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REPORT ON FRANCE

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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 international undertakings in the fight against organised crime was established.
- 1.2 Following a proposal originating from the Swedish delegation and taken up by the Presidency to evaluate the supply of information and intelligence to Europol and the exchange of information and intelligence between Member States, the Multidisciplinary Group on Organised Crime (MDG) adopted the proposal at its meeting on 3 and 4 June 2002.
- 1.3 At its meeting on 3 December 2002 the MDG approved the questionnaire on the third round of mutual evaluations on the topic "exchange of information and intelligence between Europol and the Member States and among the Member States respectively."
- 1.4 Following discussion at the MDG meeting on 9 January 2003, a list showing the order of Member States to be visited was agreed. France is the sixth Member State to be evaluated during the third round of evaluations.
- 1.5 The questionnaires and the objectives of this evaluation are contained in 11679/3/02 REV 3 CRIMORG 71.
- 1.6 The experts in charge of this evaluation were Mr Luigi PEDUTO (Italy), Mr Juan Antonio DENIS (Spain) and Mr Joris DE BAERDEMAEKER (Belgium). Two observers, Mr Francisco MATIAS (Europol) and Ms Ana Isabel SANCHEZ-RUIZ (COMMISSION), were also present together with the General Secretariat of the Council.
- 1.7 The evaluation team has prepared the following report with the assistance of the Council Secretariat, on the basis of the observations and conclusions of the experts in the team together with the French authorities' answers to the questionnaire.

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1.8 The report first deals with the general information and structures (2), followed by the internal organisation of the exchange of information (3) and the external exchange of information (4) and then deals more specifically with Europol (5). In the last chapter, the experts make a global and technical evaluation and then propose some recommendations to enhance cooperation and effectiveness in the exchange of information within France and with other Member States and Europol.

2. GENERAL INFORMATION AND STRUCTURES ¹

2.1 LEGAL BASIS

– With the other Member States of the EU

There are several mechanisms in place: Schengen Agreements, setting up of police and customs cooperation centres (PCCC) for cross-border areas (Germany, Italy, Spain, Luxembourg, Belgium), bilateral or even trilateral police cooperation agreements with most Member States (Germany, Belgium, Spain, Greece, Italy, Luxembourg, the Netherlands, Portugal, United Kingdom and Ireland, Sweden).

Customs cooperation is long established for customs offences that affect states' financial interests and economies. It is based on the "Naples I" Convention, supplemented by "Naples II" of 18 December 1997 and ratified by ten States including la France, and cooperation with the Commission departments is based on Regulation No 515 of 13 March 1997.

The administrative cooperation thus organised also makes significant use of new technologies: Regulation No 515/97 sets up a network of computers managed by the Commission and accessible in each Member State. The network, of which the possibilities for use were legally extended by the CIS (Customs Information System) and FIDE (customs files identification database) Conventions,

¹ This part of the report is based largely on the answers to the questionnaire.

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will eventually enable Member States' customs administrations to have IT tools that make it possible to identify targets to be checked and to provide each other with the information in customs files concerning the same targets.

– With Europol

The legal basis is principally the application of the Europol Convention and any specific legislation, such as rules governing the direct exchange of information between local and regional police services and Europol.

The French law enforcement services implement the Europol Convention by applying Article 4, which provides that the national unit shall be the liaison body between Europol and the competent national authorities. Article D8-2 of the Code of Criminal Procedure (Decree 96-74, 25.01.1996) provides that "the international cooperation bodies in the Criminal Investigation Central Directorate shall be the national unit of the European Police Office, known as Europol" (ENU).

To date there is no provision for direct contact between the French police services and Europol, subject to the amendments to the Convention currently in progress.

As regards the national legislative and regulatory framework, the following are the relevant texts:

National legislation:

Internal Security Guidance and Planning Law (LOPSI) No 2002-1094, 29 August 2002. Title V of the Law assigns to France a role as a driving force for European security cooperation, in particular through the establishment of a network of national security attachés.

Article 24 of the National Security Law (LSI) No 2003-239, 18 March 2003, authorises the transmission of the personal data held in police and gendarmerie files to Europol-type bodies and foreign police forces.

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Regulatory provisions:

Code of Criminal Procedure: Articles D8, D8.1 and D8.2.

Decree No 95-315 establishing the SIRENE national coordination bureau in the Schengen information system (SIS) framework.

Decree No 95-577 of 6 May 1995 establishing the national Schengen system (NSIS), making it possible to centralise information, the SIRENE and its counterparts in the other Member States being the points through which such exchanges pass.

Decree No 2001-732 of 31 July 2001 authorises the SIRENE to record and keep personal data where these are decisive for identifying persons recorded in the SIS.

2.2 STRUCTURES

Investigators can therefore, without concerning themselves about the choice of channel to be used, use that single point of entry which, depending on the nature of the requests, the legal framework and the specific characteristics of each channel, will propose the most suitable technical solution and have the request sent to the partner(s) concerned by the chosen national central body:

- Drug trafficking: Central Office for the Prevention of Drug Trafficking (OCRTIS), Technical Criminal Investigation and Documentation Department (STRJD) for the gendarmerie, National Directorate for Customs Intelligence and Investigations (DNRED) for customs.
- Immigration networks: Central Office for the Suppression of Illegal Immigration and the Employment of Non-Registered Aliens (OCRIEST).
- Trafficking in vehicles: National division for the suppression of crimes against persons and goods (DNRAPB), STRJD.

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- Trafficking in human beings: Central Office for the prevention of trafficking in human beings.
- Child pornography: DNRAPB, STRJD.
- Counterfeiting: Central Office for the suppression of counterfeiting (OCRFM) STRJD.
- Falsification of other means of payment: OCRFM.
- Trafficking in nuclear and radioactive substances: Central Office for combating trafficking in firearms, explosives and sensitive materials (OCRTAEMS).
- Terrorism: National Counter-Terrorism Division (DNAT/STRJD) of the Criminal Investigation Central Directorate, Directorate for Monitoring of the Territory (DST/STRJD).
- Money laundering: Central Office for combating serious fraud (OCRGDF), DNRED, STRJD and TRACFIN (Financial Intelligence Unit).
- Crime against life, limb or personal freedom: Central Office for Combating Crime (OCRB), DNRED.
- Crime against property or public goods including fraud: Central Office for Cultural Assets (OCBC) and DNRED.
- Central Office for Combating Computer Crime (OCLCTIC), DNRED and STRJD.

These are civilian bodies apart from the gendarmerie services.

Regionally, the Interregional Directorates of the Criminal Police (DIPJ) and the Regional Action Groups (GIR), which are inter-ministerial in structure, have responsibilities covering all Europol domains.

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For the criminal police, the Central Offices centralise and distribute information.

For the border police (PAF), it is OCRIEST that centralises and distributes information.

The Counter-Terrorism Coordination Unit (UCLAT) is the coordinating body for combating terrorism.

Intelligence is centralised and analysed for the gendarmerie by the Technical Criminal Investigation and Documentation Department (STRJD).

For customs, DNRED (more specifically, its intelligence and documentation directorate) collects, analyses and distributes information.

3. INTERNAL ORGANISATION OF THE EXCHANGE OF INFORMATION

3.1 STRUCTURES

The representation of each body on a single platform within the Criminal Police, Central Directorate of the Criminal Police, known as the Central Operational Police Cooperation Section (SCCOPOL), provides coordination between the various competent departments (central offices, national police, national gendarmerie, customs) for the handling of intelligence-related matters. This one-stop entry point, which coordinates incoming and outgoing flows, constitutes a true operational routing centre for all requests to or from Europol, Interpol or between Schengen cooperating countries.

3.2 CHOICE OF COMMUNICATION CHANNEL

The Europol channel is favoured for information exchanges that require detailed treatment involving EU Member States, for cases falling within Europol's sphere of competence.

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The Interpol channel is used primarily by police services to exchange intelligence with Interpol countries and with Interpol's General Secretariat.

The exchange of particularly sensitive information is channelled bilaterally.

The SIRENE France channel is used for all persons and all vehicles appearing in the Schengen system.

The Schengen police cooperation channel is used for Schengen area countries in accordance with Articles 39 to 46 of the Schengen Convention.

Europol is used mainly for multilateral exchanges. Bilateral exchanges go through the Schengen channel or the Interpol channel for police services. For customs services they go via the International Mutual Administrative Assistance service (AAMI).

Europol liaison officers provide the link to the national unit and draw the attention of the liaison officers of the requested countries to the importance or sensitivity of requests. They also contribute to the speed of information exchanges. They analyse requests against Europol's current resources and thereby make it possible to supplement the exchanges of information between Member States. In addition, they make France's national services more familiar with Europol, through appropriate contacts with them.

They facilitate communication among all the law enforcement services thanks to their knowledge of how the national codes governing this or that request apply. Their active participation in meetings with the other liaison officers makes better police and customs cooperation possible.

By integrating the three channels of cooperation – used by each of the enforcement services: police, customs and gendarmerie – in a single unit, SCCOPOL makes it possible to use them rationally while avoiding problems of technical compatibility.

