy document with regard to undercover test purchases and this initiative has the support of the review team.

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6.5.3. The experts perceived a lack of clarity amongst law enforcement practitioners over what legislation or guidelines exist concerning the role of informants and the procedures and training available for handling them. This is an important area, which should be assessed and resolved by the authorities.

6.5.4. Within the Judicial process the experts also perceived a lack of clarity regarding precise methodologies and instructions for the treatment of informants and the information they have to give. The experts believe that such clarity is required to ensure that the proper balance of justice is maintained between the need to protect informants and the need to give the court access to sensitive details if relevant to their case.

6.5.5. In Ireland, the Police and Customs services do not have dedicated Source Handling Units apart from within some specialised police units. These have worked well in other EU Member States and the review team thinks that they are worthy of consideration by the Irish authorities.

6.5.6. The use of tape recording and video recording of interviews of suspects is currently being piloted in Ireland. Such initiatives are welcomed by the evaluation team and they support an early evaluation and implementation of the results.

6.6. Co-ordination and Co-operation at National Level

6.6.1. Concerning the relationship between the Police and Customs services, the evaluation team has the following comments to make:

6.6.1.(1). The review team found some examples of good co-operation between the Police and Customs services. The MOU and recently concluded Protocol point to an attempt by both bodies to work together where there are opportunities to do so. The National Liaison Officer network is a further tangible attempt to promote dialogue and co-operation.

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6.6.1.(2). Although there are examples of good co-operation, a number of Customs Officials said that they had experienced difficulties in obtaining intelligence from the Police and in gaining access to telephone subscriber checks and billing information. Furthermore, some Customs Officials said that they provide more information to the Police via the National Liaison Officer network than the Police do to Customs.

6.6.1.(3). The experts understood from those Customs practitioners who expressed a view that more sharing of information would lead to more success. However, those Police practitioners who expressed a view said that they are often constrained by legislation and case law from delivering the desired information.

6.6.1.(4). The experts are of the opinion that any difficulties that arise between some sections of the Customs and Police services owes more to a disagreement over their respective roles and responsibilities in the area of drugs enforcement than it does to a debate over the level and quantity of information exchanged.

6.6.1.(5). The experts strongly believe that difficulties between some sections of the Police and Customs services should be addressed and resolved as a matter of priority. After all, the Criminal Assets Bureau demonstrates quite powerfully that different agencies can co-exist and be the better for it.

6.6.1.(6). The means for resolving this issue may well be a revision of the MOU and Protocol together with a review of legislation in respect of access by Customs to telephone subscriber checks and billing information.

6.6.1.(7). The methodology for resolving this issue may well be a little harder to solve since there are mixed views on what does and does not require change. Looking to the future, the Irish authorities should consider devising an independent organisational mechanism/structure for resolving difficulties that can arise between various law enforcement bodies from time to time.

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6.7. Co-ordination and Co-operation at International Level

6.7.1. The Irish Police have demonstrated their effectiveness and success at an international level with regard to combating drug trafficking through their involvement in the OISIN Project.

6.7.2. The Customs Service enjoys extensive co-operation and has considerable experience at international level in combating drug smuggling through its participation in EU international surveillance exercises/operations and by way of Agreement with the USA and an MOU with HM Customs and Excise.

6.7.3. The MLIU is seeking to underpin their successful relationships with FIU's in other EU Member States by the development of MOU's which the experts consider to be good practice.

6.7.4. Although at a senior level, an awareness of the practical help that Europol can provide to assist operational and intelligence efforts does exist, this seemed to be limited at practitioner levels. This matter needs to be addressed by the Irish authorities in conjunction with Europol.

6.7.5. The experts support the recent nomination of a Customs Officer to the Europol National Unit and consider that the appointment should be confirmed and realised at the earliest opportunity.

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PART 7

7. GENERAL CONCLUSIONS AND RECOMMENDATIONS TO IRELAND, AND, WHERE APPROPRIATE TO OTHER MEMBER STATES OF THE EUROPEAN UNION:

7.1. The evaluation team found it appropriate to make a number of recommendations to the Irish authorities. This should not detract from the fact that Ireland has an excellent record with regard to the combating of drug trafficking and the suggestions made by the evaluation team are only intended to add value to what is already an effective and structured system.

