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NOTE

From: Maltese Delegation
To: Delegations

Subject: 8th Round of Mutual Evaluations - 'The practical implementation and operation of European policies on preventing and combating Environmental Crime'
Follow-up to the Report on Malta

As a follow-up to each Round of Mutual evaluations, each Member State is requested to inform the General Secretariat of the Council of the actions it has taken on the recommendations given to it.

A follow-up report should be submitted within 18 months from the adoption of the evaluation report concerned.

Delegations will find in the Annex the follow-up report of Malta regarding the recommendations that were made in the report ST 5518/1/19 REV1 for the Eighth Round of Mutual Evaluations.

Eighth Round of Mutual Evaluations on ‘The Practical Implementation and Operation of European Policies on Preventing and Combating Environmental Crime.’

The evaluation report on Malta, as set out in doc. 5518/1/19 REV 1, was adopted by the LEWP/COPEN WP on 19 March 2019. Based on the procedures set out in doc. 15538/4/15, Malta submits this follow-up to the recommendations made to it in the above-mentioned evaluation report.

Recommendation no. 1

Malta should consider setting up a more formal framework for cooperation in order to clearly lay down the roles and responsibilities of the competent authorities.

Malta takes note of this recommendation and reports the following:

A draft Memorandum of Understanding (MoU) between the Malta Police Force, the Customs Department, the Environment and Resources Authority (ERA) and Transport Malta, on waste inspections on land and waste shipments inspections within the territorial sea, was drawn up. Internal consultations thereon will commence shortly with the aim to conclude it by the end of the year.

This MoU will ensure a clear delineation of the distinct roles and responsibilities of the competent entities. It will also identify the focal point(s) of each entity. Once this MoU is finalised, it will be followed up by subsequent discussions with a view to documenting pertinent Standard Operating Procedures.

Recommendation no. 2

Malta should consider increasing the number and the efficiency of physical inspections of containers.

Malta takes note of this recommendation and reports the following:

Throughout 2019, there was a 50% increase in inspections with random inspections increasing in the past months. There are also plans to improve the quality and frequency of inspections.

With regards to exports, the Department of Customs monitors exports of waste, following the initial inspection and clearance by the ERA. It is to be highlighted that waste shipment inspections are held jointly by the Customs Department, the Police Force and the ERA.

All interventions on waste shipments (either for export or in trans-shipment) by the Department of Customs are based on a risk management process carried out by the risk management unit within this Department.

The Department of Customs already employs a robust radiation screening mechanism at the Malta Freeport emanating from six sets of radiation portal monitors. These cover around 80% of all containers discharged at this port and all containers released for free circulation, irrespective of the commodities contained therein. Another set is installed at the exit gate and covers all cargo being released for domestic consumption.

In addition, the Department of Customs also scans a number of containers that are either in trans-shipment, destined for domestic use or for export (when required) for the purposes of determining illicit cargo, including any illegal waste movements. However, unless these latter consignments are made up of a single commodity (such as computer monitors or used refrigerators), scans of waste products are likely to be inconclusive. A scan image cannot determine illegal waste movements within a mixture of products in one consignment.

Despite this, there are ongoing efforts to continue enhancing the good rate of inspections and scans. The Department of Customs took part in Operation Demeter VI of the World Customs Organisation from 21 September to 11 October 2020. A total of 61 containers were selected, and all Annex VII documents were produced and checked by the ERA. No illegalities were flagged. Furthermore, the Department of Customs took part in Operation Demeter VII from 1 to 31 October 2021. A total of 70 containers were selected, two of which did not provide Annex VII documents and were, hence, shipped back to the port of loading.

The Standard Operating Procedures that are in place between the Department of Customs and the Commission for the Protection from Ionising and non-Ionising Radiation (within the Occupational Health and Safety Authority) clearly stipulate that whenever inspections emanating from such alarms are to be invoked, the said Commission will take charge. The Civil Protection Department (CPD) also intervenes in cases where hazardous materials are detected. An MoU between the Commission for the Protection from Ionising and non-Ionising Radiation and the CPD is in place. This MoU has recently been updated to reflect changes in the legislation.

Recommendation no. 3

Malta should consider increasing the number of specialised staff for physical inspections of containers.

Malta takes note of this recommendation and reports the following:

All entities involved have taken note of this recommendation and was as a result being taken into account in the human resources planning, including by Customs Department and the ERA.

Recommendation no. 4

Malta should consider, as a matter of priority, developing a system to collect reliable and updated statistics on waste crime, including the number of notifications, investigations, prosecutions and convictions, as well as the number of administrative procedures and fines.

Malta takes note of this recommendation and reports the following:

In the Maltese context, the various stakeholders involved collect statistics pertinent to them and any such information can easily be made available. A centralised database is not considered necessary and feasible at this point in time given the nature of the offences detected and investigated (mostly offences which are not classified in Maltese legislation as being of a serious nature, such as littering).

Recommendation no. 5

In order to improve the detection rate of waste crimes, specialised training – including operational and investigative aspects – for the competent authorities is highly recommended; levels of awareness of Malta’s important role, due to its geographical and strategic position as a gateway to the EU internal market, should be increased.

Malta takes note of this recommendation and reports the following:

In terms of Maltese legislation, sub-regulation 1 of Regulation 20 of Subsidiary Legislation 549.63, the Waste Regulations, provides that *“any person who collects or transports waste on a professional basis, dealers, brokers and waste treatment operators shall possess the minimum qualification requirements as defined by the Competent Authority. These minimum qualification requirements will take the form of a course with a duration and curriculum approved by the competent authority. The competent authority shall only accept certification by recognised training agencies institutions”*.

Currently the Malta College of Arts, Science and Technology (MCAST) offers such courses.

Furthermore, training of staff at the ERA is carried out, mainly, in-house by its own experienced professional employees at least twice per year and includes training on identification of waste types, classification of hazardous waste and legal requirements concerning waste handling, management and disposal. The ERA delivers both intra-ERA training and training upon recruitment.

The Malta Police Force also take up training mainly by identifying relevant courses provided by CEPOL.

(poss.) GENERAL REMARKS

Malta has no additional general remarks.