French law prohibits any interconnecting of files containing personal data (Law 78-17 of 6 January 1978).

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The information and communication systems installed in SCCOPOL are protected by anti-virus software and firewalls, in accordance with Interior Ministry rules, defined by the competent services (the national agency for information system security (DCSSI), within the Secretariat General for National Defence (SGDN)).

4. EXTERNAL EXCHANGE OF INFORMATION

4.1 DATA EXCHANGE PROCESS

There is no way to evaluate the quality of information exchange, but ways of improving the readability of information and intelligence flows are being considered.

In terms of Europol, the main partners are Spain, the Netherlands, Italy, the United Kingdom and Belgium, because of these countries' situation as neighbours.

For Schengen, the principal partner countries are Germany, Spain, Italy and Belgium. The main reason for this situation is that all the countries concerned have borders with France, and that France and the other countries are transit countries or countries of destination for various illegal activities by nationals of France and of the four other countries mentioned.

The speed of exchanges of information varies from one Member State to another and the choice of channel (Interpol, Europol or Schengen) does not influence the responsiveness of certain Member States. A correlation has been noted between countries with an intelligence centralisation system, which respond faster, and less centralising countries or countries with less powerful computer systems, which are slower to respond.

4.2 INFORMATION OWNERSHIP

In France, personal data are protected by the law of 6 January 1978 on data processing and liberties. The National Data-Processing and Liberties Commission (CNIL, an independent administrative authority) is responsible for monitoring compliance with the law. No data-exchange agreement can be concluded with one of France's partners if it appears that the partner does not afford guarantees similar to those existing under French law (in particular an independent monitoring authority).

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The application of the provisions of the Europol Convention and derived instruments in the framework of information exchanges with Europol allows for data exchange and processing in this context.

5. EXCHANGE OF INFORMATION BETWEEN MEMBER STATES AND EUROPOL

5.1 DEFINITION OF INFORMATION AND INTELLIGENCE

It is the services that own the information which decide whether to send data to Europol on the basis of how they are classified. They use the 3-level Europol classification: H1, H2, H3.

The services also apply the 4 security levels on exchanged documentation: top secret, secret, etc. (European standards).

To date, the national unit is not aware of any application of Article 4(5) of the Europol Convention.

In the case of customs services, information is supplied in the context of police cooperation, or even in the course of a judicial enquiry, or in an administrative context.

The conditions for transmission to Europol are based on Europol's mandate, on referral by at least two Member States and on the criterion of organised crime.

It should be stressed that in a judicial inquiry the sending of information to Europol is a matter for the sole authority of the magistrate in charge of the inquiry. Practice therefore varies from one inquiry to another.

5.2 EUROPOL NATIONAL UNIT

The national unit is established within SCCOPOL, under the international relations division of the Criminal Investigation Central Directorate.

The national unit is located at a single platform that brings together France's National Central Bureau, the French SIRENE and police cooperation in the Schengen Convention framework.

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This interministerial platform consists of 75 officers representing the three administrations with which Europol is concerned: police, gendarmerie and customs. This centralisation facilitates the management of information flows.

Logistics, technical equipment and the security of the site are provided by the Ministry of the Interior.

The national unit is part of the international relations division in the Criminal Investigation Central Directorate. It cooperates closely with the NCB and the SIRENE bureau because of its situation within SCCOPOL. The national unit encourages the services to forward information to Europol but is dependent on them. It has no database of its own.

The national unit organises regular meetings with the competent authorities to improve the passing of information up to Europol.

The services also invite the national unit to attend meetings concerning Europol.

In both cases, centralising the information entry and exit points facilitates the channelling of energies, enhances information readability and makes it possible to take steps as necessary to improve overall effectiveness. Thus, each service dealing with Europol can gear its efforts: for instance, in the case of the gendarmerie, staff members classified as criminal police are appointed to monitor the progress of all AWFs (one member of staff for each type of offence). They ensure (just like the criminal cases bureau of the National Gendarmerie) that the files in question receive regular input from the gendarmerie's operational services. The ENU officials and those of the single entry point also check and monitor the regular supply of information to Europol. The SDCI and SCCOPOL gendarmerie officers also monitor matters at their level.

Staff of the national authorities are kept informed, through conferences organised in the various police, gendarmerie and customs fora, as an aspect of vocational training.

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5.3 USE OF INFORMATION AND EUROPOL ANALYSIS CAPACITY

In general, an analysis file should be opened only in response to a request from operational services. Information can be placed in an Analysis Work File, even if it is not immediately needed, since only regular input to these files is likely to give them real added value.

France has undertaken a voluntary policy of involvement with these files which should bear fruit over the coming months. It is quite willing to provide information without an immediate return, as it understands that the investment needs time to become profitable. On the other hand, it is interested in consuming intelligence only if France itself has information on the subject involved (referral) and if such a contribution could be beneficial to France in its own handling of that subject.

5.4 PERCEPTION OF EUROPOL VALUE

Europol analyses should be more directed towards the operational needs of services.

The Committee of Heads of National Units (HENU) should have a fundamental role in evaluating the desirability of opening new analysis files and closing files that have become irrelevant.

Europol adds value through its analytical capacity (e.g. cross-checking from thousands of telephone numbers). In addition, operational services have recently benefited from certain highly useful information originating from a Europol AWF, which clearly shows how effective these analysis files are.

Although it is difficult to assess the qualitative impact of operational data forwarded by Europol, reports from the European Police Office are well regarded by the recipient services.

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There are police and customs cooperation centres, which make possible direct cooperation on border areas. Europol is not systematically associated with the communication process of these units, whose responsibilities concern solely the exchange of intelligence with bordering countries, which does not necessarily fall within Europol's mandate.

6. EVALUATION BY THE EXPERT TEAM

6.1 INTRODUCTION

France's evaluation, and thus its organisation, must be seen as the product of a country possessed of a great administrative tradition. That tradition bears the stamp of a highly hierarchised system, both centrally and at devolved levels. Combining with that hierarchical and centralising character there are various organisations, of which the two most important, the police and the gendarmerie, have hitherto often shared missions but used divergent methods and rules of operation. In recent times, the authorities, in particular the Minister for the Interior, have wished to rationalise the use of forces and working methods. This was particularly clear during the visits by experts, who were able to gauge the pooling of forces, particularly in the increasing interpenetration of police and gendarmerie – but also customs – forces.

This efficiency objective could be seen too in the constant quest of the authorities to improve exchanges of information and skills with European partners, particularly by the creation of SCCOPOL. France has also expressed a wish to improve its cooperation with Europol, and for the European police body to be given a more operational character in the future.

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Nevertheless, the great technical expertise of the professionals combating international crime sometimes appears to be hindered by computer systems that are relatively sealed off from one service to another (e.g. the customs systems and the police systems). This results from the terms of the law on data processing and liberties, which prohibits any interconnection between different databases, and, in certain cases, from the sensitivity of the information used by operational services and its classified status ¹.

6.2 INTERNAL ORGANISATION OF EXCHANGE OF INFORMATION

It is a characteristic feature of France that it has two security forces: the police and the gendarmerie. The former belongs formally to the Interior Ministry and is under the operational and administrative authority of the National Police Force, the latter belongs to the Defence Ministry and is under the administrative authority of the National Gendarmerie Directorate. However, the gendarmerie is under the operational authority of the Interior Ministry as regards the maintenance of law and order and public security. Finally, the gendarmerie and the police both have, each in their own area, criminal police powers under the control and authority of the magistrates. Given this bipartite organisation, to which we should add the customs service, which also has a role in combating organised crime, France's administrative organisation has overall administrative and operational authority, entrusted to the prefect of the *department*, who is the real head of the administrative bodies in his *department* ². A brief description of the services in existence will help clarify this organisation.

6.2.1 NATIONAL POLICE FORCE

National police forces have a total workforce of more than 145 000 persons, of whom around 117 000 are active staff. The main departments are as follows:

¹ Law on data processing and liberties, 6 January 1978.

² However, the prefect has no authority, even operationally, in criminal police matters.

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- The Criminal Investigation Central Directorate (DCPJ), which includes 9 interregional directorates (DIPJ) (Bordeaux, Dijon, Lille, Lyon, Marseilles, Orleans, Pointe à Pitre, Rennes and Strasbourg), 2 regional directorates (DRPJ) (Ajaccio and Versailles) and 8 regional services (SRPJ), with a territorial organisation parallel to that of the judiciary. Mention should be made of the Paris DRPJ, operationally at the disposal of the Prefect of Police of Paris. Added to this organisation there are ten (interministerial) Central Offices for the prosecution of certain offences (concerning cultural goods, disappearances, wanted or absconded persons, cyber-crime, itinerant large-scale banditry, counterfeiting, serious fraud, explosives and arms, trafficking in human beings and narcotics). These central offices have specialised skills at their disposal and have jurisdiction over the whole territory. The main benefit of the existence of these offices is the collecting and centralisation of information for cases in their sole jurisdiction. In addition, by their nature, these offices have interministerial powers. The general organisation of the criminal police is modelled on the administrative organisation and competences of the Appeal Courts.
- The Central Directorate for Public Security (DCSP) is responsible for public security and maintaining law and order in towns (with more than 20 000 inhabitants).
- The Central Border Police Directorate (DCPAF), responsible for land and air border security (the gendarmerie is in charge of maritime borders and the external perimeter of airports) and for combating illegal immigration and undeclared labour. The Central Office for the Suppression of Illegal Immigration and the Employment of Non-Registered Aliens (OCRIEST) should also be mentioned here.
- The Central General Intelligence Directorate (DGRG), which also covers information concerning extremists, urban violence and terrorism.
- The Directorate for Monitoring of the Territory (DST), with operational responsibility for counter-espionage, internal security and counter-terrorism. It should be noted that this service has no officers outside French territory.

