No 20 - END OF YEAR EDITION

Directorate General XXI
Customs and Indirect Taxation

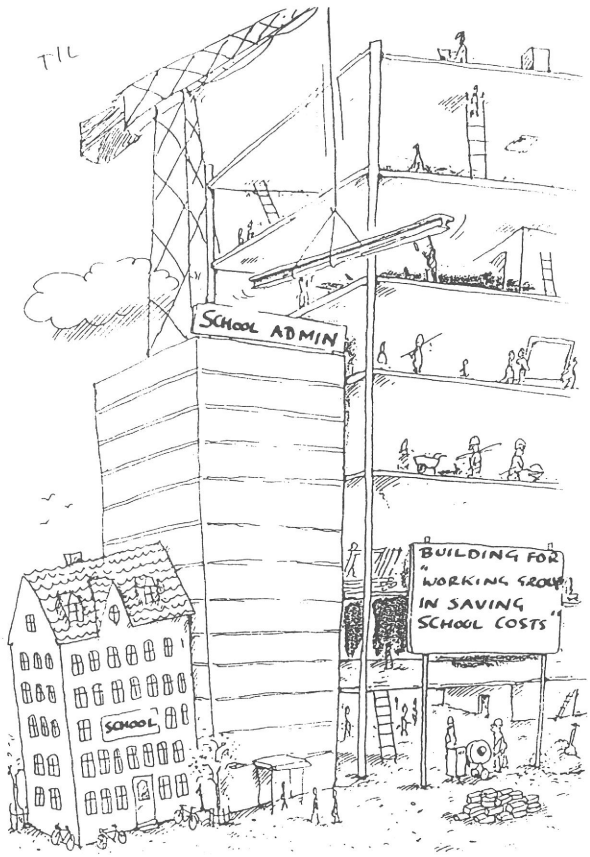
CONTENTS

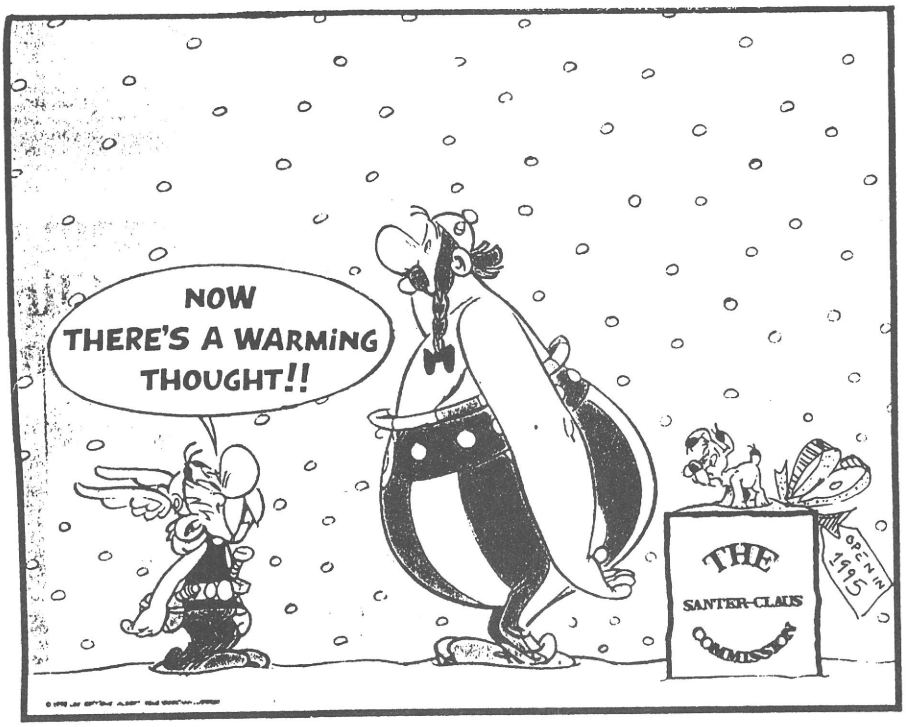
It's a gift

This is not an end of year quite like the others. A Commission departs, but the Commission will continue to chart and guide our future under a perhaps less charismatic banner and under a less portentous sky. We truly have lived in times of change and almost constant turmoil. The rewards at a professional level have been considerable for DG XXI - we are again centre stage, first the common market based on the Customs Union and now the single market based on the abolition of fiscal frontiers. What will life be like without Delors, Cockfield, Scrivener and others? We asked Mrs Scrivener(1) to write some lines for us, we who have written so much for her over the last six years, to appear in the pages of the Info.

(1) In older English almost forgotten, a scrivener is one who drew up contracts- a notary, money lender or broker. It is an English name, not a common English name perhaps, but not French, Alsation or more easterly. This will explain to Mr Aujean why Mrs Scrivener is not Mrs Schrivener, as he insisted she must be about some six years ago!

Unfortunately it seems she asked one of her Constant henchmen to do this and in spite of a reminder he did not. Perhaps we will be able to publish the memoirs of an ex-Commissioner. However we in our turn must thank Mrs Scrivener for putting up with us and congratulate her on all she has achieved, not forgetting her Cabinet who sometimes saw things from another perspective. Never-the-less some musings by the DG himself on our achievements to date were received and we do appreciate them. We are told that this year the DG might broadcast an end of year message to those with computers suitably equipped to replay sound! Not only will we need to get used to writing "Note for the attention of Mr Monti", but we will also need to remember that we are no longer the perfect number of twelve, the reason that twelve stars appear on our flag, but fifteen and more to come. This will not mean that the Union is any less perfect, but it may mean that it will be subtly more difficult to achieve the qualified majority needed and render unanimity incredible. We must look forward in hope to the achievements that we will in the future be adding to the pile we have achieved already. The result from time to time may look like one of our cities, seemingly random and unplanned, a juxtaposition of old and new, the harmonious and the ugly, the charming and the purely efficient. This is however more human, easier to live with





than some planner's dream, stark and efficient, that turns out to be a nightmare to the inhabitant. So, welcome to the new citizens of the Union 3 new Member States out of 4 possibles, welcome to our new colleagues coming shortly. We probably have met many of you already, but it will be fascinating to see who actually comes and fits in where! This has been rendered more exciting this time round as we are apparently supposed to fit you in where there is natural wastage, (a horrible phrase that, why are those who retire wasted?) rather than leaving ourselves as volunteers clutching fat payments for doing so. How, one asks, can the vacancies be tied up with the needs for particular posts at particular levels? Still we seem to have one post at A2 level somewhere! Waiting for an Austrian with a Scandinavian second nationality because of their Mama?

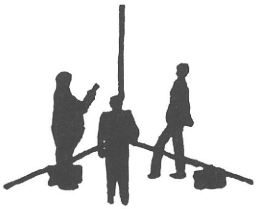
But life goes on and in fact in some ways the future will be very like the past even more so. In this respect perhaps we should chuckle at the 'Club' of Director Generals, yes those of Kolding, who decided against the advice of the deputies that we should all start meetings at 9 o'clock. Apparently they were so tired after working all day they decided to start their second day at 9.30. One law for the rich & another for the poor!

Still in this edition of Info we have the continuation of Ursula Bauman's article on the Deutsche Zollverein to illustrate continuity ,as well as some thoughts that go even further back from our young Mr Grave. Sometimes things go well, as Luc T'Joen tells us, and sometimes they go wrong, Maurice Walker expands on that. Others find us worth emulating - as Antonio Queiroz explains- and much, much more.

We, the editorial team, hope that there is something for everyone in these pages for the festive season and we wish you all you might wish for yourselves and your loved ones at this time.

