Customs Enforcement Network (CEN) database perspective: A case study

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Abstract

Although the first Regional Intelligence Liaison Office (RILO) was established in 1987 there is no reliable data on the effectiveness of the program. A similar situation exists in the case of the Customs Enforcement Network (CEN) database, even though it is the only central depository of Customs seizures worldwide. This paper focuses on the purpose and meaning of these initiatives from an enforcement perspective; these tools have been around for 30 years and so it is timely to consider whether a redefinition and new approach to these intelligence-related initiatives are needed. The paper presents the general background, the outcomes of a survey on the CEN database, and proposals for future improvement.

Introduction

The main goal of each customs administration is to control the international trade of goods and customs crimes, which, by their nature, are international. Various types of customs offences occur on all continents and at all customs borders. The task of customs services is to combat these crimes and reduce them. For this purpose, there are both legal instruments, such as international conventions (e.g. Johannesburg Convention, Nairobi Convention and Naples II Convention) and institutional instruments. The only international organisation that specialises in customs cooperation to effectively combat customs offences is the World Customs Organization (WCO; known as the Customs Co-operation Council until 1994). The WCO has created institutional instruments that take advantage of electronic and information and communication technologies (ICT) to improve customs cooperation. The most effective of these are the Customs Enforcement Network (CEN)—a system for the exchange of information using the internet— and the Regional Intelligence Liaison Offices (RILOs), although the effectiveness of these initiatives has not been studied scientifically. This article not only presents the principles of the RILOs in the information exchange process, but the conclusions of the first pilot study on the effectiveness of the functioning of these offices.

Definitions—legal perspective

Before presenting the empirical section of this article, it is important to identify and order the most essential definitions associated with customs crimes. This will serve to avoid any misunderstanding. This section is based on Czyżowicz (2015).

Each classification is based on defined criteria. The following terms appear in specialist dictionaries of law under the category of 'crime':

- 'Crime is an action or omission that constitutes an offense that may be prosecuted by the state and is punishable by law' (The Oxford Essential Dictionary of Legal Words, 2004, p. 63).

- 'Crime: 1. an act which is against the law and which is punishable by law; 2. illegal acts in general' (Collins Dictionary of Law, 2004, p. 78).
- 'Crime: 1. conduct that is prohibited and has a specific punishment (as incarceration or fine) prescribed by public law…; 2. an offense against public law usually excluding a petty violation...; 3. criminal activity' (Merriam Webster's Dictionary of Law, 1996, p. 114).
- 'Crime is a wrong that the government has determined is injurious to the public and that may therefore be prosecuted in a criminal proceeding. Crime includes felonies and misdemeanors' (Friedman, 1994, p. 137).
- 'Misdemeanor class of criminal offenses less serious than felonies and sanctioned by less severe penalties' (Friedman, 1994, p. 387).[1]

In some cases, the terms 'infringement' or 'offence' are used: 'Infringement – an act of breaking a law or a right', and 'Offence – an illegal act' (Collins Dictionary of Law, pp. 154, 206).[2]

In fact, there are many other definitions of 'crime', such as crime offence, criminal offence, legal offence: breaking a criminal law; an act punishable by law, usually considered an immoral act.

Applying the general definition of crime towards the international trade in goods we can use the category 'customs crime'. In this situation we may define 'customs crime', 'customs offence' or 'customs infringement', as 'any violation of Customs law or Customs regulations and may be subject to penalties or legal proceedings'.

From the literature on legal terminology, it can be seen that there is no category for customs crime, customs infringements or customs offences. In discussing the classification of customs offences, Ovchinnikov (2015, p. 221) wrote:

> The customs offenses on degree and character of the public harm are divided into the customs crimes and offenses (the administrative offenses in customs affairs, the violation of the customs rules). This differentiation is carried out in the national legislation and some acts of the Customs Unions.