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- The Counter-Terrorism Coordination Unit (UCLAT), which has the function of centralising the work carried out by the DCPJ, the DCRG and the DST for all matters linked to any degree with terrorism.
- The Technical International Police Cooperation Department (SCTIP), which is responsible for the internal security attachés in French embassies both inside and outside the EU.
- The anti-mafia coordination and investigation unit deals with organised crime and influence-peddling and money-laundering networks, and works closely with the UCLAT.
- The Mission for the Fight against Drugs (MILAD), whose tasks include not merely enforcement but also prevention.
- The Central Directorate of the Republican Security Companies is responsible for public order in support of the DCSP forces when necessary.

In general, the police services most involved in trans-border exchanges of information on a day-to-day basis are the DCPJ, the DCPAF, the DST and the UCLAT.

6.2.2 THE DGGN

This directorate has a workforce of about 100 000.

As stated above, the gendarmerie has military status and belongs to the Ministry of Defence, but comes under the authority of the Minister for the Interior as regards public security and maintaining law and order. The gendarmerie forces work throughout France except in major towns (in theory those with more than 20 000 inhabitants, for which the National Police is responsible). As regards its criminal police functions, it operates under the authority of the magistrates; in this role it has jurisdiction throughout French territory, including major towns, since magistrates can choose freely between the criminal police services of the National Police and those of the gendarmerie.

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The territorial organisation of the gendarmerie follows the shape of the administrative organisation of the territory. So each level of administrative geography is represented by the gendarmerie (units in the cantons, companies in the districts, groups in the departments, legions in the region equivalent to administrative regions). The main difference in relation to the police is undoubtedly the horizontal organisation of missions: to each of the territories mentioned above there corresponds a set of missions such as those connected with law and order, with the criminal police or even with intelligence. For a very long time, police and gendarmerie have been working together to maintain law and order under the authority of the department prefects. In general, at department level, weekly meetings are organised around the State's representative in the department between the director of the gendarmerie group and the departmental director for public security and all the other police services represented in the department.

Note that there is thus a difference in organisational systems between the police and the gendarmerie, since, to take the example of the activities of the criminal police, the police service has a vertical structure with very specialised functional departments, e.g. the central criminal police offices, whereas the gendarmerie has a very horizontal functional organisation in each administrative compartment. No doubt for that reason, the DGGN seems to want to consider, for example, establishing regional correspondents for international cases (in particular for cases connected with Europol activities).

The DGGN has also stated that a process of reflection had begun, to consider reorganising its territorial set-up: the geographical distribution of its establishments depends on developments in crime but also on demographic changes in France. Here one might cite the very marked urban growth of the past thirty years ¹.

¹ Note here the problem posed by the growth of so-called "peri-urban" areas, in which the problem of police presence, and of how it is divided between police and gendarmerie, arose very quickly.

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6.2.3

The inevitable compartmentalisation between such administrative strata has again led the French authorities to favour a meaningful and symbolic rapprochement between the police and gendarmerie. By interministerial circular dated 22 May 2002, the Government set up the Regional Action Groups (GIR). Out of a total of 29, 19 GIRs belong to the criminal police of the National Police, and 10 to investigative units of the National Gendarmerie. These GIRs are coordinated by the criminal police directorate of the National Police. The task of the GIRs is to combat the underground economy and all forms of organised crime associated with it. One GIR was set up in Paris on 6 October 2003. The interesting aspect of this new operational structure is the way it is organised. It is a permanent structure with an Organisation and Command Unit (UOC), staffed by members of the National Police, the gendarmerie, tax and customs departments, the General Directorate for Fair Trading, Consumer Affairs and Fraud Control, the Labour Inspectorate and an operational unit consisting of resource persons (police officers and gendarmes).

6.2.4

In addition, in 2003 the DGGN, no doubt conscious of the need to direct its judicial activities towards more specialised ground, set up a criminal police subdirectorate. It also set up the BLAT (Counter-Terrorism Bureau) which each week takes part in UCLAT meetings at the DGPN. The gendarmerie also has regular meetings with the heads of central offices of the criminal police to exchange operational information. This has made the two new central offices set up by the gendarmerie all the more necessary: the Central Office for Combating Itinerant Crime (OCILDI) and the Central Office for Combating Harm to the Environment and to Public Health (OCLAESP). Note that both in the offices set up by the DGPN and in those set up by the DGGN, police officers from both the National Police and the gendarmerie are generally assigned to such offices to work together, often reinforced by specialised officials from other ministries. These completed or ongoing analyses and reforms clearly show a desire to make relations between police and gendarmerie easier to maintain and more effective, in particular by means of improving the exchange of information between the two administrative bodies.

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While this is true at department level, the experts also learned that the same applies in the DGPN itself, inasmuch as there is a DGGN representative at the DGPN. This role is somewhat that of a "facilitator" providing assistance for gendarmerie staff operating at the National Police directorate. This head of the gendarmerie mission at the DGPN also acts as an intermediary for the operational services as required. The evaluators discovered that there was no equivalent police representative role at the DGGN. While this absence might seem explicable by the smaller number of Interior Ministry representatives at the gendarmerie, the experts nevertheless consider that appointing a police equivalent to the director-general of the gendarmerie would undoubtedly help and send a clear message in support of the strong policy of rapprochement observed between the two organisations. No doubt too, such an appointment would be an important medium for improving communications at all levels of the hierarchy and would encourage reciprocal familiarisation with each other's working methods on the ground.

In the same way, the interministerial operational character of the GIRs, whose composition and missions are the expression of active cooperation in exchanging operational information, should be strengthened or developed at other levels to continue to promote data exchanges in order to combat organised crime more effectively.

The rapprochement between services somewhat unaccustomed to working together in the past is also undoubtedly an example which could, in one way or another, be replicated by other Member States which might also, as a result of their traditions or historical factors, experience the same difficulties in cooperating domestically.

Unfortunately, the evaluation team had no opportunity to speak with those in charge of these new units. It was unable to assess the methods used for information exchanges between the services represented in the GIRs or to comment on any practical operational problems.

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6.2.5 DIRECTORATE-GENERAL OF CUSTOMS AND INDIRECT TAXES - DGDDI

This directorate has three roles: a tax role, a role in protection against and combating fraud and an economic role. Customs is established throughout France, with 10 inter-regional offices, 40 regional directorates, 421 monitoring units and 57 investigative units ¹. The National Directorate for Customs Intelligence and Investigations (DNRED) consists of two specific directorates more especially concerned with exchange of information: these are the customs inquiries directorate (DED) and the intelligence and documentation directorate (DRD).

The intelligence directorate is responsible for collecting and processing intelligence, wherever it comes from. It carries out assessments and analyses, exploits and enriches it by all possible means (consultation of files, AAMI, Internet, etc.) and distributes the intelligence to its services in the form of document references, risk analyses or alert messages. It is the prime contact point for other French or foreign services with which the DGDDI works. This is part of the support provided to external services. The customs inquiries directorate is made up of 4 inquiry divisions and one research division spread out in echelons throughout the territory of France.

The experts noted with interest that DNRED also has a seconded police service, which assists DNRED officers with access to premises. This service also provides access to the documentation of the Interior Ministry and carries out the national and international missions delegated to it. The DNRED, which has 675 staff, has a broad range of functions, such as intelligence analysis (particularly in relation to money laundering) and also has specific units such as operational units responsible for combating organised crime but also for combating terrorism.

¹ These units have specialised skills in investigative techniques.

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Judicial inquiries undertaken following a customs report are systematically carried out by the police or the gendarmerie under the authority of the courts. For technically complicated matters, the evaluation team was informed that customs had recently set up a national judicial division service (SNDJ) to provide technical support for judicial inquiries, in view of the particular character of the subjects covered by the customs and indirect taxation services. This remit of this service also extends to Community fraud ¹. The service, which is already operational, has about sixty staff and should eventually have about 200. Customs authorities have also stressed that its work supplements police work in combating illegal immigration at border control posts not staffed by police.

As regards coordination with the other services, it is interesting to stress that customs is represented in the OCRTIS, the SCCOPOL and all the police and customs cooperation centres (CCPDs) and GIRs.