See you next year in the "Santer" epoch and we find ourselves feeling.

after what the DG said.



DG CORNER

Optipessimism - An end of Year Reflection

Is the glass half full? Or half empty?

DG XXI, like any other group of human beings, splits into optimists and pessimists. Some - not many, perhaps - think all is for the best in the best of all possible worlds. Others - the majority? - See problems and obstacles wherever they look.

Who is right?

It is true that life in the Commission's services can be hard. At the mercy of Member States, Cabinets, an unfeeling Press and, worst of all, an insensitive "hierarchy", many of you feel pushed from pillar to post, with never the time to do the quality job that you know you are capable of. Resources are short and deadlines shorter. Demands are unreasonable, and the treadmill never stops.

But there is another side to the picture.

Look at our results. A customs union that works. New VAT and excise systems that have helped deliver a frontier-free internal market. Computer applications that are the wonder and envy of Commission colleagues. A place of honour in the wider world, with our network of customs agreements and technical assistance programmes. SAMCOMM, Customs 2000, TARIC, CN, BTI. And so on.

Look at our admirers. A close and productive relationship with the Member States. Good and open dialogue with business circles. Other services that respect our technical competence and inventiveness, our ability to get things done.

Our problems are the problems of success. Deadlines are short and resources scarce because our products are in demand. We have a show that is on the road and <u>works.</u>

We cannot expect to run things just as we did ten or twenty years ago. In particular, the fully trained and linguistically gifted "fonctionnaire" is a scarce and valuable resource that we

really cannot afford to use on tasks that do not take advantage of all his or her talents. No wonder, then, if we sometimes have to use consultants or other resources for jobs that do not involve the wielding of public authority.

For me, the glass is definitively half full. Let's not be too modest - we should celebrate what we do well and right.

Peter WILMOTT

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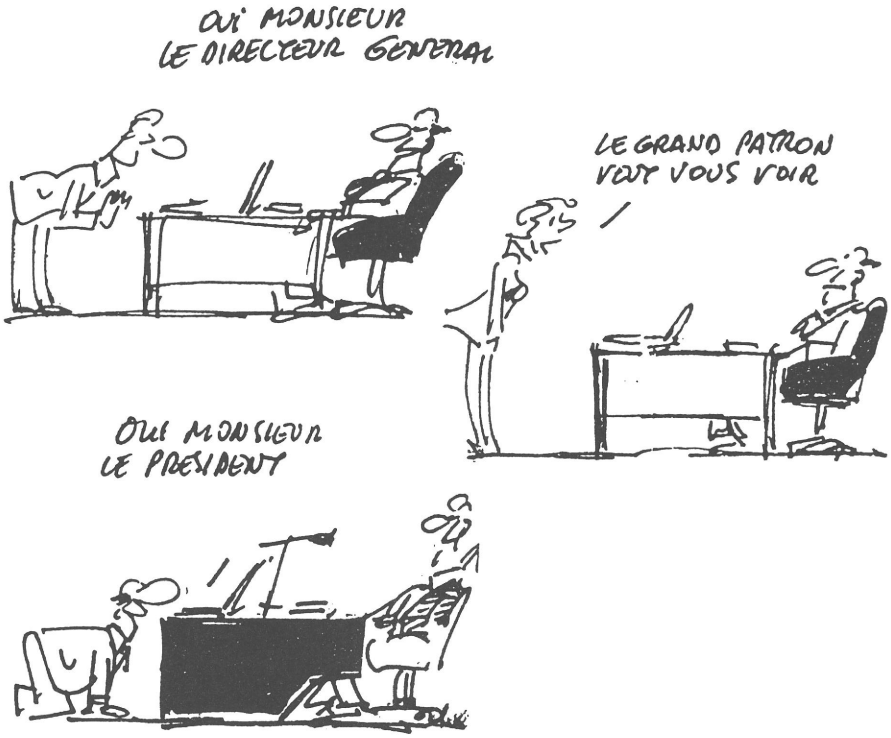


WHO DOES WHAT?

The Agreement on Rules of Origin
and
The Uruguay Round Negotiations

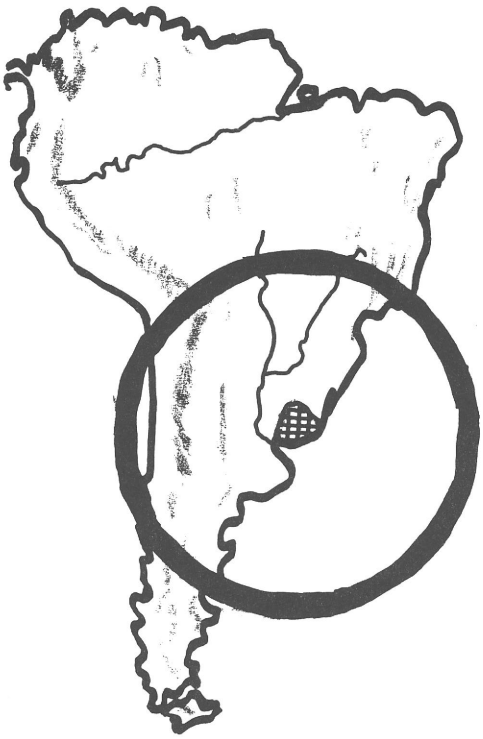
The Uruguay Round Multilateral Trade Negotiations did not run smoothly. The international press regularly reported on the diplomatic sound and fury surrounding the negotiations, with threats and counter threats of countries large and small. That's why the world of international trade breathed a collective sigh of relief when, in the end, the "Final Act" was adopted on 15 December 1993 and solemnly signed by the competent Ministers of some 111 participating countries during a meeting which took place in Marrakesh, Morocco from 12 to 15 April 1994.

The outcome of the Uruguay Round has important consequences for the international community. The agreement reached covers more than twenty major areas. Besides the agreement establishing the World Trade Organization (WTO), there are several multilateral agreements on trade in goods dealing with dumping, countervailing measures, customs valuation, import licensing procedures, (phyto)sanitary measures, agriculture, etc. Another very important matter, although not often publicized, is the Agreement on rules of origin.

Some technical and historical background

Origin rules determine the economic nationality of a product. They are needed whenever the treatment accorded to an imported good depends on its country of origin. Origin rules are therefore principally intended to determine unambiguously the origin of a particular imported or exported product. They should be clear, predictable and of a technical nature and should not constitute in themselves an obstacle to trade. They are not as such measures of commercial policy, but they are required for the application of such measures (the "non preferential" rules of origin), and also in the field of preferential trade (the "preferential" rules of origin).

The question of origin has over the years led to disputes and the increase



in the international division of labour has made the problem more acute. The production structure has rapidly evolved due to increased transportation facilities. Production plants are being transferred to countries with cheap labour and components from various countries are used in manufacture which complicates origin determination. Another element for consideration is the number of competing rules-of-origin-systems. The European Union (EU) has its own version, the Japanese have theirs, as well as do the United States. Although these systems have similarities, they also have areas of significant divergence. These areas of divergence constitute a problem because they require traders to keep track of different sets of rules. Furthermore, certain Community rules (e.g. the rules for photocopiers and integrated circuits) have been criticized by our trading partners, with the argument that they were formulated in order to ensure certain products had a specific origin and therefore triggering a specific treatment, such as antidumping measures.