According to Ovchinnikov (2015), it is possible to categorise the features of a customs offence as follows:

- material: these acts are connected with conveyance of goods across the customs border (e.g. smuggling)
- documentary: these represent a violation of customs legislation (e.g. falsifying customs documents)
- procedural: these offences relate to customs practice and procedure (e.g. customs procedures with economic effects).

He also notes that there are some sources for identification of customs crime in customs international law and regulations. He pays special attention to the Revised Kyoto Convention—the *International Convention on the Simplification and Harmonization of Customs Procedures*.

The definition of customs offences under international customs law

The International Convention on the Simplification and Harmonization of Customs Procedures (WCO, 1999a) defines a customs offence as any violation or attempted violation of customs legislation.

According to Standard Rule 2 of this document, the national legislation defines customs offences and sets the conditions under which they can be investigated, established and, if necessary, be an object of an administrative settlement.

A similar definition of customs offence is presented in the International Convention on Mutual Administrative Assistance in the Prevention, Investigation and Suppression of Customs Offenses (WCO, 1999b).

This includes customs offences, such as the deception of Customs and smuggling. The deception of Customs refers to a customs offence where a person deceives Customs and partially or completely deviates from the payment of import or export duties and taxes, or avoids bans or restrictions established by customs legislation, or receives other benefits by infringing customs legislation. Smuggling means the deception of Customs by conveying goods across a customs border in any hidden form, and is, therefore, considered to be a deception of Customs.

The commentaries of the WCO to the Nairobi Convention (WCO, 1999b), when defining smuggling, includes cases where goods are hidden to avoid customs control as well as cases where goods are not hidden, but are not properly declared. Smuggling covers all means of conveying goods, including via international mail (Ovchinnikov, 2015, p. 221).

RILO Network as a unique mechanism of efficient enforcement

The concept of the RILO Network began with the creation of an office in the Asia Pacific region in 1987, with the intention to form a global intelligence network. The network currently covers six WCO regions and has 11 offices, which are located in the Asia Pacific, Caribbean, Central Africa, Commonwealth of Independent States, Eastern and Central Europe, Eastern and Southern Africa, Middle East, North Africa, South America, West Africa and Western Europe. The mission of the RILO is to 'ensure that the activities of their Members are in conformity with the rules of the WCO Global Information and Intelligence Strategy, the Recommendation of the Customs Co-operation Council on the operation of the Global Network of RILO (RILO Recommendation) and the guidelines'. The WCO Secretariat is the coordination point for the RILO Network.

The main activity of each office is to facilitate the exchange of information among different stakeholders representing customs services and other law enforcement agencies. The concept of the Global RILO Network might be considered on three levels: global, regional and national (see Figure 1), with every level having a unique body with particular responsibilities. According to recommendation No. 2 (WCO, 2004, p. 1),

> The exchange of intelligence at national, regional and international level must be improved in order to render enforcement action by Customs services more effective and to secure the optimum use of available resources. Therefore, RILOs were established to create a Global Intelligence Network. RILOs perform a variety of analytical tasks. They conduct regional risk assessments to identify new threats, new trends of smuggling, methods of concealment or modus operandi, and to disseminate the results to their members and to the WCO Secretariat.

Figure 1: The concept of a Global RILO Network
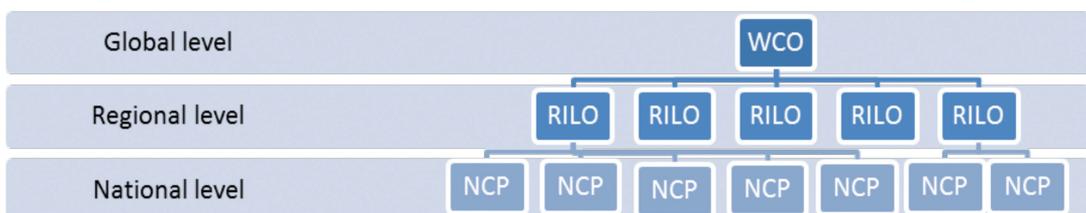
Source: Rybaczyk, 2016.

