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DOCUMENT 1-544/79

Report

drawn up on behalf of the Committee on Economic and Monetary Affairs

on the proposal from the Commission of the European Communities to the Council (Doc. 1-372/79) for a regulation amending for the second time Regulation (EEC) No 222/77 on Community transit

Rapporteur: Mr K. von WOGAU

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By letter of 27 September 1979 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 235 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation amending for the second time Regulation (EEC) No. 222/77 on Community transit.

By letter of 10 October 1979 the President of the European Parliament referred this proposal to the Committee on Economic and Monetary Affairs as the committee responsible and to the Committee on External Economic Relations for its opinion.

On 3 October 1979 the Committee on Economic and Monetary Affairs appointed Mr von WOGAU rapporteur.

It considered this proposal at its meeting of 21 November 1979 and unanimously adopted the motion for a resolution.

Present: Mr Delors, chairman; Mr Deleau, vice-chairman; Mr von Wogau, rapporteur; Mr Beumer, Mr Collomb, Mr Herman (deputizing for Mr Tindemans), Mr Lange (deputizing for Mr Walter), Mr Leonardi, Mr Moreau, Mr Notenboom (deputizing for Mr Schnitker), Mr Petronio and Mr Rogers.

The opinion of the Committee on External Economic Relations is attached.

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation amending for the second time Regulation (EEC) No. 222/77 on Community transit

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 1-372/79),
 - having regard to the report of the Committee on Economic and Monetary Affairs and to the opinion of the Committee on External Economic Relations (Doc.1-544/79),
1. Notes with satisfaction that the Commission has now put forward a series of proposals for the simplification of customs procedures, customs legislation and institutional methods for the treatment of customs questions which, in accordance with the Commission's own multiannual programme for the attainment of customs union (COM(79) 8 final, 9 March 1979) were to be put forward before the end of 1979;
 2. Regards this proposal as a major step towards simplifying the administrative formalities connected with internal trade;
 3. Calls on the Commission to put forward before 31 December 1980 a proposal amending the regulation on Community transit so that goods (1) freely circulating within the Common market, (2) not covered by the common agricultural policy and (3) not subject to taxes, other than value added tax, are exempted from formalities at the Community's internal frontiers; the recording and control of such goods and the calculation and collection of value added tax shall in this situation be based on companies' normal accounts and checks effected at the customs offices at the departure point;

¹ OJ No. C 241, 26.9.1979, p.6

- Insists however on the long-term objective of dispensing with all formalities in internal trade, which means for instance that the Community transit procedure will eventually become superfluous, and calls on the Commission to put forward the necessary proposals;
4. Stresses the need for guarantee exemption criteria to be based on objective criteria common to all Member States; in this connection steps must be taken to ensure that small and medium-sized undertakings are not unfairly treated;
 5. Repeats¹ that the list of goods still subject to the guarantee requirement should include as small a number of products as possible and be based on objective Community criteria;
 6. Believes it wrong to leave it to a committee of government representatives to take decisions on the nature of implementing directives; considers rather that Community transit procedure is an ideal area in which to apply the decision by the Heads of State and Government to make greater use of Article 155 of the EEC Treaty; hopes therefore that the Commission will be given full authority and responsibility for shaping Community transit procedure;
 7. Leaves it to the Commission to decide whether an advisory committee should be set up, and if so, what its composition should be;
 8. Stresses in this connection that, as a corollary to its increased powers under Article 155 of the EEC Treaty, the Commission should assume responsibility for devising an optimum Community transit procedure;
 9. Desires to exercise its political control over the Commission's implementation of the framework directive, receiving to this end an annual report from the Commission on the subject;
 10. Calls on the Commission to put forward proposals for amending Article 57 of Council Regulation No. 222/77 on Community transit on the lines set out in paragraphs 6-9 above;
 11. Urges the Commission to incorporate the following amendments in its proposal by virtue of Article 149, second paragraph, of the EEC Treaty.