It should be noted that French customs is in the process of acquiring, at a technical level, a new information system for combating fraud (SILCF). The legal text setting up the new system has already appeared in the Official Journal of the French Republic (JORF No 176, 1 August 2003, pp. 13149 et seq.).

Article 8 of the text states that "authorised European Commission services and foreign authorities of States or intergovernmental bodies linked to France by an international agreement or a Community instrument permitting them to acquire information gathered by the Directorate-General of Customs and Indirect Taxes may be the recipients of information derived from this processing, within the limits of the provisions laid down by these texts".

¹ Except fraud in connection with the use of structural funds.

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Eventually this wording will enable the customs administration to supply the planned Europol Information System (EIS), by extracting data from SILCF on the basis of criteria matching Europol's areas of competence. When the measure has actually been implemented, the National Data-processing and Liberties Commission (CNIL) will be informed.

6.2.6 THE MAIN POLICE FILES

6.2.6.1 The national STIC database

The purpose of the recorded offences processing system (STIC) is to organise the collection and exploitation of the information contained in court proceedings for purposes of criminal investigations, statistics and documentation management. The project began in 1985, and its implementation has been effective since April 1994 on the experimental site of the Reims regional criminal police service.

Since then, STIC has been distributed to all services that have a criminal police role on the French mainland (1996) and to the Antilles-Guyana regional criminal police service (1998).

The current version was distributed to all services in December 2001. The main developments concern the arrangements for compliance with the legal declaration permitting the taking into account of the judicial follow-up experienced by defendants, and the changeover to the euro.

The national STIC database thus brings together the data on:

- ◇ the facts recorded in the database (time and place, victim(s), offence(s), operating method(s), references and archiving of proceedings);

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- ◇ the defendants (civil status, domicile(s), profession(s), offence(s) committed and judicial follow-up experienced);
- ◇ the objects mentioned in the documents of the proceedings and regarding which the national police have been alerted (stolen, identified or seized objects, objects placed under surveillance, objects found).

It offers its users a form of assistance in inquiries which gives direct access to the main elements of a procedure no matter which service initiated that procedure.

One specific function – a combined STIC/Schengen search by means of a single operation – also gives access to so-called Schengen objects (weapons, banknotes, documents) reported to the national gendarmerie and the services of countries which are signatories to the Schengen Convention.

6.2.6.2 The STIC-Canonge

The STIC-Canonge prefigures one of the STIC's functions: the use of alerts and photographs of defendants.

6.2.6.3 The wanted persons file (FPR)

This application allows national-level management of persons for whom an administrative or judicial investigation instruction has been issued. A specific type of file exists for each category of investigation.

The police and the gendarmerie supply information for this file by means of two distinct and parallel systems. As from 1994, the database is updated continuously through a real-time exchange between the two administrations. In 2003 the wanted persons file was consulted almost 23 million times by the police.

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6.2.6.4 The stolen vehicles file

Created in 1974, the computerised stolen vehicles file (FVV) makes national-level management possible for vehicles, boats and aircraft which have been reported as stolen by their owners or placed under surveillance at the request of a police or gendarmerie service. The application also authorises, under certain conditions, the placing under surveillance of stolen registration plates.

The FVV is currently made up of 3 databases (or sub-files):

- the file of vehicles subject to registration that have been stolen or are under surveillance (FVI),
- the file of vehicles not subject to registration that have been stolen or are under surveillance and bearing an identifying number (FVN),
- the file of boats and aircraft that have been stolen or are under surveillance (FBA), set up in 1995.

The computerised FVV file is installed in all national police and gendarmerie services. The police and the gendarmerie supply it with information by means of two distinct and parallel systems. As from 1994, the database is updated continuously through a real-time exchange between the two administrations. An emergency procedure is implemented in the event of one of the systems breaking down.

6.2.6.5 The specialist brigades file (FBS)

The specialist brigades file (FBS) was created in 1991 for the benefit of police combating serious crime and organised crime, banditry, terrorism, narcotics, procuring, trafficking in works of art, counterfeiting, money laundering, serious fraud and illegal immigration. This work file, controlled by a central computer, makes it possible to exchange, under the constant supervision of the providing services, information concerning these crimes. The FBS is a purely operational work file.

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It is available to investigators from the specialist services of the Criminal Police working on organised crime. This file can be consulted from those services, regardless of their location in France. Installing FBS on the SCCOPOL platform would add no value.

The purpose of this file is to:

- ◇ record, categorise and optimally exploit information gathered in the course of surveillance of the criminal world;
- ◇ make exchanges of information possible between the specialised services, ensuring the necessary confidentiality is maintained;
- ◇ authorise all possible cross-searching even from incomplete information in the database.

It also allows the services to manage access to information which they own, e.g. by limiting the visibility of some of their information. A mailbox system automatically notifies the proprietor service as soon as another service becomes interested in intelligence in the database for which visibility has been restricted. The main aim is to ensure that the information required to combat organised crime is shared, by encouraging cooperation between services and coordination of action.

6.2.6.6

All these files are accessible via the CHEOPS architecture, which brings together and secures all police operational applications. Each officer who has been granted a right of access has to identify himself with a registration name and password, which is renewed every three months by a national authorisation management system. In this way the user can gain access to the applications and their various functions on the basis of the rights granted him by his profile (search, supply, or management profile) using a single computer workstation.

It goes without saying that this type of organisation and this single workstation represent a considerable advantage in terms of access to and exchange of operational information.

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6.2.6.7

The national gendarmerie's JUDEX system, created in 1986, is in the first instance a departmental file, which is used to supply the national database on crimes, wanted persons and an objects database ¹. Since the end of 2003, the DGGN has centrally authorised direct national police access to and consultation of this database. Access to the JUDEX system has not yet been made available to the national police because of the impossibility of deploying the national police's CHEOPS network at regional and department level and thus of accessing the STIC. The national gendarmerie has now considered and proposed deploying the JUDEX system regionally (Regional criminal investigation centres, SRPJ).

The experts therefore cannot but recommend that consideration be given to any technological changes necessary to make STIC access available to the regional services of the national gendarmerie (investigative units).

To date, while interconnections between large judicial files remain prohibited under the law of 6 January 1978 on data processing and liberties, reciprocal access has been implemented at central level (SCDC and STRJD), in accordance with the terms of the law on internal security of 18 March 2003.

Note that a law of 18 March 2003 now requires that police files be brought closer together.

6.2.6.8

Customs' computer systems are rather complex and are currently undergoing reorganisation. The national database is the National computerised documentation database (FNID), which contains principally records of offences. This service is in the process of setting up the SILCF (information system for combating fraud) database, which will be larger than the existing database (scheduled for end 2004). More generally, data protection and system compatibility considerations prevent a direct connection with the police ².

¹ This database will also supply the Schengen database, as is also true of the FPR.

² We would stress the fact that the customs services do not have direct access to the stolen vehicles file (see the recommendations made during the second round of evaluation).

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Likewise, customs does not have access to the FBS files of the national police. There are therefore no files shared with the police, although the police do envisage shared files in the future, e.g. in connection with drug trafficking. On subjects such as drugs, terrorism or international fraud, both organisations would undoubtedly gain by sharing the information they possess more efficiently and directly so as to increase their effectiveness.

6.2.6.9

However, the complex and very detailed structure of the collection and processing of information requires an overall view of police services' working methods. The Central Offices are still based on criminal specialisation (trafficking in works of art, counterfeiting, trafficking in human beings, etc.) even if the DCPJ management are aware of the fluidity of the crime world. Nevertheless, the DCPJ management say that the approach is still valid, although a more cross-cutting working approach and vision are being contemplated. The idea would be to put into place specific types of coordination, e.g. on subjects such as money laundering or information technologies.

The Central Offices have two functions: an operational and a documentation function ¹. All cases are sent to the Offices, which check the information and can redistribute it to all services nationwide if necessary. Note that the Offices have a proactive role in criminal investigations. The FBS file, which is in fact a work file, cannot be accessed by other police services, but the investigators of the Offices are as a matter of course alerted regarding any consultation request from other services.

All police services systematically check in the documentation file whether or not a wanted person appears in the FBS file. All the central and territorial services have access to the STIC file database. Note that the UCLAT can have access, though indirectly, to all police files without distinction.

¹ They also serve as single entry points for foreign services (see below).

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6.2.6.10

Finally, it should be stressed that all police and gendarmerie bureaux have secure intranet connections over which consultation request telegrams are sent.

The team of experts was not able to evaluate the ease of communications between ministerial departments and how effectively information was exchanged between them. According to our contacts, there are now numerous bridges between the various services and one example was the creation of the GIRs. When a service decides to have recourse to a GIR (e.g. the police, if it needs access to a tax file), the prefect, together with the public prosecutor, assigns it a set of objectives or tasks, and then each constituent service acts as appropriate for its particular area of responsibility.

6.3 EXTERNAL EXCHANGE OF INFORMATION

6.3.1

For Interpol, Schengen and Europol cooperation, a central body has been set up as an obligatory transit point between the French services and their foreign counterparts.

