

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 189 final

Brussels, 16 April 1982

PROPOSAL FOR A COUNCIL DIRECTIVE

on the facilitation of formalities and inspections in
respect of the carriage of goods between Member States

(presented by the Commission to the Council)

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PREFACE

The Commission wishes once more to underline the special importance and priority that it attaches to work aimed at creating an internal Community market, including increased efforts to reduce quickly the formalities and controls at internal frontiers to a minimum.

The European Council, at its sessions of 29/30 June 1981 and 29/30 March 1982, has firmly supported the Commission's position and agreed on the need for action to further reinforce the internal market.

To provide a positive follow-up to these directions, the Commission intends to submit to the Council a series of proposals which have a common objective of overcoming the difficulties at internal frontiers with the aim of facilitating the free circulation of passenger and goods in the Community.

In the framework of this global approach, the Commission submits herewith a proposal to simplify the formalities and controls related to the transport of goods between Member States.

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Explanatory Memorandum

I. Introduction

Establishment of the internal market requires that the economies of the individual Member States be integrated as fully as possible. This means that the various barriers to trade between Member States need to be removed.

Trade between Member States has virtually tripled since the Community was enlarged in 1973. Although this is very indicative of the progress made towards integration at Community level, there are, alas, still difficulties affecting the carriage of goods, in particular, at frontier crossing-points, which have an adverse effect on intra-Community trade.

2. Various bodies such as haulage industry organizations, forwarding agents, transport users, etc. have repeatedly informed the Commission of the difficulties which arise at frontier crossing-points in the Community. There has been increasing pressure to remedy this situation, especially recently.

3. The European Parliament has repeatedly stated its position on the difficulties in question (in particular in the Bos (1972)¹ and Schyns² reports).

Furthermore, in a large number of written and oral questions to the Commission and to the Council, Members of the European Parliament have criticised waiting times at frontiers and have called for pragmatic solutions to remedy this situation.

¹ PE 29.912 final, 31 August 1972.

² PE 55.475 final, 12 March 1979.

4. In June 1978, the Council approved a nine-point priority programme for air transport, including facilitation.

At the Commission's request, a consultancy firm has prepared a report on the various aspects of facilitation in this area, including the question of border-crossing at airports.

5. In March 1981, the Council adopted a list of ten main transport topics to be given priority in the period up to the end of 1983, one of them being the facilitation of frontier-crossing. At the same time, it invited the Commission to submit to it a report before the end of 1981, and, where appropriate, proposals for measures to reduce waiting times at frontier crossing-points, bearing in mind the need for certain inspections and the nature of the goods carried.

As regards the first part of this mandate, the Commission had already asked the Advisory Committee on Transport at the end of 1977 to examine possible ways of removing frontier barriers affecting inland transport. The Committee has drawn up a report listing the various problems which can arise in this connection and has assessed the extent and significance of these barriers. The report provides a good deal of useful information with a view to improving the situation. In this connection, the Committee has made an in-depth analysis of the role and task of the common transport policy in this field.

As regards the second part of the Council's mandate, i.e. the preparation of a proposal to improve the flow of traffic between Member States, the Commission has undoubtedly derived considerable benefit from the many comments made in these reports. Nevertheless, it has considered it appropriate and useful to arrange six consultation meetings with the interested parties and with government experts before submitting a draft Directive to the Council.

6. These reports and the findings of the consultation meetings formed the basis for the attached list of inspections and other problems which may arise in intra-Community trade (around 70 in all). These inspections and problems result from internal and/or Community provisions concerning taxation, industrial, agricultural, social and other matters, as well as transport.

7. To be realistic it must be admitted that intra-Community trade will continue to be subject to checks until full integration has been achieved at Community level.

As it has repeatedly stated, the Commission is of the opinion that the problem of obstacles to intra-Community trade can be solved only as part of an overall plan. Notwithstanding the special provisions in the framework of general or specific Community rules, this initiative seeks to improve the organization of the various inspections and formalities affecting intra-Community trade. This initiative, which is fully in keeping with this overall plan, will have to be accompanied by measures which will lead to the simplification and, in the long term, to the gradual abolition of checks in the course of transport operations.

II. Main elements underlying the Directive

8. Waiting times in the course of transport operations can be reduced considerably by applying the following principles:

(a) Centralization of inspections (Article 2)

9. Operators are at present free to choose where to carry out the formalities concerning dispatch or clearing for home use within the Member State in question or at the border of this Member State. If checks other than customs checks are required, these should, as far as possible, be carried out simultaneously and preferably at one place.