At the global level is the WCO Secretariat, whose main tasks are to maintain and continue to develop the Customs Enforcement Network (CEN) database. Moreover, as a central body the WCO Secretariat is responsible for monitoring the data entered into the CEN on a global level and publishing reports based on the information collected. The WCO Secretariat should also provide training and technical support to the RILO Network and to affiliated countries. The Secretariat is also in charge of cooperation with other international organisations at a strategic level (WCO, 2003b).

At the regional level there are 11 RILOs located in different parts of the world. The regional offices are responsible for arranging nominations of National Contact Points (NCPs) within the region, while their task related to the CEN is to validate the seizure information reported in the database. RILOs are also required to gather, evaluate and distribute information about offences and produce reports and analysis.

The national level includes NCPs, which refer to people, cells or units that are responsible for entering customs offences into the CEN database. The NCPs should also analyse patterns, smuggling trends and methods, and forward this information to the RILOs for regional circulation.

In order for the members of the WCO to fulfil their responsibilities and comply with Chapter 7 of the Revised Kyoto Convention (which speaks about application of information technologies with the intention of supporting customs operations [WCO, 2006]), the WCO Secretariat has established a special set of applications and electronic tools, such as the nCEN and CENcomm, which, along with the CEN database, make up the CEN Suite.[3] This issue will be discussed later in the article.

Both the CEN database and the RILOs have been classified under the WCO's Networks and Technology of the Compliance and Enforcement Package (WCO, 2015a, p. 11). This match demonstrates that the technical and networking aspects of exchange of information are interdependent. In fact, the RILO Network might be perceived as integral to the CEN database.

CEN database as a central depositary for enforcement-related information

It is important to discuss the key features of the CEN database in the context of reconsidering the purpose of this tool. The initial assumptions were closely connected to the statistical aspects of the database.

The CEN database was set up to create an information system for data exchange and to facilitate communication between customs services, focused on enforcement requirements. It became operational in July 2000 and was based on the RILO Customs Information System (CIS), using more modern technology that offers new opportunities to improve and increase the exchange of information between customs services. The CEN database was designed to assist with the creation of strategic and tactical analysis of customs offences and was set up in a cost-effective way (WCO, 2012b).

The new version of the CEN database was presented in 2011 and, today, more than 2,197 customs officers worldwide have access to the CEN database. There are analytical instruments available within the CEN database, with their main goal being to provide analysis on global trends, patterns and risk indicators. At this point the question that should be raised is how reliable are the analyses based on supportive data?

Another tool from the CEN suite is the national version of the CEN database. It allows the users to collect the seizure information at a domestic level. Finally, the CENcomm system was developed to allow the exchange of information among the closed user group of officers during joint customs operations or projects.

CEN database survey

Background of the survey

The survey was developed as 'one seizure, one report', which is still an unattainable model. This concept has been of interest to the public sector, particularly customs services worldwide, for many years. Improvements in the work of customs administrations in order to achieve more efficient and modern organisations may contribute to strengthening the fight against customs crime.

Most people have at least one login and password and those who work in the public sector, including customs administrations, have access to at least one database. Therefore, the question is not whether to use the database, but how to use it in the most efficient way. In order to determine that, we need a clear indication of the purpose of the database and the expected results from using the database. These indicators have a direct impact on the content of the database. As a database is only as good and as useful as the quality of the data input, the better the quality of the data, the better the analysis will be.

The importance of this topic has been stressed by Mr Kunio Mikuriya, the Secretary General of the WCO. On International Customs Day, he announced the WCO slogan 'Digital Customs: Progressive Engagement' (WCO, 2016), which was to be used during 2016. Moreover, the significance of ICT in Customs work was cited in a letter to Directors General in which the Secretary General referred to 'enhanced detection of irregularities and illicit consignments through effective collection and analysis of data' (WCO, 2015d). Again, the first and essential step is to gather the data and to use it in the most relevant way.