The DCPJ of the national police was designated by decree for the role of central body, running the Interpol NCB and, since 1995, enabling information exchanges in the Schengen cooperation framework. The same body is also the base of the Europol national unit (ENU). All these activities are carried out for the benefit of all the investigative units of all the ministries concerned ¹.

¹ The DCPJ's role in this area is enshrined in the French code of criminal procedure.

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To simplify the task of the operational services and provide them with better support, the abovementioned three cooperation channels have been brought together in an operational platform called the Central Operational Police Cooperation Section (SCCOPOL).

Investigators and magistrates throughout France can therefore address themselves to this single contact point without worrying about which channel to select. SCCOPOL will then propose the technically most appropriate solution on the basis of the requests, legal framework and specific features of each channel.

6.3.2

The services responsible for the suppression and prevention of crimes and offences represented in SCCOPOL are the national gendarmerie, the national police, customs and the Justice mission attached to the Office for international mutual assistance in criminal matters and for conventions (BEPI) of the Ministry of Justice.

The national police responsible for all Interpol, Schengen and Europol activities is represented by 52 officials and contracted translators at the DCPJ. Besides the operational files of the national police, these staff members perform logistical tasks for other ministries (translations, IT maintenance, administration).

The Justice Ministry is represented by a "Justice mission" consisting of two magistrates supported by 4 colleagues. This mission carries out tasks connected with mutual legal assistance or liaison with the French judicial authorities. It follows up requests from the French judicial authorities and requests concerning the verification of the legal validity of requests for provisional arrest with a view to extradition issued via the SIS channel.

The national gendarmerie is represented by 23 persons.

One officer of the Directorate-General of Customs and Indirect Taxes (DGDDI), which belongs to the Ministry of the Economy and Finance works at SCCOPOL. This officer's mission is similar, within the customs context, to those fulfilled by the gendarmerie and the national police.

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6.3.3

The experts paid close attention to SCCOPOL's structure, the organisation of which is completely consistent with the Council's recommendations ¹.

Information is passed from the services to SCCOPOL via two entry points: police and gendarmes working at SCCOPOL. During the evaluation, the experts learned that these two entry points are to be merged, so that police officers and gendarmes on the ground can contact either police or gendarmes seconded to SCCOPOL ², without distinction.

Messages from abroad are redirected by SCCOPOL to the competent internal service. SCCOPOL then uses the same channel as is used by the foreign service to forward the appropriate response.

The French authorities avoid questioning Europol and Member States at the same time, preferring a single transmission path. An audit carried out in 2002 for the Interior Ministry (report submitted in January 2003) showed that staff were not fully aware of the communication channels: this discovery led to training programmes and presentations in the criminal police interregional directorates (DIPJs) and visits to SCCOPOL and Europol.

Messages from authorities abroad reach the appropriate police officer or gendarme and vice versa, via SCCOPOL, in a few minutes or at the most two hours.

As regards language, a pool of twelve translators including two for the platform, is on permanent standby. In addition, all the police officers and gendarmes working on the platform speak at least one other EU language. The two night officers speak at least English.

The experts noted that various workstations existed: there were a Europol station, a Schengen station and an Interpol station, each separate from the others, in the same room. There were purely Police/Gendarmerie/Customs workstations. If an error is made in the choice of channel, the communication is re-directed. Two persons, a police officer and a gendarme, work on night-time standby.

¹ Recommendation 1 of the action plan of the High-Level Working Party on Organized Crime (1997).

² Since 26 April 2004, SCCOPOL has been operating in an integrated manner, with a single access point, who may be either a police officer or a gendarme.

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6.3.4

As regards access to the various databases, the gendarmes, police and customs officers at SCCOPOL have access to JUDEX, STIC and FNID.

The disappearance at the SCCOPOL platform of the two entry points, police and gendarmerie, is a real added value. The versatility and merging of competences on this type of international cooperation platform, irrespective of where the officers come from, are without doubt among the major conditions for the success and development of inter-service and internal cooperation and for greater comprehensibility for foreign partners. The experts therefore appreciated the improvement made by France in this area since 26 April 2004.

6.3.5

It was also noted that SCCOPOL is not merely a mailbox for user services. SCCOPOL always ultimately decides on the transmission channel, in order to avoid repetition of requests via several different channels. Where there is uncertainty or there are several possibilities, those responsible for the platform contact the investigating services who made the request to assess the best strategy to adopt. In this sense, SCCOPOL also has a role in guiding ongoing inquiries and this role seems to make it possible to avoid overlap in the use of the information channels.

Internally, there are 2 designated resource persons per interregional directorate for the whole of France to deal with international cases. This decision forms part of an ongoing nationwide reform for the benefit of national police chiefs and also national gendarmerie chiefs. An initial training course has been held in Strasbourg. The experts also noted that the customs services too are involved in this training and awareness-raising process.

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6.3.6

Apart from the SCCOPOL cooperation channel, France has a channel for specific cooperation through the SCTIP (Technical International Police Cooperation Department). The internal security attachés (ASI) assigned to French embassies abroad belong to this service. In addition to these attachés, liaison officers are sometimes posted to the services of other countries. The mission of the attachés is to facilitate cooperation.

Communications are conducted through a network which is currently being fully secured by encryption. The attachés have access to the STIC file.

6.3.7

In view of the sometimes unilluminating responses contained in the replies to the questionnaire, the experts have chosen to illustrate international cooperation in the exchange of information by an analysis of the responses from certain heads of specialist services responsible for combating serious crime.

6.3.8

An initial analysis concerns the response from the subdirectorate of the technical and scientific police based in Lyons. Besides cooperation along the normal paths of judicial cooperation, the scientific police chiefs made no secret of their wish to see new types of cooperation develop. In the first place, the experts noted a difference in organisation between the gendarmerie and the police in terms of internal exchange. While each SRPJ (regional criminal investigation centre) has access at its level to all the technical databases (e.g. the fingerprint file, or the DNA file), gendarmerie services can access them only through their central technical service based at Rosny in the Paris region.

6.3.9

Likewise, at Lyon the national police have a computer and technological tracing service. This service collaborates with other EU countries through exchanges of experts. However, the management did not conceal the difficulties they are having in developing forms of cooperation which they do not receive, e.g. obtaining or checking mobile telephone numbers. This observation clearly strengthens the United Kingdom's initiative of proposing a joint action plan after sending Member States a questionnaire on this issue ¹.

6.3.10

The scale of internal cooperation between gendarmerie and national police becomes fully apparent when one learns that about 35% of police forensic science activity arises from requests formulated by the gendarmerie services. This also explains why some technical and scientific databases are now shared, e.g. the fingerprint and DNA file databases.

Regarding international exchanges involving technical and scientific police, one technical and scientific police manager said that it might be useful to be able to record in the French databases the fingerprint and genetic data of French people who commit offences abroad.

6.3.11

However, during an informal visit to Interpol at Lyon, the experts noted gaps in international cooperation which are undoubtedly duplicated in other Member States. Thus, France's stolen vehicles database is connected only to the SIS network, whereas many stolen vehicles are trafficked to third countries. France, aware of this lacuna, is engaged in talks with a view to loading its stolen vehicles database into the Interpol database. The experts can only encourage all Member States which have not carried out this type of exchange to do so, to make the process of combating international trafficking more effective.

¹ 14436/1/03 CRIMORG 75 REV 1

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Likewise, France has provided Interpol with its database on stolen blank travel documents. It is currently working with the France NCB to transfer the corresponding Interpol databases on major border crossing points by adding them to the system of its national database. This would enable police officers to have access to multiple databases at a single checkpoint.

6.3.12

The experts were also able to study the functioning of a Central Office – OCRIEST – belonging to the Air and Border Police Department. This service, set up in 1996, has three main objectives:

- operationally, dismantling immigration networks,
- providing national and international coordination,
- analysing illegal migration flows.

This Office is responsible for centralising all the data collected by the national police and gendarmerie services. The data are added to the FBS, the file of which is shared with the DCPJ.

There are agreements with the competent authorities of the United Kingdom, Belgium and some third States, authorising the same type of exchange of personal data (subject to domestic laws). France has launched a pilot project for a cross-border crime coordination centre, which should bring together EU operational experts to pool inquiry data.

However, there are difficulties with this type of bilateral cooperation, arising from the differences between States regarding the police or judicial categorisation of the information and the inquiry documents. As a result, foreign authorities are often asked to channel their requests through SCCOPOL. Nevertheless, where there is an informal request with no need for a written response, it can be made directly to OCRIEST; if on the other hand formalisation or written responses are needed, the request has to go through SCCOPOL.

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Regarding requests from OCRIEST, staff may informally approach the authorities in the third State (e.g. to find out whether they are working on a particular area) and, if the response is positive, an additional request is formulated and sent, usually through Interpol (via SCCOPOL). The Interpol channel is used most often, because its evidential value is greater than via Europol in the context of French judicial mechanisms.