(b) Non-systematic inspection (Article 3)

10. Generally speaking, customs checks are already carried out to a large extent on a random basis, but this is not the case with other inspections. The principle of random checks should also be applied to all other forms of inspection. These checks should be restricted to cases where there is suspicion of malpractice.

(c) Mutual recognition of the findings of inspection (Article 4)

11. Application of the principle of the mutual recognition of the facts established in an earlier inspection during a transport operation would obviate the need for repetitive inspections of goods and means of transport.

(d) cooperation required between the various inspection authorities
(Article 5)

12. Effective cooperation between inspection authorities (e.g. centralization of offices at one place and harmonization of the opening hours of the posts on either side of the border) will lead to smooth frontier-crossing in the shortest possible time. This principle also applies to posts within a country.

(e) Opening hours and staff numbers in relation to the volume of traffic (Articles 6 and 7)

13. The opening hours of the various departments involved and the number of staff on duty should be adapted to periodic changes in traffic.

(f) Special facilities for means of transport travelling empty or carrying goods under a customs transit procedure (Article 8)

14. The advantages of the transit procedures, which basically allow goods to cross frontiers without any inspection, are sometimes reduced by the fact that the traffic lanes are blocked by vehicles undergoing customs formalities at the frontier. Wherever technically feasible, special express lanes should be provided for transit vehicles.

(g) Information and notification procedure (Article 9)

15. Some of the problems arising when crossing frontiers are due to the lack of information available to the parties concerned as regards the procedures employed and the type of difficulties which may be encountered by operators. Better mutual information could therefore be achieved by setting up local and national joint committees.

III. Comments on the various articles

Article 1

This Article seeks to define the scope of the Directive. It covers two basic aspects:

- (a) The Directive applies to the carriage of goods
 - (i) across frontiers within the Community
 - (ii) between Member States across the territory of a third country
 - (iii) from a third country after crossing an external Community frontier
 - (iv) to a third country before crossing an external Community frontier.

(b) Mode of transport

The Directive applies to all modes of transport, i.e. rail transport, road transport, inland waterway transport, sea and air transport and combined transport (e.g. road/rail transport, roll-on/roll-off transport, container transport, etc.).

Article 2

To ensure the smooth conduct of a transport operation, the checks - meaning both the inspection of goods and means of transport and the checking of documents - should preferably take place at the same time and the same place. The most appropriate solution would be for them to be conducted at the time and preferably near the place of dispatch and/or destination of the goods carried, since checks carried out at different stages cause additional delays in the transport operation.

Article 3

Systematic physical checking of goods and means of transport represents a considerable impediment to the crossing of frontiers. To achieve a smoother flow of traffic, the principle of random checks should be applied, as is already largely the case in the customs sphere.

Article 4

During the consultation meetings in particular, the Commission's attention was repeatedly drawn to the problems arising from checks such as public-health, veterinary, plant-health and quality inspections (where agriculture is concerned) and checks of weights and dimensions and the technical inspection of means of transport. During a transport operation, as stated in point II.11, the mutual recognition of the facts established in an earlier inspection could considerably speed up the carriage of goods between Member States. Repetitive checks would no longer be indispensable, and the authorities could restrict themselves to inspecting documents already drawn up at a previous stage.

Article 5

As already stated concerning Article 2, the checks conducted during one transport operation should, as far as possible, take place simultaneously, and preferably at one place. The details specified in Article 5 follow on naturally from the provisions of Article 2. The point is that there needs to be appropriate cooperation between the various inspection departments, not only at local and national level, but also between authorities required to intervene on either side of common frontiers.

Cooperation should cover the following aspects in particular:

(a) Harmonization of the opening hours of the various departments concerned

The opening hours of the various departments concerned (customs services, veterinary and plant-health departments, quality-inspection departments, etc.) should be harmonized so that the formalities and inspections can be done at the frontier or a post within the country without interruption during a specified period of the day, e.g. between 8 a.m. and 6 p.m. (see also Article 6). This applies not only to the various departments in a frontier post on one side of the frontier but also to posts situated on either side of common frontiers.

(b) Arrangement of frontier posts

The time required for formalities and checks could be reduced for operators and, in particular, carriers by a better layout, in the widest sense, of frontier posts. For example, inspections of goods or means of transport could be organized in such a way that vehicle manoeuvres and operator movements are kept to a strict minimum, and clear and precise signposting could be provided at each frontier post.

This also applies to customs posts within a country, which are sometimes in city centres where access is difficult. The provision of signposts in the city could improve this state of affairs.