¹ OJ No. C 7, 12.1.1976, p.41

Proposal for a Council Regulation amending for the
second time Regulation (EEC) No. 222/77 on Community transit

Preamble and recitals unchanged

Article 1

Regulation (EEC) No. 222/77 is
hereby amended as follows:

(a) - (f)

(g) the following paragraph shall
be added to Article 26:

'3. Where the goods are produced
at the office of destination after
expiry of the time limit prescribed
by the office of departure and
where this failure to comply with
the time limit is due to
exceptional circumstances which are
explained to the satisfaction of
the office of destination and which
are beyond the control of the carrier
and the principal, the latter shall
be deemed to have complied with the
time limit prescribed.'

(h) The following paragraphs shall
be added to Article 27:

4. In derogation from paragraph 1,
the principal may be relieved of the
obligation to furnish a guarantee
where the risk of non-recovery of
duties or other charges which may
be chargeable is minimal.

Article 1

unchanged

unchanged

(g) The following paragraph shall
be added to Article 26:

3. Where the goods are produced at
the office of destination after
expiry of the time limit prescribed
by the office of departure and
where this failure to comply with
the time limit is due to (1 word
deleted) circumstances which are
explained to the satisfaction of
the office of destination and
which are beyond the control of
the carrier and the principal,
the latter shall be deemed to
have complied with the time
limit prescribed.

(h) The following paragraphs
shall be added to Article 27:

4. unchanged

¹ For complete text see OJ No. C 241, 26.9.1979, p. 6

5. The provisions necessary for the application of paragraph 4 shall be adopted in accordance with the procedure laid down in Article 57.'

5. For the purpose of applying the preceding paragraph, objectives criteria, which must not lead to distortions of competition disadvantageous to small undertakings and which must be fulfilled before the guarantee requirement can be waived, shall be adopted in accordance with the procedure laid down in Article 57

(i) - (k)

unchanged

(1) Article 40 shall be replaced by the following:

(1) Article 40 shall be replaced by the following:

'Article 40

Article 40

1. Without prejudice to any guarantee exemption that may be granted under the provisions of Article 27(4) and (5), the principal shall be exempt from the obligation to furnish a guarantee in the case of goods which are to be carried under the internal Community transit procedure, unless they are goods which appear on a list to be drawn up in accordance with the procedure laid down in Article 57.

1. unchanged

2. The list referred to in paragraph 1 shall contain only those goods which present increased risks because of the high taxes and other charges to which they are subject.'

2. The list referred to in paragraph 1 shall be based on objective criteria and include as small a number of products as possible so that it contains only those goods which present increased risks because of the high taxes and other charges to which they are subject.

(m) - (s)

unchanged

Article 2 unchanged

EXPLANATORY STATEMENT

1. On 12 April 1978¹ the European Parliament delivered its opinion, on the basis of a report by the Committee on Economic and Monetary Affairs, on the development of the customs union and the internal market (rapporteur: Mr K. NYBORG), on a number of questions relevant to a general revision of the regulation on Community transit.

The European Parliament considered that, in its final form, the customs union should be characterized by, for one thing, the abolition of all formalities in internal trade; this means that the regulation on Community transit will eventually become superfluous.

The Committee on Economic and Monetary Affairs also stated in paragraphs 4.2 and 4.4.1 of the explanatory statement that the regulation on Community transit meant that

- considerable progress had been made compared with the situation prevailing before the procedure was introduced;
- the system was nevertheless still very complicated, especially for small and medium-sized undertakings, which in most cases preferred or were obliged to make use of forwarding agents;
- with the necessary improvements, the procedure could develop into a relatively simple and effective system for the free movement of goods in the customs union.

These fundamental considerations prompted the European Parliament to make two quite explicit statements on the Community transit procedure in its resolution, viz:

- that goods subject only to VAT would not be subject to the Community transit procedure (abolition of import duty); control would be based on companies' accounts and checks at customs offices at the departure point²;
- the simplification and standardization and, at a later date, abolition of documents for goods in internal Community transit; for traders the guarantee would be abolished.³

¹ See Doc. 557/77 and OJ No. C 108, 8.5.1978

² Paragraph 13(e) of the resolution

³ Paragraph 12(f) of the resolution

2. The present proposal amending the Council Regulation on Community transit represents a very considerable effort on the part of the Commission to accommodate the points of view expressed by the European Parliament.