Methodology

The survey was sent out via email to the NCPs of every country affiliated with the RILO Network. The target group was selected according to their knowledge and level of familiarity with the WCO tools. Only the user of a respective database knows its requirements, and where the gaps are. In this case the widest knowledge in the tested area is held by NCPs representing the WCO member states.

The survey was divided in two thematic blocks: one referring to the Global RILO Network and the second to the CEN database. In total, 23 countries affiliated to the six different RILOs completed the questionnaire. It is important to mention that the survey was provided in English only and in some RILOs the members use different languages (e.g. in the RILO Commonwealth of Independent States the members speak Russian; in the RILO Middle East there are Arabic-speaking countries; in RILO South America there are Spanish-speaking representatives; and in some RILOs representing Africa the most common language is French). It is also worth mentioning that in some parts of the world the internet connection is not strong enough and the use of the CEN database is still under development. Furthermore, not all customs officers have sufficient knowledge about operating the database. The above-mentioned circumstances and barriers must be taken into account when analysing the results of the survey.

Figure 2: Percentage of affiliation of the responding countries, broken down by RILO region

■ RILO WE ■ RILO ME ■ RILO AP ■ RILO ECE ■ RILO SA ■ RILO CA
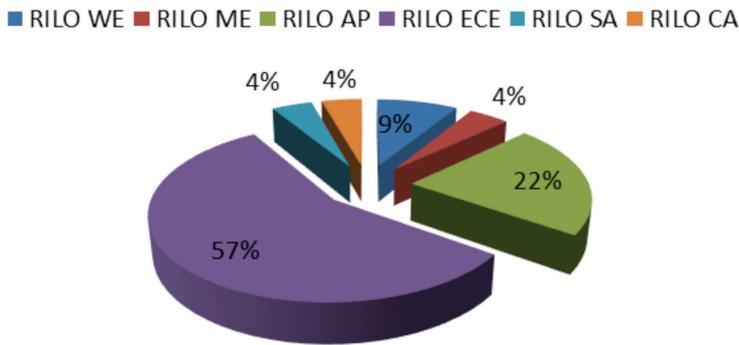
Source: Rybaczyk, 2016.

Survey results

The questionnaire consisted of 15 questions, with the final question being open-ended. As mentioned previously, the questions were grouped into two equivalent blocks: Global RILO Network and CEN.

The first question was: What is the role/value/purpose of the information/intelligence information within the Global RILO Network (GRN)? Taking into consideration some specific features of the customs administration, the value of the information in decision-making processes has been confirmed by five respondents representing five different customs administrations. However, 15 of the 23 respondents believe that intelligence information in customs administration is useful for targeting and profiling, but is also beneficial in risk management units. This approach shows that the profile of respondents was customs-enforcement related.

The answer is especially interesting when considering the general definition of intelligence formulated by the Federal Bureau of Investigation (FBI). According to the FBI 'intelligence is information that has been analyzed and refined so that it is useful to policymakers in making decisions—specifically, decisions about potential threats to our national security' (FBI, n.d.). In addition to this simple definition there are three different meanings of the word 'intelligence':

1. Intelligence is a product that consists of information that has been refined to meet the needs of policymakers.

2. Intelligence is a process through which that information is identified, collected, and analysed.

3. Intelligence refers to both the individual organisations that shape raw data into a finished intelligence product for the benefit of decision makers and the larger community of these organisations.[4]

Based on the above definitions, it is clear that intelligence is a raw material that needs to be processed. Its main goal is to assist in the decision-making process.