(c) Conversion of certain frontier offices into juxtaposed inspection offices

The conversion of certain frontier offices into juxtaposed inspection offices would mean that the carrier had only one stop instead of two consecutive stops. Of course, offices of this type are out of the question in some cases, e.g. for technical reasons (site, etc.)

Article 6

It would be excessive to have all the customs posts at the Community's internal borders and within Member States open round the clock.

The major frontier posts should be open night and day for transit traffic (where a means of transport crosses the frontier carrying goods to be cleared for home use at a place within a Member State).

Frontier posts on major transport arteries should be open on working days at least from 8 a.m. to 6 p.m. for inspection and formalities other than those for transit traffic. It should also be possible for inspections and formalities to be completed outside these hours, against payment, where appropriate, for the hours worked.

If inspection authorities cannot be on duty during the working hours referred to in Article 6(1) to (3) it should be possible for them to delegate powers to officials who are on duty, in order to ensure that one of the other departments represented can carry out a brief check of the goods against the relevant documents. It goes without saying that a delegation of powers to another department can only take place insofar as this department has the required knowledge to carry out the inspections for which they have received delegation.

Article 7

This Article also concerns better organization of checks and is based on the idea that waiting times can be reduced by fixing the opening hours of the customs posts and the number of staff available in line with periodic (daily, weekly or seasonal) variations in traffic. For example, there are fluctuations in the carriage of fruit and vegetables (harvest period) and at some customs posts certain hours or days are particularly busy. The crossing of the frontier could be improved if additional staff could be assigned during these periods.

Article 8

Efficient arrangement of frontier posts also entails the separation of, on the one hand, means of transport carrying goods under a customs transit procedure and empty vehicles from, on the other hand, those means of transport which have to undergo customs formalities at the frontier. This sort of separation would serve to reduce the waiting times for all means of transport, especially those under customs transit procedure introduced to facilitate frontier-crossing.

Traffic separation of this kind can more often than not be achieved by measures which entail very little expenditure. It is sometimes sufficient to place arrows or a number of demarcation lines on the carriageway or the parking area of the customs post. Of course, this should be done only if the volume of traffic at the post in question so justifies.

Article 9

Measures to facilitate the crossing of frontiers should also include better information for the various parties involved. It is in the interest of the inspection authorities that they should be informed of the practical problems which the inspection procedures cause to the parties involved and, in particular, carriers. Carriers, for their part, should be informed in good time of any changes in the inspection procedures, etc.

Where appropriate and necessary, a body should be set up so that all the parties concerned at a particular frontier post or check-point situated within a Member State can air their opinions on the specific problems arising at this post, since a large proportion of the problems can be solved at local level. However, other problems may have to be solved at a higher level. Article 9 therefore also provides for the establishment of bilateral joint committees at national level for all the common frontiers where all the problems of crossing frontiers will be discussed at least once a year.

Article 10

This Article provides that, once the various checks and formalities have been relaxed, the Member States must not introduce other checks which constitute an obstacle to transport.

Articles 11, 12 and 13

No comments.

List of the problems which may arise when crossing frontiersI. Transport-related problemsA. Road(a) Mandatory frontier inspections

1. Checking of journey authorizations for international transport
2. Road tax (in transit through Austria and Yugoslavia)

(b) Optional frontier inspections

1. Checking of period authorizations for international transport
2. Checking of national transport authorizations
3. Weights and dimensions
4. Technical inspections of vehicles and recognition of vehicle roadworthiness certificates
5. Vehicle type approval in accordance with ADR and ATP standards
6. Triptyque for lorry and/or trailer
7. Registration certificate (Kraftfahrzeugschein)
8. Provisions concerning working and driving time
9. Driving licence
10. CMR consignment note
11. National passenger transport authorization
12. Passenger list
13. Waybill for the carriage of passengers by bus in transit through a country.

(c) Other problems

1. Ban on lorry-driving on Sundays, public holidays and over holiday periods.

B. Rail¹⁾

1. Exchanging locomotives
2. Technical inspection of wagons
3. Preparation of brake labels
4. Marshalling and/or train formation
5. Exchanging wagons
6. Labelling wagons
7. Routing of accompanying documents
8. Checking freight documents.