3. If the Commission's proposal is implemented, both transit advice notes and guarantees in respect of consignments sent under the internal Community transit procedure will be abolished, except in the case of certain highly taxed goods. It will also be considerably simpler and easier for goods to be sent under the external Community transit procedure. Transit advice notes will have to be presented only at the Community's external frontiers, and the guarantee requirements for these consignments will also be considerably eased.

Implementation of the Commission's proposal will lead to

- a reduction in the cost of administrative formalities connected with internal trade;
- partial abolition of existing distortions of competition, to the advantage of certain forms of transport¹.

4. It should be noted that, in view of the fact that administrative procedures will be considerably simplified once the Commission proposal is implemented, in future there will only be a couple of technical difficulties² to prevent the abolition, in accordance with the wishes expressed by the European Parliament on 12 April 1978, of transit formalities at the Community's internal frontiers for goods (1) not covered by the common agricultural policy or (2) not subject to duties other than VAT; the recording and control of internal consignments and the calculation of VAT could then be based on companies' accounts and checks carried out at the customs offices at the departure point.

The Committee on Economic and Monetary Affairs has therefore decided to call on the Commission to put forward the necessary proposals as soon as possible (see paragraph 3 of the motion for a resolution).

¹ Under the provisions now in force, rail transport, transport on the Rhine, sea and air transport and transport by pipeline are already exempt from the guarantee requirement.

² Such as the collection of data for the production of statistics.

Comments on the individual amendments

This Commission proposal replaces a 1975 proposal (Doc. 237/75) which is no longer relevant, as in the meantime (December 1976) the Council has adopted a new framework regulation¹ on Community transit. The European Parliament delivered its opinion on the original proposal on 18 December 1975 on the basis of a report by the Committee on Economic and Monetary Affairs (Doc. 323/75).

Article 1

Article 1(2)(b) of the regulation in force applies only to goods for which export refunds may be granted under the common agricultural policy. It therefore seems reasonable to formulate a more general provision applicable to all goods subject to Community export arrangements, including export refunds under the common agricultural policy.

The Commission proposes that the words 'and which are hereinafter referred to as 'Community goods'' be added in Article 1(3)(b). The Commission's justification for this seems reasonable.

Article 7

The Commission proposes deletion of the reference to the international rail transport procedure (TIF Convention) because it has been used only infrequently since the introduction of the Community transit procedure. The existence of several different procedures complicates the work of the railway authorities, and customs formalities under this procedure are normally much more lengthy than under the Community transit procedure.

As the European Parliament had repeatedly called for simplification of customs procedures and documents, the Committee on Economic and Monetary Affairs (and the European Parliament) endorsed this proposal in November 1975².

Article 15

Following adoption of the regulation on Community transit in December 1976, a Community export declaration form was introduced in 1977. It therefore seems logical to delete Article 15.

¹ OJ No. L 38, 9.2.1977

² Doc. 323/75

Article 22

Under Article 39(3), Article 22 applies to internal as well as external Community transit. The amendment proposed by the Commission therefore means that in future transit advice notes need be presented only if the goods in Community transit leave the territory of the Community.

According to the Commission, abolition of the transit advice note is justified by the fact that, in practice, it has not proved particularly useful in determining where any offence or irregularity has occurred.

It should be noted that under the rules in force consignments sent under the Community transit procedure are subject to the following formalities at the Communities internal frontiers;

- production of transit advice notes;
- production of transit documents;
- production of documents relating to the mode of transport;
- control of seals

In view of the fact that Community rules on seals have been introduced and that, in July 1977,¹ the procedure for consignments under the Community transit procedure was considerably simplified, the partial abolition of transit advice notes is an important step towards meeting the European Parliament's wish² that all formalities under the internal Community transit procedure be eventually abolished.