Due to these developments, international discussions have increased between inter alia *the US and the EU. The US took the position that in the Community provisions requiring a percentage of the parts and materials used in assembly to originate outside a dumping country would favour the purchase of European products and therefore accuse the EU of manipulating their origin rules. Hong Kong and Japan, also considered their products to be disfavoured by the EC origin rules and saw the need for an international harmonisation of the rules of origin.*

It has to be noted, however, that the Community rules instead of their alleged unpredictability, are in accordance with the standards and principles laid down in Annex D.1 to the Kyoto Convention (International Convention on the Simplification and

the Harmonization of Customs Procedures), which are widely recognized as being neutral. The EU therefore tabled a proposal in the Uruguay Round negotiations in which it laid great emphasis on the fact that international trade should depend on stable and foreseeable legal requirements. As rules of origin are part of these requirements, it was proposed that the Contracting Parties to the GATT involved in the Uruguay Round negotiations should adopt the said Annex D.1 of the Kyoto Convention and should commit themselves to an international harmonization of the origin rules on the basis of its principles. Various other contracting parties also made proposals and the result was the inclusion of the origin problem in the Uruguay Round agenda, with a view to harmonizing and clarifying the rules. The discussion took place in the framework of the negotiating group on non-tariff measures.

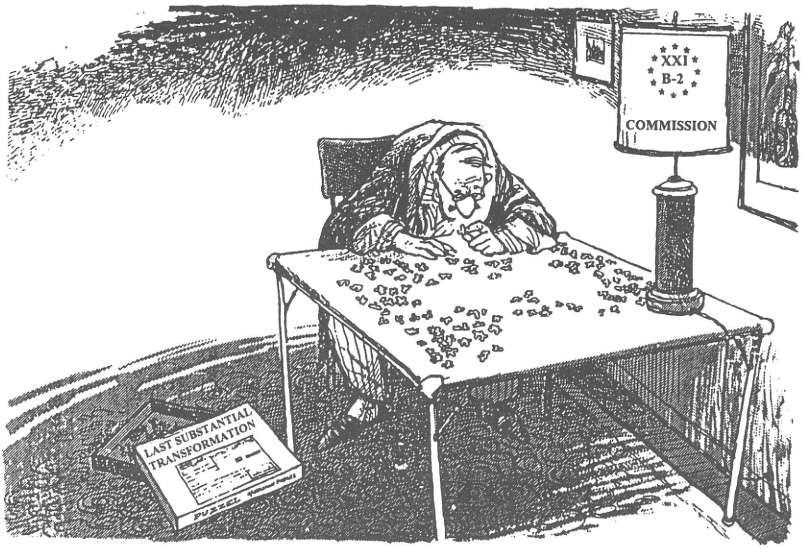
From the beginning the discussion focused on the scope of the negotiations on rules of origin. Some countries, such as the US, were in favour of a harmonization extending to all rules of origin; the EU, amongst others, prefered to restrict the discussions to the non-preferential sector. The reason for this being that preferential rules of origin are mainly individually negotiated elements of bilateral preferential agreements which take into account the specific economic and geographic situation of the beneficiary countries as well as their relationship with the Community. Preferential rules are, by their nature, not suitable for multilateral harmonization.

The GATT Agreement on rules of origin

The harmonization programme

The EU approach prevailed and so the Agreement on rules of origin deals mainly with non-preferential origin rules, i.e. rules that in the Agreement are defined as "determining the country of origin provided they are not related to contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of paragraph 1 of Article I of GATT 1994". The term "non-preferential origin rules" covers all rules of origin used in non-preferential commercial policy instruments, such as in the application of the most-favoured-nation treatment, anti-dumping and countervailing duties, safeguard measures, origin marking requirements, discriminatory quantitative restrictions or tariff quotas, public procurement and trade statistics. Preferential origin rules are briefly dealt with in a common declaration annexed to the Agreement. This declaration does not intend to harmonize preferential rules of origin, but

HARMONIZATION OF RULES OF ORIGIN



simply extends some of the guarantees for the non preferential rules to preferential ones. GATT Members agree for instance to ensure that the preferential rules they are applying fulfil certain requirements (their rules should for instance be clearly defined and published) and to provide to the WTO Secretariat their preferential rules in force.

The aim of the Agreement is quite ambitious. The main objective is to reach harmonized rules of origin that alleviate the present problems. Those rules shall be based on general principles and disciplines laid down in the Agreement, such as clarity, a positive standard, equal application (i.e. one rule) for all non-preferential purposes, coherency, non-discrimination, neutrality, transparency, predictability, consistency and legal certainty. The harmonization programme which will be carried starting at the beginning of 1995, and will be completed in three stages within three years of initiation. During this so called "initial period" the above mentioned principles and definitions will already apply.

<u>First stage:</u>

Development of harmonized definitions of:

- *the goods that are to be considered as being wholly obtained in one country;*

- *minimal operations or processes that do not by themselves confer origin to a good.*

Second stage:

Consideration and elaboration, on the basis of the criterion of substantial transformation, of the use of change in tariff subheading or heading for the development of origin rules for particular products or a product sector.

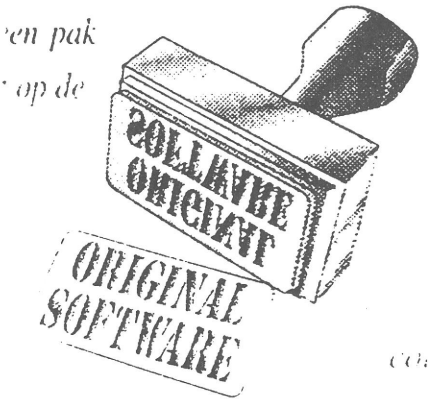
Third stage:

Development, for each product sector or individual product category where the exclusive use of the HS nomenclature does not allow for the expression of substantial transformation, of other requirements, including ad valorem percentages and/or manufacturing or processing operations.

The Agreement furthermore stipulates that a harmonization of the origin determination for each individual product shall be carried out so as to provide more certainty in the conduct of world trade.

Binding origin assessments

Finally, one of the important provisions of the Agreement provides for a system of binding origin assessments: at the request of an exporter, importer or any person with a justifiable cause, assessments of the origin of a product must be given by the GATT Member concerned within a deadline of 150 days after receipt of the request. This introduces the advantage of advanced knowing what origin will be conferred to a specific product on importation. In the Community, this binding origin information will be given by the competent authorities of the Member States. If a Member State desires so, it may consult the Customs Code Committee - Origin Section - before issuing an assessment. As to its territorial scope, binding information given by a Member State of the EU is valid in the whole Community but does not,



of course, bind the other GATT members. It should be clear, however, that once the harmonizaton pro-

gramme has been accomplished, the reply to a request for information should be identical wherever the request has been made. Assessments will remain valid for a period of three years and will be made publicly available, subject to the provisions regarding confidentiality. The assessments, as well as any other administrative action taken in relation to the determination of origin, is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the determination, which can effect the modification or reversal of the determination.

The Institutions

Two new institutions are established to carry out the harmonization planned by the Agreement: the Committee on Rules of Origin (hereinafter "the Committee") and the Technical Committee on Rules of Origin (hereinafter "the Technical Committee).

The Committee is composed of the representatives from each of the contracting parties. It directs the harmonization project and requests information and advice from the Technical Committee. The WTO secretariat acts as the secretariat to the Committee which has its seat in Geneva.

The actual formulation of the harmonized rules will be done by the Technical Committee which is established under the auspices of the Customs Co-operation Council (CCC) (however the CCC recently adopted the informal working name "World Customs Organization" - WCO). All Signatories to the Final Act are members of this Technical Committee, which will carry out the technical work on the harmonization and shall exercise such other responsabilities as the Committee may request it to do. The CCC secretariat acts as the secretariat of the Technical Committee. The work of this Technical Committee will be prepared by a Project Team, placed under the responsibility of the Deputy Secretary General of the CCC and consisting of a Deputy Director and six Technical Attachés.

