

**COUNCIL DECISION****of 30 March 2004****concerning the conclusion of the Agreement between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters**

(2004/634/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof, in conjunction with Article 300(2), first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters <sup>(1)</sup> (CMAA) provides for the possibility of its expansion with a view to increasing the levels of customs cooperation and supplementing them by means of agreements on specific sectors or matters.
- (2) The Commission has negotiated on behalf of the Community an agreement with the United States of America intensifying and broadening the CMAA to include cooperation on container security and related matters (the Agreement).
- (3) The Agreement expands the customs cooperation between the Community and the United States of America to cover container security and related matters. It envisages the prompt and successful expansion of the Container Security Initiative to all ports in the Community that meet relevant requirements. The Agreement also sets out a work programme for further implementation measures, including the development of standards for risk management techniques, information required to identify high-risk shipments imported into the Parties, and industry partnership programmes.
- (4) The external coordination of customs control standards with the United States of America is necessary to ensure supply chain security while guaranteeing the continued
- (5) Member States should have the possibility to expand the Container Security Initiative to all Community ports through arrangements with the United States of America identifying Community ports that participate in the Container Security Initiative and providing for the stationing of US customs officials therein or to maintain any such existing declarations of principles to that end, provided these arrangements are in conformity with the Treaty and compatible with the CMAA as expanded by the Agreement.
- (6) It is necessary to ensure close cooperation between the Member States and the Community institutions for the purpose of further intensification and broadening of the customs cooperation under the CMAA as expanded.
- (7) To that end a consultation procedure should be established whereby Member States envisaging to negotiate arrangements with the United States of America on matters covered by the CMAA as expanded would immediately notify such intention and provide the relevant information. If so requested by a Member State or the Commission within short time limits the information should be the subject of consultations between the Member States and the Commission.

flow of legitimate trade in containers. In particular, it is essential to ensure that all Community ports can participate in the Container Security Initiative on the basis of uniform principles and that comparable standards are promoted in United States (US) ports. Thus, the direct aim and content of the Agreement concerns the facilitation of legitimate trade between the Community and the United States of America while ensuring on a reciprocal basis a high level of security by allowing for cooperation in developing actions in specific control areas in respect of which the Community has competence.

<sup>(1)</sup> OJ L 222, 12.8.1997, p. 17.

- (8) The main purpose of the consultations should be to facilitate the exchange of information and to ensure that the arrangements are consistent with the Treaty and with common policies, in particular the common framework of cooperation with the United States of America set out in the CMAA as expanded.
- (9) Where the Commission considers that an arrangement that a Member State wishes to implement with the United States of America is incompatible with the CMAA as expanded or that the subject matter should be addressed in the framework of the CMAA as expanded, it should inform the Member State accordingly.
- (10) The consultation procedure should be without prejudice to the respective competencies of the Member States and the Community to conclude the arrangements envisaged.
- (11) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters (the Agreement) is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community.

*Article 3*

1. Member States may maintain or conclude arrangements with the United States of America in order to include Community ports in the Container Security Initiative. Any such arrangement shall make reference to the CMAA as expanded

and comply with the latter, including minimum standards once they are adopted.

The Commission and the Member States concerned may consult each other in order to ensure that such arrangements comply with the CMAA as expanded.

2. Before a Member State commences negotiations on arrangements with the United States of America relating to matters other than those referred to in paragraph 1 but covered by the CMAA as expanded, it shall notify the Commission and the other Member States and provide any relevant information with the notification.

3. Member States or the Commission may request, within eight working days of the receipt of the notification, consultations with the other Member States and the Commission. Such consultations shall take place within three weeks of the receipt of the notification. Where the matter is urgent, consultations shall take place without delay.

4. The Commission shall, no later than five days after the conclusion of the consultations, give its written opinion on the compatibility of the arrangements notified with the CMAA as expanded, including, where appropriate, the need to address the matter in the framework of that Agreement.

5. The consultations shall take place within the Committee established by Article 247 of Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>.

6. Member States shall transmit to the Commission and to the other Member States a copy of the arrangements referred to in paragraphs 1 and 2, as well as any denunciation of, or amendments thereto.

Done at Brussels, 30 March 2004.

*For the Council*  
*The President*  
M. McDOWELL

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).