Article 26

The Commission proposes that the trader be released from his obligations where, through no fault of his own, there is a delay in producing the goods at the office of destination. This proposal must be seen in conjunction with the fact that the customs office of departure normally sets a time-limit within which the goods must be produced at the office of destination and that the Member States apply a wide variety of sanctions if the time-limit is exceeded.

¹ OJ No. L 182, 22.2.1977

² See Doc. 557/77 and the European Parliament's resolution of 12.4.1978 (OJ No. C.108, 8.5.1978)

In the proposed new paragraph 3 the Commission defines 'through no fault of his own' as follows; 'exceptional circumstances ... beyond the control of the carrier and the principal...'

The question is whether this definition is not too narrow.

The reasons for delays need not always be, for example, 'exceptional' climatic conditions¹; delays may also be due to the carrier's ignorance of the various national provisions. As mentioned in the March 1978 report² by the Committee on Economic and Monetary Affairs, lorries and carriers may, for example, have to wait for up to 8 days at frontier crossing points because of the Italian provisions for the control of powdered milk; similarly, the different opening hours of customs offices and prior veterinary control requirements, etc., may lead to lengthy, unforeseen delays.

The Committee on Economic and Monetary Affairs therefore requests the Commission to extend its definition of 'through no fault of his own' to cover cases where documents can be produced to prove that the consignment has been held up because of abnormally long delays at other frontier crossing points, whether or not these were due merely to the carriers ignorance of the different and exceedingly complicated national control provisions.

Article 27

(a) Here the Commission proposes personalization of the guarantee requirement for any payment of customs or other duties on goods sent under the Community transit procedure, with Member States being allowed to exempt certain persons/companies from the obligation to furnish a guarantee when they consider the risk of non-recovery of duties or other charges which might be chargeable to be minimal.

The European Parliament delivered a favourable opinion on the subject in 1975 but recommended that objective criteria be set for such exemptions so that there was no distortion of competition to the detriment of small undertakings. In its explanatory memorandum on this amendment, the Commission has allowed for this point of view, stating that 'this obligation needed to be based on objective criteria common to all Member States and laid down by means of an implementing regulation'. However, there is no essential difference between the wording of Article 27(5) proposed by the Commission and the wording to which Parliament proposed an amendment in 1975³. The Committee on Economic and Monetary Affairs has therefore decided to retable the amendment.

¹ e.g. each year there are delays in transport over the Alps because of snowfalls.

² Doc. 557/77, p. 53-54.

³ OJ No. C 7, 12.1.1976, p.41

(b) As regards the Commission's proposal in 1975 to insert a new Article 27(b), see the comments on Article 40.

Article 35

The Commission proposes that, in the second paragraph, the term 'office of departure' be replaced by 'the competent customs authorities of the Member State of departure'.

It also proposes that a new paragraph be added, limiting the period during which guarantors can be kept uninformed of their obligations.

Article 36

There are two reasons for the addition of paragraphs 3 and 4; firstly, to take account of the fact that abolition of the transit advice note will make it impossible to apply the presumption provided for in Article 36(2) (d) as a basis for determining the place at which the provisions have been infringed, and, secondly, to ensure that provision has been made by all Member States to collect duties and other charges from those who actually have committed the offence rather than from the principal.

See the Commission's explanatory memorandum on these amendments.

Article 40

(a) As early as 1975 the Commission proposed the addition of a new Article 27(b), almost completely abolishing the guarantee requirement for 'Community goods' sent under the Community transit procedure. The Commission's present proposal to amend Article 40 means that only goods sent under the internal Community transit procedure will be exempt from the guarantee requirement. If consignments sent under the external Community transit procedure (goods in transit through third countries) are to be exempted from the guarantee requirement, this must be done pursuant to Article 27. The present proposal also differs from the 1975 one in that the exemptions from the guarantee requirement in 1975 affected only 'Community goods'; this restriction has now been scrapped.

As in 1975, the Commission is now proposing major exceptions to the exemption rule, i.e. for goods which, because of the high taxes and other charges to which they are subject, present increased risks of fraud.

In this connection, too, the European Parliament tabled an amendment in 1975 to the effect that the list of goods not exempt from the guarantee requirement should be based on objective criteria¹; it also proposed that the list should include as small a number of products as possible.