Once both Committees have accomplished their work, the Ministerial Conference of the GATT shall establish the results in an annex which will form an integral part of the Agreement.

(The present article is of a rather general nature and constitutes a first contribution on this topic; the authors have the laudable intention to provide the editor with a more detailed article on the subject of harmonization once the discussions in the Committees have started. Ed: Thank you in advance.)

Richard VAN RAAN and Johan VERHEGGEN B-2

Reinseignements tarifaires Contraignants (RTC)

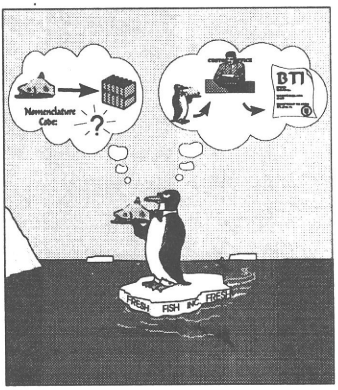
"L'administration se contraint pour mieux servir le monde commercial"

1. *Le RTC, un instrument de la Douane 2000?*

Par le Règlement N° 1715/90 du Conseil, relatif aux renseignements donnés par les autorités douanières des Etats membres en matière de classement des marchandises dans la Nomenclature douanière et les règlements d'application N° 3796/90 de la Commission, un système communautaire relatif aux RTC a été introduit dans la Communauté. Ce cadre législatif est désormais transposé dans l'article 12 du Code des Douanes (règlement 2913/92 du Conseil) et dans les articles 5 á 15 du règlement d'application (règlement N° 2454/93 de la Commission).

Parallelement, nous avons conçu un système informatisé appelé EBTI (European Binding Tariff Information), qui a pour but:

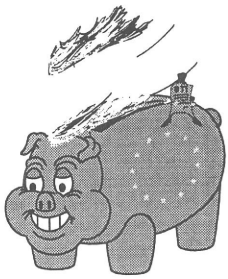
- *de supprimer les différences de traitement entre les opérateurs commerciaux de la Communauté;*
- *d'assurer l'application uniforme des règles de classement tarifaire;*
- *d'assurer l'égalité et la sécurité juridique quant aux décisions tarifaires prises par les différentes Autorités douanières*



2. *Un système informatique né de la coopération A1/B4*

Tout informaticien rêve de mettre en oeuvre un système pour des utilisateurs "virtuels" qui n'ont qu'une idée très lointaine de leurs besoins et une tendance à trouver

tout très bien. En un mot, des utilisateurs qui "ne protestent ni ne revendiquent".



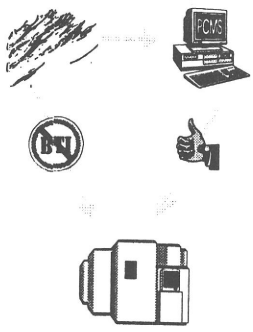
Ici, aucune chance ... Les utilisateurs sont motivés et ne nous laissent pas dériver au cours de nos inspirations "brillantes" ... En un mot, nous avons été, dès le départ, confrontés à la réalité des exigences de l'unité B4, à leur motivation pour avoir un système "parfait" et aux problèmes de calendrier: une tâche bien ardue ... mais une réalisation dans la bonne humeur et la franche camaraderie (enfin presque toujours!).

3. *Quelques écueils à éviter ...*

Des difficultés sont nées du nombre volumineux de RTC et du multilinguisme. En effet, comment introduire les RTC dans une base de données sans devoir les encoder? Comment retrouver un RTC parmi les milliers de classements relatifs à la même position tarifaire? Comment être certain que le RTC que l'on a trouvé est bien celui que l'on cherchait, malgré la complexité des différentes langues?

4. *La technologie de l'an 2000 au service de la Douane 2000*

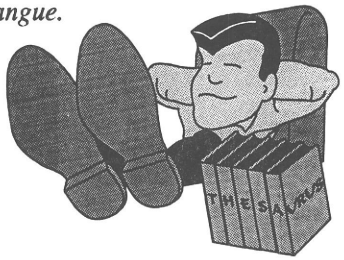
Le premier objectif a été la gestion de l'arrivée annuelle de 10.000 formulaire RTC: un logiciel PC (PC Member State) a été développé et installé dans tous les Etats membres pour permettre l'encodage des RTC, l'impression sur le formulaire communautaire, l'envoi de ces RTC par voie télématique vers le système Central (celui de la DG XXI, portant déja saturé) et la possibilité d'interroger facilement la base communautaire pour connaître les classements déjà réalisés dans l'UE.



Ensuite, au niveau du multilinguisme, il est important de permettre l'interrogation des RTC non traduits à l'aide de mots-clefs qui eux sont traduits: chacun introduit les mots-clefs dans sa propre langue et la réponse du système est multilingue.

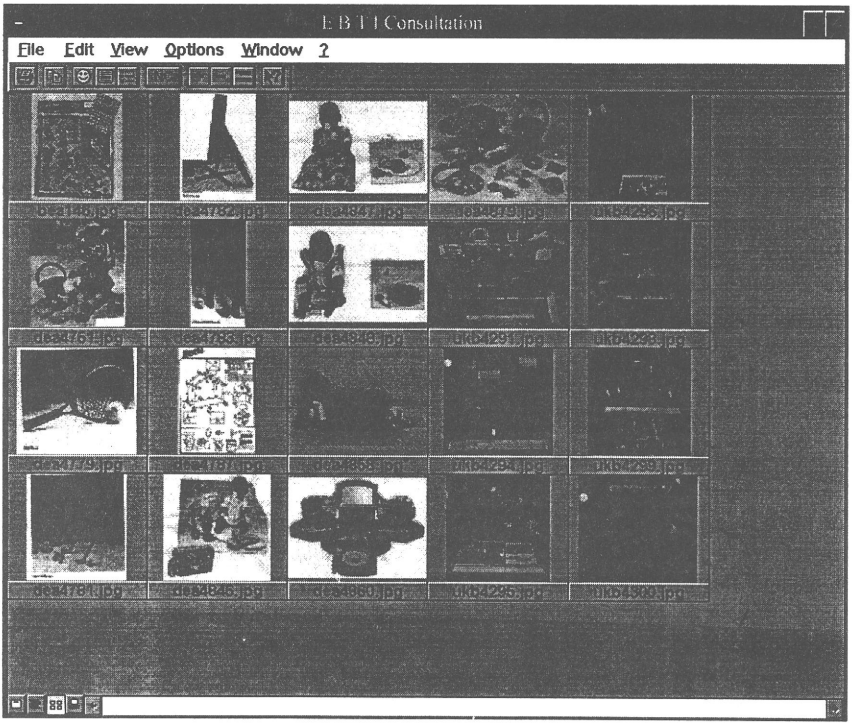
Le dictionnaire multilingue de mots-clefs est devenu un Thesaurus, ... c'est-à-dire un langage documentaire de signification univoque, organisé et structuré selon une logique basée sur des relations "hiérarchiques" ou "associatives".

Ce vocabulaire est contrôlé, restreint et commun à tous les partenaires du système ce qui rend l'indexation, et par conséquent la recherche, indépendantes de la langue.



