



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL HOME AFFAIRS

The Director-General

Brussels, **15 NOV. 2013**  
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Your Excellency,

On behalf of all involved Commission's services, allow me to sincerely thank your authorities for their cooperation regarding the organisation and the realisation of the technical visit that the team of Commission experts paid to the crossing point of La Línea de la Concepción on 25 September 2013. I would like to express my gratitude for all the information that your authorities provided to the Commission before, during and after this visit.

I would like to recall that the aim of the visit was to observe checks on persons and goods operated by the respective authorities on entry and exit as well as to assess the situation with regard to the fight against tobacco smuggling. Other issues related to environmental matters which have been raised by Spain are dealt with by the responsible Commission services separately.

On the basis of the observations during the technical visit of 25 September 2013 and of the information provided by both authorities on that occasion, the Commission has not found evidence to conclude that the checks on persons and goods as operated by the Spanish authorities at the crossing point of La Línea de la Concepción have infringed the relevant provisions of Union law.

The management of this crossing point is nevertheless challenging in view of the heavy traffic volumes in a relatively confined space (some 35.000 persons crossing each day on entry and an equal number on exit, around 10.000 cars per day, as communicated by Spain) and the increase in tobacco smuggling into Spain. I therefore believe that the authorities on both sides could take further measures to better address these challenges. As concerns the United Kingdom, this would involve the following:

Developing risk-based profiling:

- Although the Gibraltar authorities acknowledged the severe problem related with tobacco smuggling at this crossing point and informed the Commission about existing legislation aimed at combating this phenomenon, the Commission experts noted during their visit that no checks on persons or goods were being carried out on exit from Gibraltar. The Commission thus recommends that

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Gibraltar ensures non-systematic and risk analysis-based checks on travellers and their belongings upon exit from Gibraltar at the crossing point of La Línea de la Concepción.

Optimising legislation and safeguards in view of contributing to an efficient fight against tobacco smuggling:

- The Gibraltar authorities are invited to consider reviewing the Gibraltar Tobacco Act, 1997 with a view to aligning it to EU legislation in respect of the Customs and tax allowances for travellers to the EU and the corresponding quantitative limits for importing tobacco products free of tax.
- The Gibraltar authorities are encouraged to take appropriate measures to ensure that imports of tobacco products into Gibraltar are commensurate with legitimate demand.
- The Gibraltar authorities are encouraged to ensure that all tobacco manufacturers supplying tobacco to customers in Gibraltar operate adequate supply chain controls.

Developing the exchange of information on tobacco smuggling:

It was noted that, in most cases, a tobacco smuggling offence discovered on import into Spain is also potentially an offence in Gibraltar in relation to the export and possibly also the sale of tobacco but there currently appears to be little or no formal exchange of information in these cases. The Gibraltar authorities are therefore encouraged to develop greater dialogue with their Spanish counterparts in relation to the exchange of intelligence on tobacco smuggling with a view to improving the enforcement capabilities of both sides in tackling the problem.

In all transparency I would like to inform you that I am also addressing recommendations to the authorities of Spain in view of contributing to smooth travel flows and developing the exchange of information on tobacco smuggling with the relevant counterparts.

Finally, as for any crossing point, the best results in fighting smuggling and cross-border crime as well as maintaining a smooth flow of traffic can be achieved through daily cooperation between the authorities working on each side of the border. I would therefore like to encourage the Gibraltar authorities to strengthen their constructive dialogue with their counterparts for this purpose and am making a similar recommendation to the Spanish authorities.

I would be grateful to receive information from the Gibraltar authorities on how the above recommendations have been taken into consideration within six months from the date of this letter. The Commission reserves the right to reconsider its position should the situation change or evolve and also to pay another visit to the crossing point of La Línea de la Concepción if appropriate in the future.

Yours faithfully,



Stefano MANSERVISI