The amendment proposed by the Commission does not comply with this request and the Committee on Economic and Monetary Affairs has therefore retabled the amendment.

(b) Article 40, as originally worded, will serve no useful purpose if the relaxation of the guarantee requirement proposed by the Commission is adopted.

Articles 41, 42, 44, 45 and 51

See the Commission's explanatory memorandum on these amendments.

Article 57

The purpose of the amendments proposed by the Commission to Article 57 is to allow the Committee on Community Transit to lay down implementing provisions for all the articles of the Council regulation. The Commission claims in its explanatory memorandum that this will make the procedure more flexible.

On several occasions, however, for instance in reports by the Committee on Economic and Monetary Affairs² and the Committee on Budgets, the European Parliament has criticized the principles underlying the procedure laid down in Article 57.

The European Parliament's attitude has been that it ought to be the Commission that is responsible for drawing up implementing provisions. What has now become the Commission's current practice of setting up a decision-making - rather than advisory - committee of government representatives means that the Member States can let the Council take the final decision without having to consult the European Parliament.

¹ OJ No. C 7, 12.1.1976, p. 41

² The Committee on Economic and Monetary Affairs most recently discussed this problem in its report on the Commission proposal for a directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to construction products (Doc. 30/79). The motion for a resolution contained in this report was adopted by the European Parliament on 8 May 1979.

In view of the fact that progress in implementing the Commission's simplification programme of 25.2.1975¹ has been very slow as regards the Community transit procedure, the Committee on Economic and Monetary Affairs feels strongly that the committee of government representatives should be changed to an advisory committee and that, in keeping with Article 155 of the EEC Treaty, the Commission should be responsible for implementing the Council's framework regulations on Community transit.

In paragraphs 7 to 9 of the motion for a resolution the Committee on Economic and Monetary Affairs has outlined the principles for the reallocation of such powers and in paragraph 10 calls on the Commission to put forward proposals along those lines.

¹ A summary of this programme is given in Doc. 557/77, Annex II

OPINION OF THE COMMITTEE ON EXTERNAL ECONOMIC RELATIONS

Letter from the chairman of the committee to Mr J. DELORS, chairman of the Committee on Economic and Monetary Affairs

Brussels, 22 November 1979

Dear Mr Delors,

At its meeting of 21 and 22 November 1979, the Committee on External Economic Relations considered the proposal from the Commission of the European Communities to the Council (Doc. 1-372/79) for a regulation amending for the second time Regulation (EEC) No. 222/77 on Community transit. The proposal can be summarized as follows:

On 11 August 1975 the Commission submitted to the Council a proposal for a regulation amending various provisions of the Council Regulation of 18 March 1969 on Community transit⁽¹⁾.

This proposal has still not been adopted. Moreover, it is now superfluous as since 1975 it has been possible to amend further and simplify the Community transit procedure.

The proposal now before us, which incorporates such amendments and simplifications, thus replaces the 1975 one. It constitutes one of the priority measures the Commission has undertaken to implement in 1979 as part of the multiannual programme for the attainment of a customs union.

It forms part of the efforts being made gradually to improve the Community transit procedure by introducing, in a balanced fashion, amendments to simplify it wherever possible and prevent or penalize irregularities or fraud.

The Committee on External Economic Relations has no comment to make on the proposal for a regulation, and proposes that it be adopted.

At its meeting of 22 November 1979, the committee adopted this opinion in the form of a letter by 11 votes to 0 with 1 abstention⁽²⁾.

Yours sincerely,

(sgd) Sir Fred CATHERWOOD

(1) G.U. n. L 77 del 29.3.1969, pag. 1

(2) Present: Sir Fred CATHERWOOD, chairman; Mrs WIECZOREK-ZEUL, Mr van AERSSSEN and Mr SEAL, vice-chairmen; Mr BØGH, Mr KELLETT-BOWMAN, Mr LOUWES, Mr MAJONICA, Mr MARTINET, Mr SCHMITT, Mr SEELER and Sir John STEWART-CLARK.