Une description exhaustive d'une marchandise n'est pas chose aisée et un petit dessin vaut souvent bien mieux qu'une grande explication. Les RTC sont délivrés sur base d'échantillons ou de dossier technique: quel bénéfice donc que d'avoir accès à une information complète et facile à comprendre... Le projet d'introduction des images dans notre système fut aussitôt mis en oeuvre et cela confère au système EBTI un air nettement plus sexy! Une recherche par code NC et par image permettra de se faire une idée immédiate du produit de même qu'une requête mixte plus ciblée combinant mots-clefs et données structurées devient possible.

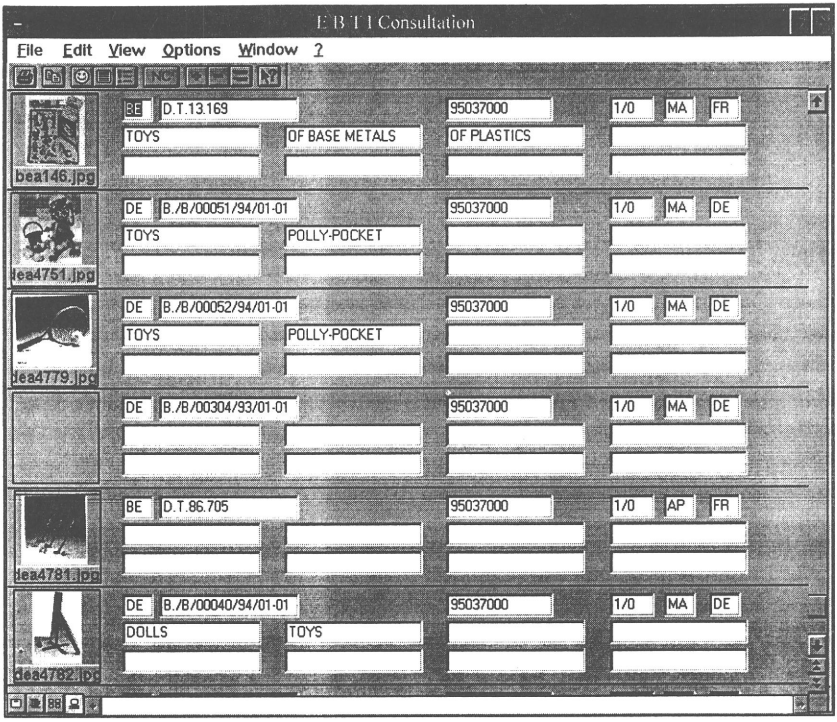
En complément, tout naturellement, vient le stockage des données volumineuses (images) sur des CD-ROM et très bientôt, la

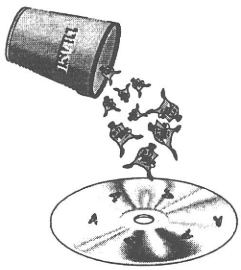


DG XXI produira des CD-ROM contenant les données non confidentielles des RTC et les images associées à ces RTC: une manière facile et économique (les liaisons télématiques sont chères et quelquefois difficiles) de mettre les RTC à la portée des utilisateurs: aujourd'hui les douaniers, demain les opérateurs économiques.

Le futur ..... les cousins des RTC?

La famille va s'agrandir: les douanes nationales délivrent des avis concernant l'origine des marchandises ou la valeur en douane. Ces avis doivent engager non seulement les administrations nationales, mais aussi l'UE, ce qui veut dire que ces renseignements sont CONTRAIGNANTS,voilà ce qui ressort de l'Uruguay Round. Et nous voici en piste pour un autre marathon, avec le même enthousiasme et la même volonté de servir une Douane 2000 avec des technologies de l'an 2000.





Christiane BERNARD et l'équipe EBTI (A1

TGV - Training à Grande Valeur

After 15 months as DG XXI's presence in the Enlargement Task Force, I faced my return in June of this year with some trepidation, wondering what would replace the high profile rôle of negotiating with the four candidate countries. Peter Wilmott's solution - reached after full consultation - was to put me in charge of training (except for the Matthaeus programmes which continue to be conducted by their respective Directorates). What follows is by way of a progress report on my first six months' stewardship.

FIDO[1]

The most urgent problem to tackle was the absence of an internal training programme (see Martine Mateo's letter in 21 Info N°18). After extensive consultations with the assistants, heads of unit and senior members of staff, I submitted to the Board in July 1994 a programme of 20 presentations, each lasting 2 hours, covering customs, taxation and matters, e.g. data processing, common to both.

The programme was duly approved and, when launched, attracted such a large response - over 50 applications - that we had to apply quantitative restrictions! We thought it right to offer a limited number of places to our colleagues in the translation and interpreting services and they have taken full advantage of the offer. At each of the first six sessions, the training room has been filled to capacity, with weekly attendance averaging 27. Each presentation is accompanied by a text. At the end of the course - in March 1995 - we shall consider whether and, if so, how to bring all 20 texts together into a single volume, to serve as an informal guide to the activities of DG XXI.

Newcomers

Since the beginning of this year, 45 statutory members of staff have joined DG XXI. We have a responsibility to see that they are properly received and integrated into their units and given appropriate training.

Under our newcomers' programme, new A and B grades attend an informal meeting with Peter Wilmott and Martine Mateo, plus a series of presentations from the three Directo-

(1) Fiscalite Indirecte et Douane

rates and other DG XXI services.

In addition newly recruited A8 officials receive training on general matters through a course organised by DG IX. We have 3 members of DG XXI on the pilot scheme planned for the end of this year.

We also train new officials from other services, as part of DG IX's modular courses. On 17 November, 4 members of staff gave presentations describing the work of DG XXI to 40 new recruits.

The Fido Logo - (our mascot?)

Informatics

Together with Forum Informatique, *we have been active in the provision of informatics training. In-house training alone, on the various applications of Word for Windows, will amount to 230 days, or thereabouts, over the whole of 1994. The corresponding figure for Forum Informatique, specialising in such programme as Access, Unix, Oracle, will be in the region of 160 days. In addition 55 days have been spent on Excel training, given by an outside contractor.*

Secretaries

I am very conscious of the fact that, apart from informatics, the C grades have been neglected in our internal training programmes (FIDO is for A and B grades only). I propose to begin to rectify this by organising, in the new year, a short course designed to meet the needs of our new C grade staff. After evaluation, we could then consider extending the course to all C officials who would like to participate.

1995-1996 Training Plan

The out-turn of the 1993-1994 Training Plan will be close to the amended target of 3%, equivalent to 6.5 days training per person per annum. Building on the

solid foundations laid by my predecessor[1], I am confident that, for 1995-1996, we should be able to reach or even exceed the 3% target.

We have, however, got off to a bad start; of the 264 training forms sent to staff on 3 October, only 144 had been completed one month later. This poor response will inevitably compromise our credibility when it comes to negotiating training quotas with DG IX. I can only hope that the forceful reminding action I have taken will produce most if not all of the missing 120 forms before it is too late to take account of them.

Special course

In addition to the standard training programmes, there is the occasional need for a course which concentrates on a specific issue or problem. A case in point is the cultural gulf which exists between our negotiators, and those representing the countries of Central and Eastern Europe (CEEC). We have designed a course to bridge this gulf using three different but complementary kinds of input:

- *in-house expertise;*
- *the private sector;*
- *CEEC customs officials.*

The first two presentations will be given towards the end of this year, not only to DG XXI staff but also to our counterparts in DG's I and I A.

Infrastructure

We are constantly trying to improve our means of delivering training. The division of MDB 0/18 into two rooms, one equipped with PC's, has greatly enhanced our capacity. It enables us for instance, to run SCENT and FIDO courses simultaneously on Monday mornings.

We have installed a new wall-mounted screen and have ordered a second one for the other room.

