

# Procedure file

Basic information		
CNS - Consultation procedure	<a href="#">2001/0829(CNS)</a>	Procedure completed
Customs: information technology, files identification database. Initiative Germany, Belgium and France		
Subject 2.10.01 Customs union, tax and duty-free, Community transit		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Citizens' Freedoms and Rights, Justice and Home Affairs		11/09/2002
		<b>PPE-DE</b> <a href="#">HERNÁNDEZ MOLLAR Jorge Salvador</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>BUDG</b> Budgets	The committee decided not to give an opinion.	
	<b>CONT</b> Budgetary Control	The committee decided not to give an opinion.	
	<b>JURI</b> Legal Affairs and Internal Market	The committee decided not to give an opinion.	
	<b>ITRE</b> Industry, External Trade, Research, Energy	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2504</a>	08/05/2003

Key events			
09/11/2001	Legislative proposal published	<a href="#">13187/2001</a>	Summary
10/12/2001	Committee referral announced in Parliament		
10/12/2002	Vote in committee		
10/12/2002	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0450/2002</a>	
18/12/2002	Decision by Parliament	<a href="#">T5-0617/2002</a>	Summary
08/05/2003	Act adopted by Council after consultation of Parliament		
08/05/2003	End of procedure in Parliament		
13/06/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2001/0829(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legal basis	Treaty on the European Union (after Amsterdam) M 039-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/15525

Documentation gateway					
Supplementary legislative basic document		<a href="#">13202/2001</a>	05/11/2001	CSL	Summary
Legislative proposal		<a href="#">13187/2001</a> <a href="#">OJ C 328 23.11.2001, p. 0012</a>	09/11/2001	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0450/2002</a>	10/12/2002	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0617/2002</a> OJ C 031 05.02.2004, p. 0160-0171 E	18/12/2002	EP	Summary
Implementing legislative act		<a href="#">42003A0613(01)</a> <a href="#">OJ C 139 13.06.2003, p. 0002-0008</a>	08/05/2003	EU	

Additional information	
European Commission	<a href="#">EUR-Lex</a>

Final act
<a href="#">Justice and Home Affairs act 2003/613</a> <a href="#">OJ C 139 13.06.2003, p. 0001-0001</a> Summary

## Customs: information technology, files identification database. Initiative Germany, Belgium and France

In an accompanying memorandum, the French, German and Belgian delegations present a detailed explanation of the provisions of the proposed initiative. The Memorandum also concerns the financial statement which estimates the possible costs of the creation of a customs files identification database (or FIDE). This ranges from EUR 540 000 to EUR 1 680 000 maximum per annum. ?

## Customs: information technology, files identification database. Initiative Germany, Belgium and France

**PURPOSE :** Initiative of France, Belgium and Germany on the creation of a customs files identification database **CONTENT :** The customs identification system is to contain a customs file identification database (FIDE), the aim of which is to enable Member States' services competent to carry out customs investigations opening a file on or investigating a person to identify the competent service of the other Member States which are investigating that person, to assist in the detection and prosecution of serious breaches of law relating to non-harmonised excise duties. The database will contain a central database which can be directly accessed by all the Member States. The Commission will ensure the management of the technical infrastructure. Data obtained from the database may be communicated to third countries or international organisations only with the prior authorization of and subject to any conditions imposed by the Member State which entered them into the system. There are rules on the retention of data, which are subject to more restrictive national provisions. Generally, data relating to current investigation files may not be retained beyond one year after the last investigative act is completed. Retention may under no circumstances exceed three years if no infringement has been established in that time.?

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The European Parliament adopted a resolution based on the report by Jorge Salvador HERNANDEZ MOLLAR (EPP-ED, Spain) and made some amendments to the French, Belgian and German initiative. These mainly emphasised the right of individuals to protection of personal data. An article is inserted to the effect that Member States must guarantee a level of personal protection of data which is at least equivalent to that afforded by the Europe Convention of 1981. Member States must guarantee individuals the right to obtain definitive information that the FIDE contains data concerning them, and details of that data.?

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**PURPOSE :** to draw up a Protocol amending the Convention on the use of information technology for customs purposes. **COMMUNITY MEASURE :** Council Act drawing up a Protocol amending, as regards the creation of a customs files identification database (FIDE), the Convention on the use of information technology for customs purposes. **CONTENT :** the Council adopted the Act drawing up a Protocol amending the CIS (Customs Information System) Convention as regards the creation of a customs files identification database. By adopting the Protocol, the Council implements the conclusions of the Tampere European Council of 15 and 16 October 1999, which stressed that maximum benefit should be derived from co-operation between the Member States' competent authorities when investigating cross-border crime (No 43 of the conclusions), a balanced development should be achieved of Union-wide measures to fight crime while at the same time protecting the freedom and the constitutional rights of individuals as well as of economic operators (No 40 of the conclusions), and serious economic crime increasingly includes aspects of tax and customs law (No 49 of the conclusions). More specifically, the Customs Information System shall contain data in a special database, hereinafter referred to as 'the customs files identification database'. The aim of the customs files identification database shall be to enable the national authorities responsible for carrying out customs investigations, when opening a file on or investigating one or more persons or businesses, to identify competent authorities of other Member States which are investigating or have investigated those persons or businesses, in order, through information on the existence of investigation files. For the purposes of the customs files identification database, each Member State shall send the other Member States a list of serious infringements of its national laws. Three new chapters have been included : 1) the creation of a customs files identification database : the aim of the customs files identification database shall be to enable the national authorities responsible for carrying out customs investigations, when opening a file on or investigating one or more persons or businesses, to identify competent authorities of other Member States which are investigating or have investigated those persons or businesses, in order, through information on the existence of investigation files, to achieve the aim of this amending Act. For the purposes of the customs files identification database, each Member State shall send the other Member States and the committee a list of serious infringements of its national laws. This list shall comprise only infringements that are punishable: - by deprivation of liberty or a detention order for at least 12 months, or - by a fine of at least EUR 15000. If the Member State retrieving data from the customs files identification database requires further information on the stored investigation file on a person or a business, it shall request the assistance of the supplying Member State on the basis of the instruments in force relating to mutual assistance. 2) Operation and use of the customs files identification database : the competent authorities shall enter data from investigation files in the customs files identification database for the purposes set out in this Act. 3) Period of retention of data in the customs files identification database : Storage periods shall be determined in accordance with the laws, regulations and procedures of the Member State introducing the data. However, the following time limits, starting on the date on which the data were entered in the file, shall on no account be exceeded: - data relating to current investigation files shall not be retained beyond a period of three years if it has not been established that an infringement has taken place within that time; the data shall be deleted before then if one year has passed since the last investigative act; - data relating to investigation files which have established that an infringement has taken place but which have not yet led to a conviction or to imposition of a fine shall not be retained beyond a period of six years; - data relating to investigation files which have led to a conviction or a fine shall not be retained beyond a period of 10 years. **ENTRY INTO FORCE :** This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements. This Protocol shall be open to accession by any State which becomes a member of the European Union and which accedes to the Convention.?