The experts were interested by the large number of internal security cooperation agreements (there are agreements with e.g. Romania, Bulgaria and China). These agreements define the contact points in each country but above all the type of information that can be exchanged between the States parties to the agreements. This also makes it possible to learn more about and better specify the modus operandi of traffickers (trafficking in human beings, false documents, prostitution, drugs, etc.). In addition, numerous informal meetings of the Ministers for the Interior of Germany, Spain, Italy and the United Kingdom are organised in liaison with the French Minister for the Interior. The purpose of these meetings, prepared by groups of experts, is to exchange operational information on common objectives. It seems that this process is increasing, since, during a recent meeting held at La Baule ¹ on combating terrorism and illegal immigration, a general stocktaking was carried out of inquiries in progress in this area. The idea was also to look at cases or fields for which joint investigation teams could be set up. Another meeting is planned for 2004 with Germany, Spain, Italy and the United Kingdom, with the expected participation of the Netherlands and Belgium. France would like to have specialised contacts in each country involved in the agreements in order to improve the exchange of information and to interface better with them. Thus, OCRIEST appeared to complain about certain Member States which approach different French services in an uncoordinated manner. The multiplicity of contacts for a single country and the use of channels without clearly defined protocols (Interpol, Europol, direct contacts) remain sources of confusion and of loss of information and of information processing. In general, all formal requests should go through SCCOPOL.

¹ La Baule meeting, 19 and 20 October 2003.

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An OCRIEST officer was in post at the DCPJ/SCCOPOL from 5 April 2004 for a 2-month period to assess its joint missions with the various constituents of the platform, in particular Europol and Interpol. Eventually an OCRIEST officer will be assigned permanently to SCCOPOL. On relations with the SCTIP attachés posted abroad, it seems that most of the information received comes directly through the SCTIP. At present, there are 84 people working at OCRIEST, including 10 who specialise in cases of an international nature.

6.3.13

The system set up by France is without any doubt a model of simplification and efficiency, designed to improve the processing of information on immigration issues.

The promotion of a single entry point for all Member States for processing immigration cases is a direction to be encouraged.

6.3.14

For customs, the National Directorate for Customs Intelligence and Investigations (DNRED) combines intelligence and documentation (Directorate for Intelligence and Documentation, DRD) and inquiries (Directorate for Customs Inquiries, DED). The DED has outposts outside the capital (11 subdivisions and 5 branches) whereas all the Intelligence services are grouped in Paris. The National Judicial Customs Service (SNDJ), headed by a magistrate and linked to the customs director-general, was established in 2002. Entitled to conduct inquiries under the terms of the Criminal Code, this service has a role complementary to that of police seconded to the DGDDI. Customs has a counter-terrorism role (e.g. in detecting threats in airports and in combating the financing of terrorism). But more generally its objectives in processing information are the following:

- evaluation by centralised processing of information,
- support and exploitation of intelligence for the benefit of all customs services, including those abroad.

The Precursors Observatory belongs to the DNRED.

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The main cooperation channel for the DNRED is mutual customs assistance but it also uses Europol. There is also a network of customs attachés abroad similar to the police network through the SCTIP. Any request or application to or from another State has to go through the DNRED. As a systematic practice, customs communicates directly with its counterparts where bilateral agreements already exist. But since there is a DNRED staff member in each police and customs cooperation centre, this channel is often favoured. Customs uses all cooperation channels to obtain information. Traditionally, its services have regularly made use of bilateral relations through the customs attaché network. Note that 4 customs attachés are in post in France, representing Germany, the United Kingdom, the Netherlands and the United States.

Regarding cooperation with OLAF, there are notification obligations under Community legislation. If Community fraud mechanisms are discovered, a referral is made to OLAF for analysis. The difficulty concerns cases of fraud against the financial interests of the Community to which criminal cases are linked. Customs would like to see the draft agreement between Europol and OLAF finalised in order to settle these delicate questions of distributions of competence between the two services.

The experts noted that the analysts in the intelligence directorate were trained in criminal analysis by the gendarmerie.

6.4 EUROPOL

6.4.1

Rather paradoxically, the responses concerning Europol in the course of the evaluation were very varied. Thus, besides the technical clarifications provided in the responses to the questionnaire, the French services have developed relations with Europol to varying degrees. This observation leads the experts to believe that the missions and role of Europol are perceived in different ways depending on the administrative traditions of each of the ministries concerned. The situation seemed somewhat revelatory regarding the distance between some French services and the European Police Office in terms of its capacities or its immediate added value to be capable of operational involvement in police operations.

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On reading the responses to the questionnaire, the team of experts noted a drop in the number of files initiated by France and addressed to Europol. Thus, between 2000 and 2002, the number of files introduced by France fell from 206 to 174. It should be stressed that the drop in the quantity of exchanges tells us nothing about the quality of the information exchanged.

6.4.2

As regards the national police, two main difficulties concerning Europol were raised by certain specialist services: one concerned a reluctance to send confidential or sensitive information for fear of inappropriate use of the information; the other concerned the expectation, apparently unsatisfied, of information being returned by Europol services. Thus, the example was given of information sent by France to Europol and on the transmission of documents concerning false passports. The representatives of the technical and scientific police expressed their regret at not having been able to benefit in return from information that would have enabled the French services to make comparisons with similar phenomena that might have occurred in other Member States' territories. Europol will have to develop its communication methods and it is likely that a distribution charter will have to be drawn up, in consultation with Member States, so that the information produced by Europol can be distributed without delay to the appropriate recipients via the ENUs.

6.4.3

The representatives of OCRIEST with the national police also noted problems in their relations with Europol. In cooperation on immigration cases, the service acknowledged that it had not made very much use of Europol's services, either because the magistrates were more inclined to turn to Interpol, or because the information collated through Europol was most often not usable in a court case ¹.

¹ The French code of criminal procedure provides for the use in criminal proceedings of information received by Interpol, but not information originating with Europol.

RESTREINT UE

OCRIEST acknowledged that it made little use of Europol's analysis files, which do not seem to them to fit their operational cooperation requirements. France expressed a wish to see bilateral or multilateral cooperation increasing. In OCRIEST's view, Europol needs to become a tool for developing resources to allow Member States to facilitate the work of investigators in different countries, particularly in the context of the Joint Investigation Teams ¹.

On this specific point, practical consideration needs to be developed between Europol and the Member States concerned, to reflect on the methods and objectives of the future Joint Investigation Teams.

6.4.4

This lack of satisfaction was also encountered in the services of the economic and financial affairs subdirectorate, which recounted the difficulties ² it had in forwarding to Europol information on suspicious transactions. These difficulties seem to be linked to a problem in cooperation with TRACFIN ³ resulting from the need for prior authorisation from the Ministry of Justice to provide information to the SUSTRANS file. This service expressed its wish to have access to a European database of suspicious transactions which would thus make EU-wide cross-checking possible.

6.4.5

The gendarmerie expressed great expectations of cooperation with Europol and stated that, in the context of the forthcoming reorganisation of its territorial set-up, it was considering establishing regional contacts for international cases, with a view in particular to handling cases in contact with Europol. The experts would also stress that the gendarmerie, in liaison with the national police, also contributes to the supply of AWF data to Europol. The team of evaluators noted differences of view between the gendarmerie and the national police. The gendarmerie stressed the importance of the analyses carried out by Europol, while those national police services the experts spoke to laid no stress on any value added by Europol in its analytical work.

¹ In February 2004 France had the Senate examine the bill on Joint Investigation Teams in the context of the Perben II bill.

² These difficulties were raised following the distribution of a note from the Chancery dated 17 March 2004 authorising TRACFIN to provide information to the SUSTRANS file.

³ TRACFIN is France's FIU.

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As regards the AWFs in general, national police management considered the participation of the national police limited. The management did however express the wish to improve their involvement in this area in the future.

The gendarmerie, meanwhile, stated that a training plan for all officers was in place and that resource persons would be placed in each investigation section. Their purpose will be to train and familiarise all the personnel concerned in the use of the Europol tool. In addition, each investigation section will be a Europol support base for the establishment in due course of the future Joint Investigation Teams.

6.4.6

The customs general directorate explained its strategy regarding Europol's role and activities. The head of the bureau responsible for combating fraud drew attention to the fact that French customs missions are very close to Europol's missions. Regarding projects or activities, several examples were stressed during the evaluation. Thus, as regards combating fraud or offences committed on the internet, customs wanted an increase in cooperation among Member States and increased Europol support. Regarding the operational groups, e.g. combating terrorism and more importantly the financing of terrorism, customs management drew attention to their role in combating the financial flows in support of terrorist groups and organisations. On this point, customs stated that it regularly supplied data to the Sustrans file under the supervision of the Ministry of Justice. In the area of analysis files connected with narcotics, customs will continue with its input both in information and in documents (logo). The same goes for the files connected with organised crime, such as COPPER and TOP 100. On this point, as with the other file processing cases, customs expressed no anxieties about Europol's use of the confidential information sent to it, because of the use of the code procedures at Europol.

On the other hand, the international relations service at customs expressed a wish that Europol might produce some tactical notes.

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6.4.7

The customs service's involvement in cooperation with Europol was expressed by the distribution to all the national services of an administrative note referring to the role and added value of the European police body in the context of combating serious crime ¹.