Our administration of DG XXI's training programmes will also benefit from the move early next year to a high performance data base that is interoperable with the staff data base.

Conclusion

This is inevitably a rather rapid tour d'horizon. It does nonetheless show

(1) Ed: Peter LINDVALD Nielsen

steady progress on a broad front. For this I wish to thank the many colleagues who have contributed in their various ways: to the Board for their backing, to the 41 FIDO presenters, to our Informatics Workshops, to DG IX for funding the CEEC seminar and, last but not least, to my assistant Ilona De Vestele for responding so readily to the innumerable demands placed upon her. We all share the same commitment to training - not as an optional extra, but as an intrinsic aspiration to achieve our full potential in the service of Europe.

Leon GORDON - Trainer

* * *

HAPPENINGS

Inward processing relief seminar

The inward processing relief arrangements (IP) allow for the importation of raw materials and semi-manufactured goods without application of the normal customs duties, agricultural levies, VAT and possible excise duties if the final product obtained after processing is re-exported outside of the customs territory of the Community.

This arrangement has been running at Community level since 1987 and Directorate B felt it was time to hold a seminar concerning the practical implementation of certain specific aspects at the end of October.

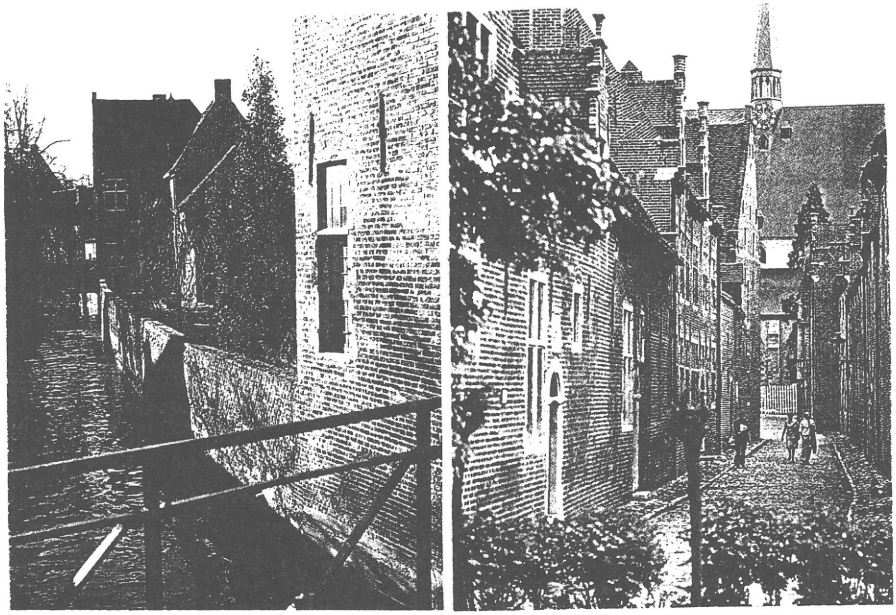
This seminar held in Leuven from 24 to 26 October had many issues and aims. Amongst others:

- *the necessity to simplify legislation and harmonize practice,*
- *the need to anticipate possible changes for agricultural products due to the conclusion of the Marrakesh Agreement (GATT),*
- *the possible redefinition and/or limitation of the use of equivalence in the agricultural field for anti-fraud purposes,*
- *the redefinition of control practices in this area in order to ensure equity of treatment of economic operators.*

For three days, experts from the relevant Commission Services, officials from the Union and from the possible new Member States, as well as a representative delegation of European trade and industry federations, examined in depth possible changes to legislation.

Via lively discussions after speeches from field experts, the differences in practical implementation of the actual legislation became clear. Afterwards, in specific workshops, every participant had the possibility to put his personal view on one of the following selected items: the economic conditions test, equivalence for agricultural products and customs control.

Whether it was the comfortable accomodation in the Leuven hotels, the



enjoyable surroundings of the meeting room in the Beguinage or the perfectly organised programme (meals, bus transfers, social programme,...) arranged in collaboration with the "Katholieke Universiteit Leuven (KUL)", the seminar resulted in an enormous amount of new ideas, worth examining in detail in the following months.

A few of the suggestions made:

<u>1. Economic conditions test</u> ("economic conditions" means that you cannot use IP if the essential interests of Community producers would be affected)

* *"black list": (for goods on that list the use of IP would be forbidden; as a consequence, an advantage for trade as well as for customs: goods who are not on that list are considered not to harm European industry when using IP) or a*
* *"white list": (goods on that list are considered not to harm European industry, thus no test formalities for operators)*
* *possible Commission competence for testing specific sensitive products with an appropriate ad hoc Committee procedure which permits them to react quickly to market changes*

* *risk assessment: a specific system with points allocated in order to measure the degree of danger of harming European industry.*

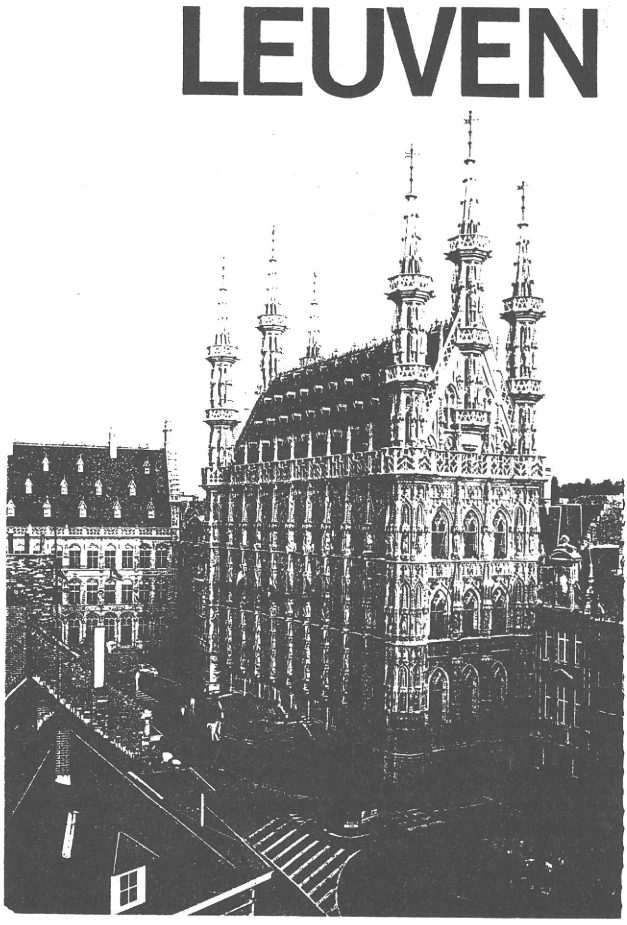
Because of the rather conservative attitude of certain participants to the potentially provocative nature of lists, an in-depth examination of the risk assessment system will be made together with the UK Department of Trade and Industry.

The purpose of this examination will be to implement such a system, perhaps by way of experiment, in 2 different Member States from March 1995 for a 6 month period.

<u>2. Equivalence</u>

("equivalence" makes it possible to use Community goods in stead of third country goods for the processing of the final products if the comparable Community goods fulfil certain specific conditions: same 8 digit CN-Code, same commercial quality and same technical characteristics).

* *impossibility of using equivalence is agreed upon if control is not possible or if the control cost for the administration is higher than the advantage for the operator*



(e.g. living animals, meat,..)

