



Cash Controls

Karl Elsner & Dainius Averka

Customs Policy and Customs Controls



Why a Community-wide approach?

- At present, not all Member States monitor cross-border cash movements
- Existing national procedures – if any – vary greatly
- A co-operated control action (arranged by EU customs authorities from September, 1999 to February, 2000) revealed a considerable amount of € 1,35 billion cash movements for sums greater than € 10,000



Why a Community-wide approach?

Therefore there is a need to:

- Harmonise the rules assuring the same level of cash control in the Community
- Avoid undermining the effectiveness of other money laundering controls (Directive 93/3081 EEC, replaced by Directive 2005/60/EC)
- Fulfil internal obligations (special recommendation IX of the Financial Action Task Force for Money Laundering and Terrorist Financing (FATF))
- Prevent existing legislation loopholes that might be exploited by criminals



Legal background

Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community*

Date of entry into force: 15 December, 2005

Date of application: 15 June, 2007

*Official Journal L 309 , 25/11/2005 P. 0009 - 0012



The meaning of cash

- Bearer-negotiable instruments including monetary instruments in bearer form such as travellers cheques, negotiable instruments (including cheques, promissory notes and money orders)
- Currency (banknotes and coins that are in circulation as a medium of exchange)

The main elements of control

- Any natural person entering or leaving the Community and carrying cash of a value of € 10,000 or more will be obliged to declare that sum (in writing, orally or by electronic means) to the Customs authorities

- Powers of customs authorities:
 - control on persons, their luggage and their means of transport
 - detain cash that has not been declared

Details to declare

- Personal details of the declarant
- Owner of cash
- Intended recipient
- Amount and nature of cash
- Provenance and intended use
- Transport route
- Means of transport



The main tasks for the Customs

- Information obtained through declaration or through control shall be recorded and processed by the competent authorities
- Recorded information shall be made available to the Financial Intelligence Units of the Member State of entry or exit
- If cash is related to illegal activities (money laundering or terrorist financing) information may be transmitted to other Member States (Regulation (EC) No 515/97 on mutual assistance)
- If fraud or any other illegal activity affecting the financial interests of the Community, Commission has to be informed
- In particular situations, information obtained under the Regulation may be communicated by Member States or Commission to third countries



Consequences if cash is not declared

- Member States shall introduce (administrative) penalties. Such penalties must be:
 - effective
 - proportionate
 - dissuasive

- Member States shall notify the Commission of the penalties applicable by 15 June, 2007

Practical implementation

- Commission will work with Member States and business to propose suitable working approach:
 - best practise methodology
 - meetings with experts for the exchange of experience and knowledge
 - awareness raising with business