C. Inland waterway(a) Mandatory frontier inspections

(b) Optional frontier inspections

1. Navigation and canal dues
2. Checking compliance with police regulations (composition of crews, convoys, etc.)
3. Navigability certificates
4. Licensing of vessels for the carriage of dangerous goods

D. Air transport

1. Checking freight documents
2. Safety checks

E. More than one mode of transport

1. Collecting statistical information
2. Problems for the railways in transferring wagons on to ferries

¹⁾ The points listed below mainly concern operating difficulties, and are matters on which the railways are already cooperating.

F. Infrastructure

(a) Road

1. Lack of special lanes for lorries in transit and empty lorries

(b) Rail

1. Frontier stations
2. Access and relief lines
3. Specific aspects of infrastructure planning
4. Lack of transit tracks

(c) Air transport

1. Inadequate mechanization
2. Lack of suitable infrastructure

II. Problems not related to transport which affect the normal flow of traffic

A. Road

1. Green (insurance) card

B. Rail

C. Inland waterway

1. Insurance certificates
2. Checking of equipment for personal use and stores

D. More than one mode of transport

1. Public-health, veterinary and plant-health inspections, quality inspections and inspection of harmful substances
2. Limited opening hours of the abovementioned inspection departments.
3. Checking (and levying duty on) fuel in the tanks of commercial vehicles (road) and inland waterway vessels (fuel allowance)
4. Checking the fuel in the power units of compressors and refrigeration units, etc. (fuel taxed or free of tax)
5. Vehicle tax
6. Inadequate standardization of documents
7. Problems caused by the intervention of the customs services

- (a) Checking of customs documents
 - (b) Sealing of means of transport
 - (c) Checking of goods
 - (d) Registration of goods (in Denmark)
 - (e) Declaration of value of goods (in Italy)
 - (f) Discontinuity in the opening hours of customs offices
 - (g) Lack of bilateral harmonization of the working hours of different departments on either side of a frontier
 - (h) Limited powers of some customs posts as regards clearing certain products
 - (i) Delays in handing over documents
 - (j) Strikes by customs officials
8. VAT on goods carried and repairs to means of transport carried out in another Member State
9. VAT on transport services
10. Checking of dangerous goods
11. Problems concerning the fixing of agricultural compensatory amounts (particularly for cereals)
12. Insufficient information for the parties concerned and for the authorities about the problems encountered by the latter
13. Formalities connected with exchange control.

III. Other

- 1. Production of incomplete documents by carriers
- 2. Customs agents
 - (a) Requirement to have customs formalities carried out by (authorized) customs agents
 - (b) Way in which some customs agents operate.

Proposal for a Council Directive on the facilitation of formalities and inspections in respect of the carriage of goods between Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 75, 84 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, the European Council has on a number of occasions¹ underlined the need to reinforce and further develop the internal market and increased efforts are needed to reduce to the minimum the formalities and controls at internal Community frontiers,

Whereas, on 26 March 1981, the Council approved a programme of ten priorities under the common transport policy concerning the period up to the end of 1983, one priority being to facilitate the crossing of frontiers; whereas at the same meeting the Council called upon the Commission to submit proposals on this subject;

Whereas, on 12 June 1978, the Council approved a priority programme for air transport, one priority being facilitation;

Whereas the European Parliament has repeatedly stressed that waiting times can have an adverse effect on the free movement of goods between Member States and has therefore called upon the Commission to take action to eliminate them;

Whereas waiting times at frontier crossing-points lead to higher transport costs, which are passed on in the end price of the goods carried;

Whereas waiting times at frontiers have an adverse effect on the working conditions of those employed in the transport sector, in particular in road transport and inland waterway transport;

¹European Council 29/30 June 1981 and 29/30 March 1982.

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Whereas these waiting times at frontier crossing-points are caused by transport-related factors and other factors;

Whereas waiting times could be reduced by organizing more efficiently inspections which are justified under Community law;

Whereas, in order to ensure a smoother flow of means of transport engaged in the carriage of goods between Member States, it would be desirable to centralize the various inspections in one place, preferably the place of departure or destination of the goods, whilst abiding by the principle that the parties involved in the transport operations are free to choose the place in question;

Whereas customs inspections in respect of intra-Community trade take the form of random checks to a very great extent; whereas this practice should, as far as possible, be extended to other types of inspection founded on non-harmonized national law; whereas, even if a Member State invokes Article 36 of the Treaty, inspections may be carried out solely within the limits of that Article;

Whereas the flow of goods traffic between Member States can be improved by application of the principle of mutual recognition of the facts established when certificates and other documents are issued;

Whereas the establishment of express lanes reserved for means of transport travelling empty or carrying goods under a customs transit procedure is likely to bring about a reduction in waiting times at the frontier;

Whereas it would be desirable to set up, by means of joint committees at local and national level, a framework to ensure better exchange of information on the various problems which arise at certain frontier crossing-points, in order to seek joint solutions likely to improve the situation at these crossing-points;

Whereas it is also necessary to ensure that no new formalities or inspections are introduced that would render inoperative the measures taken to facilitate the crossing of frontiers.