* *clear guidelines per product would be welcome (extension of the list Annex 78 in Reg. 2454/93 for specific products e.g. olive oil)*

* *practical implementation of the general equivalence rules as applied in the UK will help customs services a lot in the field*

* *the possible obligatory use of international quality standards in order to respect general commercial quality condition*

3. Controls

* *Although a control officer is considered to know his own operators the best, a training programme for controllers specifically concerning IP seems to be necessary (to be arranged at Community level with notions of book-keeping, knowledge of computer programming, audit techniques, controls of the discharge of the imports, risk assessment techniques in order to define the need and the moments for possible physical controls, sampling techniques,...)*

* *specific actions in order to obtain harmonized control procedures based on experience obtained by local controllers in other Member States. These visits, which could possibly be done under the "Monitoring" programme, should permit equivalent control results and, as such, avoid distortion of treatment between operators.*

As you see, to obtain a clear and transparent legislative tool for the inward processing relief arrangements, a lot of both organisational as well as legal work to be done by B6 seems to have resulted from this seminar. Indeed the idea of re-writing the legislation to make it more user-friendly, with equalization of time periods, was also suggested.

This modernisation of law and harmonization of practice will make the IP regime a more effective tool of customs policy, a means to compete better with third country companies on world markets and an alternative to the Community's refund system when the respect of the commitments of the GATT-Agreement should cause export problems for agricultural products.

Luc T'JOEN B-6

EN PANNE!!!

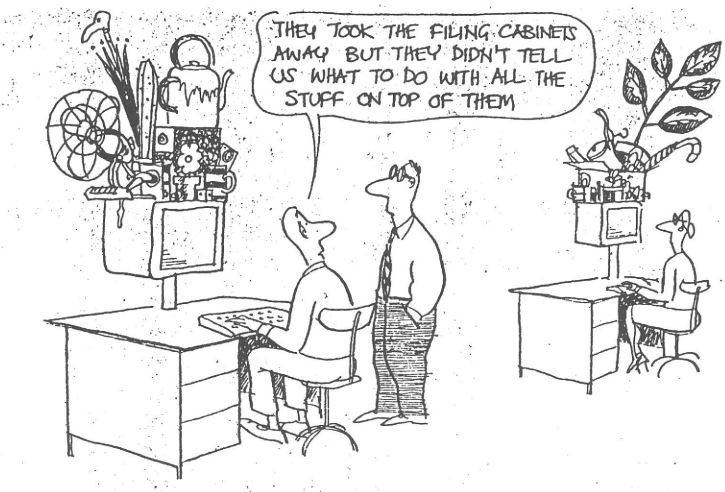
How often have we heard - when having difficulty making air reservations or disputing an error in a bill - "It's the computer system!" More and more, the business and administrative worlds depend upon computers and their associated networks to assist with managing ever increasing workloads. But these systems themselves are dependent upon a stable supply of power - electricity. However, computers are not the only things which use this precious commodity - a supply which is taken for granted until something goes wrong.

Over the past few years, the electricity demands in this building (MDB) have been steadily increasing. A new cafeteria, upgraded air conditioning, new and more powerful photocopying machines, increased machine usage and so on. We too in A1 have installed a new computer hall with new more powerful machines and independent air conditioning. Result, even though all the specifications are known to DG IX, who are responsible for the power supply, is that we have recently had some serious interruptions to the electricity supply. The most visible signs of these are immediate loss of the screen on your desk, and worse, the loss of recently captured data which has not yet been downloaded to some form of backup.

We have many computer systems here, all of which suffered even though we do have UPS (in this case "Uninterrupted Power Supply" unit). UPS is really a bank of very powerful batteries which enables the machines to continue running for a period of 30 minutes after a power interruption in order to permit an organised closedown of the machines. However, with the frequency and period of the interruptions we suffered at the end of September, even the batteries went down. But, immediately there was a cut in supply, DG IX was contacted so that emergency action would be taken and, at the same time, we suggested that consideration should be given to upgrading the UPS to at least a one hour capability. This is an expensive business and there is reluctance to make available more standby power which could possibly lie there without ever being used. Emergency action was taken by DG IX to get the supply up and running again, followed by full remedial action foreseen for Thursday 29 September when a scheduled powerdown of the machines was announced. However, even here, all did not go according to plan.

Commencing at 08.30 on the morning of Friday 30 September, all systems in the Computer Room were

started up again following the scheduled power cut of the previous evening (which had been made in order to trace the reason for the recent interruptions in the power supply). All computer systems commenced to boot normally. When our new independent air conditioning unit was powered-on, however, there was a loud bang and blue sparks and the unit refused to start. Technicians were summoned immediately.



On examining the air conditioning unit, the technicians found that two large power cables were badly burned. It was clear that the cables had not been correctly secured at the time of their installation and had come into contact with an electric motor. The risk of an electrical fire does not bear thinking about, though the computer hall is bounded by fire proof material. Since the air conditioning unit was not operable, the temperature in the Computer Room began to rise. It was decided, however, as a service to our users, that the computers in the room should not be powered-down for the time being. The thermostat (controlling the power cut-off switch) was adjusted upwards accordingly.

During their work, the technicians accidentally tripped the power cut-off and all systems in the Computer Room crashed. It was decided this time, that only essential machines should be started in order to try and keep the temperature down. As these machines were booting (ie starting up), the technicians did it again - all power was lost. It was now decided too dangerous to try and run the machines while the technicians were in the room.

Around 11.30, the technicians had finished their work on the air conditioning unit and the temperature in the Computer Room began to drop. All computers were powered-on. Al-

though all systems had suffered minor software damage to their files systems due to the crashes, Unix was able to fix them. Most systems were up and running before 12.00.

So, while we regret the difficulties which our numerous users have had, we believe that all prudent steps to avoid such a problem had been covered. We are very conscious of the fact that a number of our systems are required seven days a week and, in some cases, 24 hours per day, 365 days of the year. Thus we are now in further detailed discussions with DG IX to see what more can be done. For example, one concept being pursued concerns standby electricity generation. There is, in the building, a standby generator (Electrogen) but this only comes into operation when the external source of supply to the building fails. Our situation was different, it was the internal fuses in the building which had blown. Thus power was still available externally, but not internally. There may be a means of using standby generators solely for our machines and this is one concept being examined in negotiation with DG IX though there may be legal as well as technical problems to be solved. Where a close down is planned we always endeavour to let everyone know in good time, however in cases of accident the nature and duration of the service interruption is not always known immediately.

We continually review all means of keeping the service as stable as possible in DG XXI through, for example, examination of calls to the Help Desk, and we hope that it is understood that the failures were not in the computers or the systems but were due to a breakdown in the electricity supply. No matter what is done, surprises will always occur. I once had a large installation completely paralysed because a hungry mouse had chewed through the main cable insulation. The cooked remains were found during a search for the cause of breakdown. The mouse had paid dearly but equally I had some very expensive repairs to carry out as a result.

Overall, our systems are very stable and since our recent upgrading of the central machines the future seems to be secure. This experience with the electricity supply is the driving factor behind our detailed negotiations with DG IX for better assurance of that supply in the future. Once again, DG XXI is taking the lead in order to provide the best possible computer services to our users.

Maurice H. WALKER A-1

"Accession ... Some customs aspects"

The purpose of this article is to tell you about the consequences of the enlargement of the Community with respect to customs legislation. It does not deal with specific legislation enacted on the basis of the Act of Accession (e.g. for agricultural products) and the transition problems concerning intra-Community VAT.