Coming back to the outcomes of the survey, it is important to keep in mind that the answers were given by NCPs who are mostly responsible for the operational side of customs work, rather than management units. Presumably, their decisions are made on the basis of national databases which are much more relevant in this regard. At this point it is worth mentioning that some countries see only statistical aspects of possessing the information within the Global RILO Network. In this case, there are two different

explanations: the customs officers in poorly developed economies have insufficient knowledge to analyse the data and their awareness of intelligence products is relatively low, while in other countries with well-developed national databases, the officers are interested only in numbers. Those countries use the CEN database for statistical purposes only.

In discussing the purpose of the customs intelligence information it is hard not to mention the features required for the information. The second question in the survey was devoted to the most important features of intelligence information. Survey results indicate that the most challenging issue is that the data are too old, incomplete or inconsistent, and do not reflect the current global situation. For responding countries, useable information is their prime concern. However, respondents from 14 countries mentioned that the features related to the time constraints are most important, indicating that the information must be current as well as in real time. This last aspect is connected to the quality of the data, which should be accurate and comprehensive. It is clear that, in order to prepare a valuable intelligence product that will assist decision makers, there needs to be a high quality of data input.

The next question from the section of the survey devoted to the RILO Network was designed to find out what kind of information was most valuable for customs administrations, and how this information was perceived. The question was presented in a table with a list of priorities, such as: use of technical device, route, detection method, courier/offender, consignor/consignee, conveyance, concealment, declared goods and other.[5]

It is important to consider the world in the context of a global village as well as state borders. It is not surprising, then, that 'route' turned out to be a very important issue for most of the respondents, regardless of their region. On the scale of zero to five, where zero represents no importance and five represents high importance, 70 per cent of the respondents rated 'route' as a five.

Other information of great value for customs officers relates to 'courier'. This is particularly significant for administrations in which drugs are a high priority. The knowledge about the offender is essential. A similar conclusion might be drawn when considering the concealment method. This attribute is mostly connected to the countries where tobacco seizures are made on a regular basis, such as in the Balkans and Eastern European countries.

Among the countries which took part in the survey, the use of technical devices is viewed as non-essential, but the detection method, such as risk profiling, routine control, tip-off and intelligence investigation, is considered worth knowing.

For the majority of the countries, the information about the consignee and consignor is important. It is worth mentioning that the CEN database contains only non-nominal data; otherwise the results of the survey may have been even more beneficial on this issue.

The responding countries also perceived information on conveyance as important. This seems to be clear when considering the international movement of goods. However, although customs work is about traffic of goods not people, the data on declared goods was not the most important area in intelligence information. Moreover, a number of countries mentioned photographic material as another valuable sphere important in customs crime prevention. Regarding the content and its extension it is important to obtain as much detailed information as possible, as this is the only way to create suitable risk profiles and to make the input data useful in targeting offenders. Admittedly, the CEN database consists of non-nominal data, however the users of the application have repeatedly mentioned the need to obtain the personal data about the offender. This aspect of the database was revealed by the respondents, regardless of the country and RILO region.

Considering the Global RILO Network in the context of exchange of information between the affiliated countries, opportunities and risks were also raised in the questionnaire (Q5 and Q6 in a form of free text). According to the SWOT matrix, when debating the future existence of the entire RILO Network,

there were some opportunities and threats that must be identified. This identification might help in the further development of the network on the one hand, and in avoiding identified potential future risks on the other.

Among the identified opportunities were tasks that are directly linked to the RILO recommendations, such as the exchange of information among countries, as well as between the RILOs. The operative role of the intelligence offices was also mentioned in the context of future opportunities. Clearly, there is a need to enhance the information and experience-sharing mechanisms. In other words, only by improving the international cooperation and by facilitating the regional networking will the RILO Network become a vital platform to help the law enforcement units in combating customs crime. The rapid exchange of information would be beneficial for all customs administrations that are involved in the network, especially when taking into consideration the time needed to exchange the information by means of the Mutual Administrative Assistance in Customs Matters.[6]

With regard to the threats linked to the RILO Network the most significant one identified by respondents was related to employment problems: the lack of staff and, even more noteworthy, the lack of commitment of the employees of the RILO. The WCO, as a member-driven organisation, is bound to fail if staff are not engaged. As a consequence, this may lead to police forces taking over customs responsibilities, which would be detrimental in the long term.