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

a) **to Ireland:**

- 1) should consider the inclusion of a Customs representative on the National Drug Strategy Team (see 6.2.2.).
- 2) should consider reducing the number of organisations involved in delivering the drug strategy (see 6.2.3.).
- 3) should ensure the formation of a central co-ordinating body with responsibility for the co-ordination of law enforcement efforts in the fight against drug trafficking, as called for in Recommendation 1 of the Action Plan to Combat Organised Crime of 28 April 1997 (see 6.2.4.).
- 4) should ensure that the findings of the review of drug strategy for the period 2001 to 2008 are agreed and introduced at an early stage (see 6.2.5.).
- 5) should consider the need for the National Drug Strategy Team to adopt a more proactive media policy (see 6.2.6.).

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- 6) should consider the formation of an independent structure for resolving the difficulties that can arise between the various law enforcement bodies (see 6.2.8. and 6.6.1.(7).).
- 7) should consider the introduction of a benchmarking mechanism or formal guidelines in drug cases (see 6.2.9.).
- 8) should ensure that the findings of the 'Nally' report are agreed and implemented at an early stage (see 6.2.11.).
- 9) should consider the introduction of a more formal and consistent mechanism for the delivery of advice and guidance by the DPP with regard to developments in case law and practice (see 6.2.12.).
- 10) should consider the need for the introduction of a system, which facilitates an overview by the DPP's office of all cases presented before the Courts (see 6.2.13.).
- 11) should review procedures relating to the production of forensic reports to ensure that there are no undue delays (see 6.2.14.).
- 12) should consider circulating the results of the Drug Court pilot project to other EU Member States for their information and consideration (see 6.2.15.).
- 13) should ensure that the findings of the Customs "Enforcement Review" are fully implemented at an early stage (see 6.2.16.).
- 14) should review the resource requirements of the Customs service to ensure that operational needs are met (see 6.2.17.).
- 15) should consider the introduction of a "Confiscation of Assets Fund" to enable law enforcement agencies to appropriate for their own purposes assets seized and forfeited as a result of drug trafficking (see 6.2.18.).

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- 16) should review the quality of training and understanding with regard to the storage of data on the NARCNET system and ensure that Data Protection legislation is adhered to with regard to the storage (see 6.2.8 and 6.3.2.).
- 17) should review Customs systems for the selection of passengers for examination to ensure that proper emphasis and reliance is based on risk assessment procedures (see 6.3.2.).
- 18) should consider the introduction of an inter-agency 'flagging' system between the Police and Customs to avoid duplication and ensure the effective and efficient handling of intelligence (see 6.3.3.).
- 19) should consider the need for agreeing a definition of what constitutes a 'suspicious transaction' in cases that have to be reported to the MLIU (see 6.4.2.).
- 20) should consider the introduction of a formal agreement between the MLIU and the Revenue Commissioners service so that performance can be properly measured and reviewed (see 6.4.3.).
- 21) should give consideration to the introduction of legislation concerning controlled deliveries (see 6.5.1.).
- 22) should ensure that policy with regard to the undertaking of test purchases is formulated, agreed and implemented at an early stage (see 6.5.2.).
- 23) should review the adequacy of legislation relating to the role of informants and procedures for handling them (see 6.5.3.).
- 24) should review the quality of training concerning the handling of informants and ensure that law enforcement practitioners are fully aware of the appropriate procedures (see 6.5.3.).
- 25) should ensure that clear and precise guidelines exist within the judicial process for the treatment of evidence from informants (see 6.5.4.).

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- 26) should consider the need to introduce dedicated Source Handling Units in Customs and expand existing services throughout the Police (see 6.5.5.).
 - 27) should ensure that the results of the pilot exercise concerning the tape recording and video recording of interviews of suspects are evaluated and implemented at an early stage (see 6.5.6.).
 - 28) should address and resolve the difficulties that exist between some sections of the Police and Customs services as a matter of priority (see 6.6. (parts 6.6.1.(1). to 6.6.1.(7).)).
 - 29) should continue the development of MOU's between the MLIU and FIU's of other EU Member States (see 6.7.2.).
 - 30) should continue to work with Europol to raise awareness amongst law enforcement personnel of the services Europol can provide (see 6.7.4.).
 - 31) should confirm and realise the appointment of the nominated Customs Officer to the Europol National Unit desk at the earliest opportunity (see 6.7.5.).
- b) to other Member States and the European Union:**
- 1) should consider the high level involvement of senior politicians in leading national drug strategies (see 6.2.1.).
 - 2) should consider for information the PULSE and NARCNET database systems (see 6.3.1.).
 - 3) should consider for advice and information the work of the Irish Criminal Assets Bureau (see 6.4.1.).