This circular is the more worthy of note in that it reminds all customers of the two aspects of Europol's work: "Europol is first of all an information exchange channel for operational assistance among the law enforcement services of the States. Europol also serves as a European criminal intelligence centralisation body." Such recommendations undoubtedly have the merit of increasing the awareness of active services not merely of Europol's role, but also of the services that they can find there, if required. This circular, which stresses the positive aspects of Europol, also has the merit of demonstrating to the operational services the excellent cooperation provided by SCCOPOL. It notes, for instance, that in the absence of a customs representative at the ENU, queries made by the DNRED in the context of standby periods (nights and weekends) are processed by police or gendarmerie officials working at SCCOPOL.

6.4.8

Note that customs also stresses the imbalance among Member States regarding the involvement of customs services with Europol's activities. Some States do not systematically involve their customs services with Europol's work. This is one of the reasons why it happens that some cooperation requests do not pass through Europol and thus become the subject of customs administrative assistance requests. The possibility of linking customs services with Europol's work in all Member States would have the advantage of making greater efficiency possible in exchanges of information within the European Union in this area of cooperation.

¹ Circular from the Directorate-General of Customs and Indirect Taxes, 13 August 2003, on France's participation in the work of the European Police Office, Europol – REF 03002772.

6.4.9

Regarding the future EIS file, the law enforcement services are waiting and hoping. Customs is currently setting up an anti-fraud information system (SILCF) which will replace the national computerised documentation database (FNID). The possibility is envisaged, in the framework of this new file, of automatic extraction to feed into the future Europol Information System (EIS). However, customs management complained that they were not sufficiently involved in the specifications for this project and that as a result they were uninformed about the final product. Although the national police is involved in the project, the team of evaluators was unable to discover from the management of the services they spoke to what expectations and concerns the project raised. The only information obtained concerned the sources of the future extractions, which should draw on the data contained in the FBS and STIC files.

In view of the expectations of certain operational services, the experts feel that Europol should immediately strengthen its partnership with all the services involved in all Member States to define the specifications to be established for the implementation of the future EIS file and in particular to define the types of information that are to be extracted automatically for the benefit of Europol, taking care to associate all the services involved in combating serious international crime.

7. GENERAL CONCLUSIONS AND RECOMMENDATIONS OF THE EXPERT TEAM

The evaluation of France revealed to the experts a polished and highly technically advanced police organisation. There are numerous police databases, many highly specialised. A charter of message distribution within all the French services also exists, apparently making it possible to avoid any loss of information and to increase the possibilities available to the law enforcement services. In addition, access to the main sources of information from a single computer terminal for police officers on the ground, with the appropriate authorisations ensuring the integrity of information processing and querying, makes for a powerful system.

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The creation of the SCCOPOL platform has achieved the necessary enhancement of the network for communicating and exchanging information with all France's partners, in particular its European partners.

The historical coexistence of two police forces (national police and national gendarmerie) and of two different information systems revealed certain technical difficulties in terms of information exchange. French law (law of 18 March 2003 on internal security) requires that the major criminal police files (STIC and STRJD) be brought closer together, but it is effective only at the central level. Deployment for regional services has stopped at that level for the time being.

Thus, unlike the case of the JUDEX system, there are technical problems in the way of deploying the STIC in the national gendarmerie's regional services.

Technical changes are being made on the basis of which it is possible to forecast full reciprocal access to the major judicial files as far as departmental level by 2006.

Until then, police services and national gendarmerie units can consult each other's existing databases directly through the intermediary of the central services (SCDC and STRJD), which have dedicated access to the various databases. In addition, some interministerial services (GIRs, police and customs cooperation centre, central offices) also have direct access, via the staff assigned to them and belonging to the various directorates (police, gendarmerie and customs), to all the existing databases.

Police cooperation between France and the Member States of the EU seems on the whole to be satisfactory. Cooperation problems do seem to arise, however, from differences connected to the police or judicial nature of the information and investigative documents in the various Member States.

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Regarding cooperation with Europol, France on several occasions insisted that it wanted to be an active partner in this area. It stressed in particular its wish to use Europol in a more operational way. Setting up Joint Investigation Teams could be the opportunity for France to make that declared intent a reality. At the same time, the evaluation did reveal differences of assessment among the law enforcement services regarding the role and use of the Europol tool. Likewise, differences were noted in terms of how well informed the active services were and concerning the products implemented by Europol. In this sense it is desirable that awareness among the police services be increased, notwithstanding the notable efforts already made to that end.

Europol will also have to focus on its own working methods in order to offer Member States the products they expect and require.

7.1 FOR FRANCE

7.1.1 Consider extending the model of databases shared among law enforcement services or easing the rules on sharing of computerised files, in order to encourage a better sharing of data among services with responsibility for combating organised crime in order to allow, wherever possible, direct consultation of the databases of the different police services. If necessary, look into the possibility of setting up a shared database for the gendarmerie and the national police covering the necessary functionalities of existing databases that have the same purpose. (6.1 and 7)

7.1.2 Develop interministerial structures such as those of the GIRs to facilitate cross-checking of information to the benefit of law enforcement services in combating organised crime, e.g. economic and financial crime. (6.2.4)

7.1.3 Create a National Police Force (DGPN) interface at the national gendarmerie (DGGN) to promote mutual familiarisation between the two institutions, police and national gendarmerie. (6.2.4)

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- 7.1.4 Encourage technical developments to allow implementation of mutual access between national police and gendarmerie services and units, particularly the national police CHEOPS network. (6.2.6.7)
- 7.1.5 Encourage, as far as is practicable, better file sharing between the specialist services of the customs and the police in the context of their respective areas of competence in fields such as drugs, international fraud and the financing of terrorism. (6.2.6.8)
- 7.1.6 Put an end to the two different points of entry – police and gendarmerie – on the SCCOPOL platform. (6.3.4)
- 7.1.7 Enable all officials in post at SCCOPOL to obtain direct access to certain databases useful for international cooperation. (6.3.3) ¹
- 7.1.8 Define a national strategy for exporting information to Europol, improving coordination with all the ministries concerned. Issue operational guidelines on codes of conduct with regard to Europol for each law enforcement service with relevant competence, encouraging the services to cooperate with Europol, in particular through active participation in the AWFs. (6.4) ²

¹ The fact that since 26 April 2004 SCCOPOL has been operating in an integrated manner with a single police and gendarmerie access point is a significant step forward.

² Training concerning the channels of cooperation and Europol, in particular, will be completed on 30 June 2004 for all the DIPJs and gendarmerie and customs services concerned, throughout French territory.

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7.2 FOR EUROPOL

- 7.2.1 Promptly establish a partnership with all the services concerned in all the Member States to define the specifications to be established for the implementation of the future EIS file and in particular to define the type of information the extraction of which will have to be automated for the benefit of Europol, taking care to involve all the services involved in combating serious international crime. (6.4.9)
- 7.2.2 Produce a distribution charter for documents produced by Europol – in consultation with Member States – to be certain that the recipients and services concerned benefit from Europol's output. (6.4.2)
- 7.2.3 Carry out in-depth consideration with the Member States of the methods and objectives of the future Joint Investigation Teams. (6.4.3)

7.3 FOR THE OTHER MEMBER STATES

- 7.3.1 Encourage interministerial work in combating organised crime for those countries that have not set up specific structures of the kind needed. (6.2.4)
- 7.3.2 Whenever necessary, allow all police officers responsible for combating international crime to have access from a single computer terminal to all the relevant databases produced by all the police services, where this has not yet been done. (6.2.6.6)
- 7.3.3 Encourage the setting up of a single point of entry for cooperation on illegal immigration (6.3.13)
- 7.3.4 Consider the possibility of involving customs services more closely with Europol's work, in their areas of responsibility. (6.4.8)

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ANNEX A

PROJET DE PROGRAMME

Mardi 3 février	Mercredi 4 février	Jeudi 5 février
<u>Beauvau, 9h00 – 12h30:</u> a) Présentation des directions générales: - de la national police, - de la national gendarmerie - des douanes et droits indirects (30 mn chacune) b) Présentation des bases de données existantes et des contraintes légales et réglementaires d'utilisation	<u>9h00 – 12h30:</u> a) Échange d'informations opérationnelles par la DCPAF – OCRIEST (lutte contre les filières d'immigration clandestine) (<u>9h00 – 9h45: Beauvau</u>) b) Échange d'informations opérationnelles par la douane / lutte contre la fraude (<u>10h15 – 12h15: rue de Charonne</u>)	<u>Départ pour Lyon à 7h30</u> Présentation de l'échange d'informations par la sous-direction de la police technique et scientifique de la DCPJ et par un service déconcentré (DIPJ de Lyon): <u>10h00- 13h00</u>
Déjeuner à Beauvau 12h30 – 14h30	Déjeuner à Rosny-sous-Bois 13h00 – 15h00	Déjeuner à Lyon 13h00 – 14h30
<u>Nanterre, 15h00 – 19h00:</u> Échange d'informations opérationnelles: présentation - de la DCPJ: offices centraux chargés de la lutte contre la criminalité organisée et plateforme SCCOPOL dans l'utilisation opérationnelle des 3 canaux de coopération - des magistrats de la mission Justice au sein de la DCPJ - du SCTIP et de son unité de liaison opérationnelle	<u>Rosny-sous-Bois, 15h00 – 17h30</u> Échanges d'informations opérationnelles par la national gendarmerie (STRJD)	<u>Réunion informelle à Interpol: 15h00 – 16h30</u>

Des pauses café seront prévues en milieu de matinée et d'après-midi.
Les dîners sont libres.