HAS ADOPTED THIS DIRECTIVE:

Scope

Article 1

Notwithstanding individual provisions in force in the framework of general or specific Community rules, the provisions of this Directive shall apply to formalities and inspections likely to affect the flow of goods traffic which has to cross

- an internal Community frontier or
- an external frontier where carriage between Member States involves crossing a third country

irrespective of the mode of transport or transport technique used.

Article 2

Member States shall take the necessary measures to ensure that, as far as possible, the various inspections in respect of any one transport operation are carried out simultaneously in one place, preferably the place of departure or destination of the goods.

Article 3

In line with existing practices in the customs field, Member States shall, as far as possible, refrain from carrying out systematic inspections of goods and means of transport.

Article 4

For the purposes of this Directive Member States shall mutually recognize the facts established when certificates are drawn up in accordance with national provisions.

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To this end, each Member State shall send a list and specimens of national inspection documents, with details of their purpose if this is not explicitly stated thereon, to the Commission, which shall inform the other Member States thereof.

Article 5

1. Each Member State shall establish appropriate cooperation between the various national departments responsible for carrying out inspections during transport operations.
2. Bilateral contacts shall be established between Member States in order to seek appropriate cooperation between the various inspection departments on either side of common frontiers between Member States.
3. The cooperation referred to in paragraphs 1 and 2 shall cover inter alia:
 - the harmonization of the business hours of the various departments concerned;
 - the arrangement of frontier crossing-points;
 - the conversion of frontier offices into juxtaposed inspection offices, if technically possible.

Article 6

1. Member States shall ensure that frontier posts on major transport arteries are open permanently to allow means of transport under a customs transit procedure to cross by day and by night.
2. Member States shall ensure that the posts referred to in paragraph 1 are open on working days at least from 8 a.m. to 6 p.m. for inspections and formalities other than those for traffic under a customs transit procedure.

3. The competent authorities in the Member States shall ensure that at frontier posts on major transport arteries, inspections and formalities other than those under a customs transit procedure can be carried ^{out} / at the specific request of the transport operator outside the business hours referred to in paragraph 2, against payment, where appropriate, for the hours worked.

4. Where it is impossible for some departments responsible for inspections at these frontier posts to meet the requirements of paragraphs 2 and 3, Member States shall delegate ^{the} necessary powers to ensure that one of the other departments represented can carry out brief inspections of goods against the relevant documents.

Article 7

Member States shall adjust the business hours of the inspection departments and the staff complement available to correspond to periodic fluctuations in traffic.

Article 8

Where technically feasible and justified by the volume of traffic, Member States shall endeavour to establish at frontier posts express lanes reserved for means of transport travelling empty or carrying goods under a customs transit procedure.

Article 9

1. Member States shall provide for the appointment of
 - bilateral joint committees at local level, where appropriate, to meet periodically and when necessary;
 - bilateral joint committees at national level to meet at least once a year.in order to seek solutions to problems arising at common frontiers.

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2. In the case of inspection offices within a Member State, Member States shall provide for the appointment of joint committees at local and/or national level, where appropriate, to meet periodically and when necessary.
3. The committees referred to in paragraphs 1 and 2 shall consist of representatives of the various inspection departments involved and representatives of carriers, customs agents, forwarding agents and transport users.
4. Commission representatives may, on request or on their own initiative, attend meetings of the national joint committees.
5. The outcome of the meetings of the national joint committees shall be communicated by each Member State to the Commission, which shall inform the other Member States thereof.

General provisions

Article 10

Member States shall ensure that the measures taken to facilitate the crossing of frontiers are not rendered inoperative through the introduction of new inspections or formalities.

Article 11'

Member States shall forward to the Commission, by 1 July each year, particulars concerning the provisions introduced and the practical measures taken in the course of the preceding year with a view to ensuring more efficient organization of the formalities and inspections in question.

On the basis of these particulars, the Commission shall report to the Council and the European Parliament every two years on the implementation of this Directive.

Article 12

1. Member States shall, after consulting the Commission, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by..... (six months after the date on which this Directive enters into force).
2. Each Member State shall communicate to the Commission the texts of the provisions it adopts in order to implement this Directive.

Article 13

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President