VISITING PROGRAMME AND LIST OF PERSONS SEEN

Monday 23 April

DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM:

Brian Purcell and Brian Lucas

DEPARTMENT OF TOURISM, SPORT AND RECREATION:

Kathleen Stack

DIRECTOR OF PUBLIC PROSECUTIONS:

Declan Murphy

Tuesday 24 April

GARDA NATIONAL DRUG UNIT:

Detective Chief Superintendent Ted Murphy

Detective Superintendent Noel White

Detective Superintendent Barry O'Brien

Detective Inspector Vincent Farrell

Detective Inspector Brian Sutton

Detective Inspector Christy Mangan

Detective Inspector Rob Smyth

Detective Sergeant Orla McPartlin (EU Co-ordination)

Gerry O'Brien (Organisational Development)

GARDA HEADQUARTERS:

Deputy Commissioner, Noel Conroy

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CUSTOMS & EXCISE HEADQUARTERS:

Michael Colgan

Dave Godwin

Mick McGill

Brian Smyth

Ray McDonagh

John Morrin

DUBLIN AIRPORT (CUSTOMS PERSONNEL):

Brian Smyth

Kevin Murtagh

Mick McGill

Wednesday 25 April

ROSSLARE PORT (CUSTOMS ANTI-SMUGGLING TEAM)

GARDA NATIONAL DRUG UNIT:

Detective Chief Superintendent Ted Murphy

Detective Inspector Christopher Mangan and other representatives

Thursday 26 April

CRIMINAL ASSETS BUREAU AND MONEY LAUNDERING INVESTIGATION UNIT:

Detective Chief Superintendent F.J. McKenna

Detective Inspector Patrick Byrne

Detective Inspector Terry Mc Ginn

Mr. Barry Galvin

GARDA NATIONAL DRUG UNIT:

Detective Chief Superintendent Ted Murphy and representatives from the Police National Criminal Intelligence Unit and the Naval authorities

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Friday 27 April

DEPARTMENT OF JUSTICE, EQUALITY AND LAW REFORM - GENERAL FORUM

Brian Purcell, Brian Lucas, Anne Vaughan all of the Department of Justice, Equality and Law Reform

Detective Chief Superintendent Ted Murphy, Detective Superintendent Barry O'Brien, Inspector Gerry O'Brien, Sgt. Orla McPartlin

David Godwin and Ray McDonagh of the Revenue Commissioners

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ANNEX B

List of Acronyms, Abbreviations and Terms

ACRONYM ABBREVIATION TERM	ORIGINAL ENGLISH	ENGLISH TRANSLATION OR EXPLANATION
AFIS	Anti-Fraud Information System	
CAB	Criminal Assets Bureau	
CRO	Companies Registration Office	
CRS	Common Registration System	
CEN	Customs Enforcement Network	
DOE	Department of the Environment	
DPP	Director of Public Prosecutions	
ELO	Europol Liaison Officer	
EUCARIS	European Car and Driving Licence Information System	
FAS	Training Authority	
FAST	Flexible Access to SAD Transactions	
FIU	Financial Intelligence Unit	
FLO	Fiscal Liaison Officer	
GLO	Garda Liaison Officer	
HDS	Historical Data Systems	
JTF	Joint Task Force	
MLIU	Money Laundering Investigation Unit	
MVT	Motor Vehicle Taxation	
NARCNET	Narcotic Network	
NDST	National Drug Strategy Team	

RESTREINT UE

ACRONYM ABBREVIATION TERM	ORIGINAL ENGLISH	ENGLISH TRANSLATION OR EXPLANATION
NVDF	The National Vehicle and Driver File	
POCA	Proceeds of Crime Act	
PULSE	Police Using Leading Systems Effectively	
RIB	Rigid Inflatable Boat	
RILO	Regional Intelligence Liaison Office	
SAD	Single Administrative Document	

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