The next questions were related to the section of the survey dedicated to the CEN database. In order to gather knowledge about the activity of respondents in a CEN environment, the seventh question was: 'How many times per week do you usually utilise the CEN database?'.

Among the respondents from different customs administrations, 65 per cent indicated that they log into the CEN database on a regular basis (i.e. at least once per week). The majority of the remaining respondents use the database every month, while three respondents indicated that they log into the CEN database less than once per month. This situation might arise due to the other responsibilities of the NCPs within their home administrations.

The next question was devoted to the main purpose of logging into the CEN database and the outcome seems to be very relevant in the context of redefinition of the existing database. Only three countries use the CEN database for analytical purposes. Fifty per cent of the countries use the database for entering seizure messages only, and they do not use it to make any kind of query or analysis. The remaining respondents indicated that, in their countries, they use the database for both purposes. This result gives a very clear impression that either the CEN users do not need the database to make queries, or the quality of the reported data is not good enough. Nowadays it is difficult to believe that with such well-developed risk analysis and targeting systems, there are customs administrations that do not see the need to create queries. It leads to a simple conclusion that the data are too poor and not sufficiently useful. So the question is, what should be done in order to improve the usefulness of the databases?

The topic which is closely connected to the best use of the database relates to the RILO tools and their influence on the number of seizures in the CEN database. It is a question of whether the CEN database and other RILOs tools (alerts, reports, operations, projects) influence the number of seizures in the respective countries. According to the results of the survey, it appears that the number of seizures increases rapidly every time a joint customs operation is conducted. Again, this shows how much the users of a CEN database value the statistical aspect of the application. Customs operations definitely have a big influence on the statistics. However, it is important to consider the causes of the increase in the number of seizures. Most likely the obligation of reporting the seizures explains the apparent increased number of cases. However, the number of cases do not, in fact, increase; it is only that the officers were encouraged to report the detections. In 48 per cent of the responding countries, the NCPs did not notice the influence of any instruments on the number of cases entered into the database. The conclusion which can be drawn is that it would be difficult to offer additional features in the database if they do not have

an impact on results. Among other responses, the alert message is seen as an efficient tool, raising a number of seizures in a particular country affiliated to the RILO Network. Moreover, in order to lead to successful cases, the NCPs prefer the analysis on current smuggling trends, *modus operandi*, new methods of smuggling or concealment, and new routes.

The next question asked about the ways of presenting the information within the RILO Network. The alert seems to be the most preferable instrument. This again is a confirmation that the users expect much more operative solutions from the managers of the CEN database. Definitely, the customs officers prefer the shorter forms of presenting the information.

Respondents emphasised that the increase in the number of publications is considered undesirable among the officers playing the role of NCPs to the RILO. Overall, the originators should be careful about generating the reports, and the number of publications should not increase as there are many other sources of information available. The respondents also mentioned other ways to present the information, with threat assessments, operational reports and monthly bulletins considered to be efficient tools. In turn, monitoring project reports is seen as of little use.

In the framework of the survey, cooperation between customs administrations worldwide was mentioned. The questions were: 'With which countries do you cooperate most frequently?' and 'How many times per week?'. Even though the world can be considered a global village, it appears that the strongest cooperation is between neighbouring customs administrations and with big global exporters and importers, such as the USA, Germany and China.

Regarding the channel through which the information is transmitted, two possibilities were provided: traditional versus electronic channels. Results indicate that respondents use both of these channels. Moreover, it was stressed that in urgent matters the telephone is still a preferable method of contact indicating that, in a world of ICT, the traditional channels have not been fully replaced by new technologies.