Les déplacements seront assurés par le service central automobile de la DGPN en région parisienne, par la DCPJ-PTS à Lyon.
Le trajet Paris-Lyon se fera en TGV.

Sigles: DCPJ: direction centrale de la police judiciaire (DGPN)
SCTIP: Service de Coopération Technique Internationale de Police (DGPN)
DCPAF – OCRIEST: direction centrale de la police aux frontières – office central de répression de l'immigration irrégulière et de l'emploi des étrangers sans titre (DGPN)
STRJD: service technique de renseignement judiciaire et de documentation
DIPJ: direction interrégionale de police judiciaire

LISTE DES PERSONNES RENCONTRÉES

● POLICE

- Bernard MAIRE - Commissaire Divisionnaire, Chef du Cabinet Affaires Européennes et Internationales à la Direction Générale de la National police
- Jacques POINAS – Sous-Directeur des Affaires Criminelles de la Direction Centrale de la Police judiciaire
- Jean-Pierre KILQUE – Commissaire Divisionnaire, adjoint au Sous-Directeur des Affaires Criminelles de la Direction Centrale de la Police judiciaire
- Didier DUVAL – Commissaire Divisionnaire Chef de l'Office Central de la Répression de la Grande Délinquance Financière à la Sous Direction des Affaires Economiques et Financières de la Direction Centrale de la Police judiciaire
- Denis PAJAUD – Commissaire Divisionnaire Direction Centrale de la Police aux Frontières
- Dominique GAILLARDON Commissaire Divisionnaire Adjoint au Sous-Directeur de la Police Technique et Scientifique
- Eric BRENDEL – Commissaire Divisionnaire Chef du Service Central de Documentation Criminelle à la Police Technique et Scientifique
- Jean-Marc SOUVIRA – Commissaire Principal, adjoint au chef de la Division des Relations Internationales de la Direction Centrale de la Police judiciaire
- Didier MARTIN – Commissaire Principal chef de l'Etat Major du Service Central Technique International de Police

● DOUANES

- Jean PUIG, Directeur Régional des douanes au bureau D/3: lutte contre la fraude, de la Direction Générale des Douanes et des Droits Indirects
- Patrick DEUNET , Directeur Régional chef de la direction du renseignement des Douanes
- Pierre SABATIER, Inspecteur Principal à la direction du renseignement des Douanes.
- Bruno COLLIN, Receveur Principal, adjoint au chef de la division analyse surveillance.
- Brigitte MARMEYS Receveur Principal, Unité Nationale Europol
- Jérôme COCHARD, Inspecteur des Douanes, correspondant Europol

● GENDARMERIE

- Colonel MATHÉ, chef du Service Technique des Recherches Judiciaires et de Documentation
- Colonel CAILLET, sous directeur de la police judiciaire
- Colonel NAPORA, chef de la Mission Liaison Gendarmerie auprès de la Direction Générale de la National police
- Colonel GADEL, chef du Bureau de Police judiciaire
- Chef d'escadron BOUILLIÉ, chef de la section criminalistique et documentation judiciaire au Bureau de Police judiciaire
- Chef d'escadron LE GENTIL, Relations Internationales - section Europol

● JUSTICE

- Marie-Josée DELAMBILLY – Magistrat de la Mission Justice au Bureau d'entraide pénale internationale de la chancellerie – en poste à la Direction Centrale de la Police judiciaire

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ANNEX C

LISTE DES ABRÉVIATIONS/GLOSSAIRE DE TERMES

ACRONYME ABRÉVIATION TERME	FRANÇAIS	TRADUCTION ANGLAISE OU EXPLICATION
ASI	Attachés de Sécurité Intérieure	
BCN	Bureau Central National Interpol	
BEPIC	Bureau de l'Entraide pénale Internationale	
BLAT	Bureau de lutte Antiterroriste	
CCPD	Centres de Coopération Policrière et Douanière	
CHEOPS	Architecture du réseau informatique de la national police	
CNIL	Commission Nationale Informatique et Liberté	French National Commission of Informatics and Liberty
DCPAF	Direction Centrale de la Police Aux Frontières	Central Border Police Directorate
DCPJ	Direction Centrale de la Police judiciaire	Criminal Investigation Central Directorate
DCSP	Direction Centrale de la Sécurité Publique	Central Directorate for Public Security
DED	Direction des Enquêtes Douanières	
DGDDI	Direction Générale des Douanes et droits indirects	Directorate-General of Customs and Indirect Taxes
DGGN	Direction Générale de la National gendarmerie	

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ACRONYME ABRÉVIATION TERME	FRANÇAIS	TRADUCTION ANGLAISE OU EXPLICATION
DGPN	Direction Générale de la National police	National Police Force
DGRG	Direction Centrale des Renseignements Généraux	
DIPJ	Directions Interrégionales de la Police judiciaire	
DNAT	Division Nationale Anti- Terroriste	
DNRAPB	Division Nationale pour la Répression des Atteintes aux Personnes et aux Biens	
DNRED	Direction nationale du renseignement et des enquêtes douanières	National Directorate for Customs Intelligence and Investigations
DRD	Direction du renseignement et de la Documentation	Directorate for Intelligence and Documentation
DRPJ	Directions régionales de la Police Judiciaire	
DST	Direction de la Surveillance du Territoire	
FBS	Fichier des Brigades Spécialisées	
FIDE	Fichier d'Identification des Dossiers d'Enquêtes	
FNID	Fichier National Informatisé des documentation	National computerised documentation database
FPR	Fichier des Personnes Recherchées	

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ACRONYME ABRÉVIATION TERME	FRANÇAIS	TRADUCTION ANGLAISE OU EXPLICATION
FVI	Fichier des Véhicules soumis à Immatriculation volés ou surveillés	
FVN	Fichier des Véhicules non soumis à immatriculation volés ou surveillés portant un Numéro identifiant	
FVV	Fichier automatisé des Véhicules Volés	
GIR	Groupements d'Intervention Régionaux	Regional Action Groups
HENU	Le Comité des Chefs d'Unités nationales	
JUDEX	Système judiciaire d'information et d'exploitation	
LOPSI	Loi d'Orientation et de Programmation pour la Sécurité Intérieure	
MILAD	Mission de Lutte Anti-Drogue	The Mission for the Fight against Drugs
NSIS	Système National Schengen	
OCBC	Office central pour de lutte contre le trafic de biens culturels	
OCILDI	Office Central de Lutte Contre la Délinquance Itinérante	
OCLAESP	Office Central de Lutte contre les Atteintes à l'Environnement et la Santé Publique	

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ACRONYME ABRÉVIATION TERME	FRANÇAIS	TRADUCTION ANGLAISE OU EXPLICATION
OCLCTIC	Office Central de Lutte contre la Criminalité liée aux technologies de l'information et de la communication	
OCRFM	Office central pour la répression du faux monnayage	
OCRGDF	Office central pour la répression de la Grande Délinquance Financière	Central Office for Combating Serious Financial Crime
OCRIEST	Office central pour la répression de l'Immigration Irrégulière et de l'Emploi des Étrangers Sans Titre	
OCRTAEMS	Office central pour la répression du Trafic des Armes, Explosifs et Matières Sensibles	
OCRTIS	Office central pour la répression du Trafic International de Stupéfiants	Central Office for the Prevention of Drug Trafficking
PAF	Police Aux Frontières	
SCCOPOL	Section Centrale de Coopération Opérationnelle de Police	Central Operational Police Cooperation Section
SCTIP	Service de Coopération Technique Internationale de Police	Technical International Police Cooperation Department
SDCI		
SID	Système d'Information des	

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ACRONYME ABRÉVIATION TERME	FRANÇAIS	TRADUCTION ANGLAISE OU EXPLICATION
	Douanes	
SIE	Système d'Information Europol	
SILCF	Système d'Information de Lutte Contre la Fraude	
SIS	Système d'Information Schengen	
SNDJ	Service National de Division Judiciaire	
SRPJ	Services Régionaux de la Police judiciaire	Regional criminal investigation centres
STIC	Système de Traitement des Infractions Constatées	
STRJD	Service Technique de recherche Judiciaire et de Documentation	Technical Criminal Investigation and Documentation Department
SUSTRANS	Fichier européen des transactions suspectes	
TRACFIN	Traitement du Renseignement et Action contre les Circuits Financiers clandestins	French Financial Intelligence Unit
UCLAT	Unité de Coordination de la Lutte Anti-Terroriste	
UNE	Unité Nationale de l'Office Européen de police	