Finally, in order to form a complete picture of the exchange of information worldwide, it is necessary to touch upon the origin of information. The question was: 'What are the sources of information that help in carrying out your daily duties?'. The most common source of information for customs officers is other customs administrations, followed by alerts and analytical reports. Significantly, the respondents emphasised the value of keeping in contact with other government authorities within the country,[7] particularly cooperation with national police and, for a small number of respondents, relations with experts and the private sector. Of concern is that only four countries included consultations with academia. Certainly, one of the objectives of modern customs administrations should be to raise the awareness of customs officers of the benefits of such cooperation.

Conclusions

One of the aims of the survey was to encourage the users of the CEN database to rethink its purpose. NCPs all over the world take for granted the CEN database as a central depository for enforcement-related information. Giving legal status to the CEN system is considered to be one of the benefits of the Johannesburg Convention. There shows the potential value that might be assigned to the CEN database. But the question is how these potential opportunities may be utilised.

Based on the results of the survey the information flow chart may be delineated. There is no doubt that the exchange of information is a management process, as is the management of the information flow. Additionally, the information flow among customs administrations highlights the supranational nature of this movement, and it is important to note that the information exchange operates across national borders. The information contained in the national databases is commonly used in risk management units, while the information held within the CEN database and the RILO Network is usually used to

prepare reports. A proper management of the information flow and usage may contribute to a better utilisation of the CEN database and the RILO Network. It is also important to identify the weakest links and the requirements needed to enhance the process.

When considering customs administrations worldwide and the supranational nature of these institutions, it is important to mention the main requirement, which is cooperation: cooperation with other agencies within the country as well as international cooperation, especially with neighbouring countries and countries that are large importers and exporters, such as the USA, Germany and China. The Joint Customs Operations help the customs officers to identify their position in the international fora and to learn how to exchange information in an international environment, thereby demonstrating the added value of such exchange. The operational activities also raise the number of reported seizures, and alerts are efficient in this regard. In general, a shorter form of presentation of customs-related information is preferable.

The threat to the effectiveness of information management across borders is a lack of feedback. Since the information is useful mainly for profiling, targeting and risk management, willingness and a commitment to exchange data must be shown. Moreover, in the framework of the RILO Network, a high quality of the data reported by NCPs is essential, since without reliable data, the outcome will also be unreliable.

Finally, one of the main issues which plays a vital role is timeliness. The information exchange must be performed in a timely manner as dated information is of little use from an operational point of view.

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Notes

1   'Felony an old term for a serious crime', Collins Dictionary of Law, p. 121. More precisely: 'felony is a crime that has a greater punishment imposed by statute on misdemeanor; specif: a federal crime for which punishment may be death or imprisonment for more than a year', Merriam Webster's Dictionary of Law (p. 191), and a similar definition in the Oxford Essential Dictionary of Legal Words (p. 111).

2   Similar to 'offense' in The Oxford Essential Dictionary of Legal Words, p. 196.

3   The CEN Suite Brochure consists of three independently existing IT tools developed by the WCO Secretariat in order to fight against transnational crime (WCO, 2015b).

4   There are different meanings of the word 'intelligence'. For the purpose of the papers the definition of the word 'intelligence' was defined according to the FBI terminology and is commonly used by the U.S. Intelligence Community; https://www.fbi.gov/about/leadership-and-structure/intelligence-branch

5   The listed areas have been formulated based on a 'new seizure template' from the CEN database which is applicable regardless of the type of commodity.

6   A type of information related to the customs offences is widely described under Chapter IV of the Johannesburg Convention, http://www.wcoomd.org/en/topics/enforcement-and-compliance/instruments-and-tools/~/media/WCO/Public/Global/PDF/About%20us/Legal%20Instruments/Conventions%20and%20Agreements/Johannesburg/Internconvmutualadmineng2003.ashx

7   This is in line with the 3rd pillar of the SAFE Framework of Standards which has been enhanced by Customs and other governmental agencies and which entered into force in June 2015.

Wieslaw Czyżowicz

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