Introduction: The basic rules of the accession

On accession of new Member States to the European Union (EU) the following rule applies in principle: from the time of accession, the original treaties as well as the legal instruments based on these treaties (e.g. the Customs Code) are compulsory for new Member States, i.e. they must apply the "acquis communautaire". This implies the following:

- *The original treaties as amended by the Act of Accession apply from the time of accession (e.g. Art. 15 of the Act of Accession changes Art. 148 paragraph 2 of the EC Treaty which specifies the weighting of votes for Council decisions with qualified majority).*
- *Legislation deriving from the treaties is to be used in the version as amended by the Act of Accession from the time of accession (e.g. Annex I list XIII of the Act of Accession changes the Customs Code so that the territory of the new Member States also belongs to the Community's customs territory). Normal legislative work naturally continues, so both before and after accession further changes in the law (e.g. amendments to the implementing provisions of the Customs Code) can be enacted according to the procedural rules which apply at any given date.*
- *The Act of Accession provides for some transitional measures in order to facilitate the transition for both goods traffic between old and new Member States and between two new Member States, and trade between new Member States and third countries; within the area of customs law nearly all measures apply to all new Member States in the same way (see Annex VI of the Act of Accession).*
- *At the time of conclusion of the Act of Accession in June 1994 it was naturally not possible to foresee and settle in advance all transition problems. The Act of Accession thus contains several protective clauses which make it possible to provide for exceptions to the general rules for a limited period in order to avoid disturb-*

ances (in particular Art. 147-153 of the Act of Accession).

Transitional measures valid for all new Member States

Annex VI of the Act of Accession contains certain transitional customs measures based on the following considerations:

- *In the interest of the facilitation of international trade, some transactions which began before accession and are only terminated thereafter should be completed according to the old rules.*
- *Since such rules create exceptions to the obligation to apply Community law, these have to be strictly interpreted.*
- *Authorizations and procedural facilitations cannot be changed from one day to the next for all beneficiaries. This applies all the more as the definite date of accession will be known only at short notice.*
- *Some transactions started before accession will be terminated after accession (e.g. re-importation of goods which were exported before accession within the framework of outward processing). Here it appears appropriate to use the previous bases of assessment, if the law of the acceding countries provided for this.*

However, these principles apply only insofar as they are set out in Annex VI of the Act of Accession and expressly in relation to individual customs procedures or other regulations of Community customs law; in all other cases, the EC Treaty and the customs legislation based on it are also to be used in the new Member States from the time of accession. In particular the principle of free circulation (Art. 9 and 10 of the EC Treaty) will apply to goods which are in free circulation in a future Member State at the date of accession throughout the enlarged Community customs territory.

From the moment the Community becomes enlarged, goods which before their entry in the customs procedure were in free circulation in, say, Austria, will be in free circulation in the enlarged Community. The same applies to goods which have been in free circulation in the Community and which are in an acceding Member State under a customs procedure at the time of enlargement. There is no question of their being put into free circulation, their new status must simply be accepted by the customs authorities.

In dealing with goods which had arrived in the Community of 12 from an acceding Member State under a T-1 procedure before accession, the fact that they may well not have been

in free circulation in the acceding Member State has to be taken into account. The fact that they were in free circulation will have to be proved, even a posteriori, by appropriate documentation concerning the status of the goods; this includes customs clearance documents, evidence of origin issued under the EC/EFTA or EEA Agreements, etc. Even expired certificates may be accepted in such cases, since the validity date is without relevance for the status of the goods. If such evidence is not presented by commercial operators, the goods will be treated as third country goods.

In the case of goods for which a customs procedure has begun before accession and is terminated thereafter, it is therefore necessary to differentiate between:

- *preferential originating products under the EC/EFTA or EEA Agreements,*
- *goods to be treated as Community goods for other reasons (in particular third country goods which were in free circulation, as well as non-preferential originating agricultural products), or*
- *goods subject to the customs duties of the Common Customs Tariff because they do not have Community status.*

If for example preferential goods originating in Austria are brought into Germany before accession within the framework of temporary importation, and are intended for free circulation in Germany after accession, no customs duty is to be levied upon presentation of evidence of origin according to the rules of the EEA agreement. If no preference was applicable before accession but the Community status of the goods can be proved (e.g. presentation of the Customs documentation concerning the entry into free circulation in Austria) no customs duty is to be paid either.

Evidence of origin

Evidence of origin issued in third countries according to the former regulations of a new Member State will also be accepted in the same new Member State after accession if:

- *evidence of origin and the transport documents have been issued at the latest on the day before accession, and*
- *evidence of origin is submitted to customs authorities at the latest four months after accession.*

Any authorizations for "approved exporters" issued by the new Member States may be maintained for one year from the time of accession, if:

- *the relevant Community agreements with these third countries also provide for this facilitation, and*
- *approved exporters apply the Community rules of origin from the time of accession.*

For evidence of origin and/or transport documents issued before accession, the rules of origin of the EEA agreement apply where customs formalities are necessary.

Simplified procedures

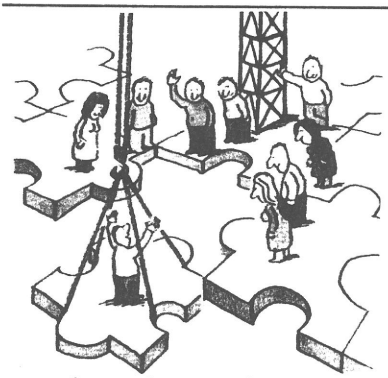
Authorizations for period entries may be retained for one year from the time of accession until they are replaced by an authorization corresponding to the conditions of Art. 76 of the Customs Code. Continuing validity of authorizations for incomplete or simplified entries does not entail great risks in that when the supplementary entry is lodged all data necessary for customs duty calculation must be given in any case.

Customs procedures with economic impact

The transitional measures for customs procedures with economic impact (customs warehouses, inward and outward processing, processing under customs control, temporary importation) include the following common elements:

- *Authorizations issued before accession may be retained up to the expiration of their period of validity, but for no longer than one year after accession. After one year at the latest they must be replaced by an authorization issued according to Community regulations.*
- *Procedures must be terminated according to Community legislation; however, where a customs debt arises, different rules apply to its calculation.*
- *Customs procedures involving both present and future Member States started and not terminated before the date of accession will still have to be terminated after accession.*
- *According to Articles 9 and 10 of the EC Treaty a customs debt cannot arise for goods which have attained Community status by virtue of accession. This concerns both goods originating in the old or the new Member States and goods imported from third countries which have been released for free circulation in the old or the new Member States before accession (cf. Art. 4 n°. 7 of the Customs Code).*

*In the case of the **customs warehousing procedure** the following solution*



was chosen in accordance with Art. 112 of the Customs Code: if the bases of assessment (i.e. classification, value for customs purposes and quantity) were determined at the time of entry to the customs warehouse procedure and if this entry was accepted before accession, these also apply after accession, (i.e. the elements determined according to the national regulations of the new Member State) provided that the legislation of the new Member State referred to this date for the determination of the customs debt.

Art. 121 of the Customs Code served as a model for ***inward processing****, i.e. in relation to classification (including duty rates), quantity, value for customs purposes and origin. The time of acceptance of entry for inward processing is decisive if the entry was accepted before accession, provided that the legislation of the acceding country referred to this date for the determination of the customs debt. According to Art. 589 of the implementing provisions of the Customs Code, compensatory interest is to be paid where a customs debt arises (the aim of inward processing is after all the export of processed products and not their entry into free circulation). In cases where an inward processing took place in one of the original Member States and the processed goods were destined for a future Member State, after accession it is no longer possible to "export" the goods to the new Member State; if the Community status of the goods dispatched after accession is not proved, then they have to be entered to free circulation according to the rules mentioned above concerning customs debt (if no other customs destination is chosen).*

With respect to ***processing under customs control*** *no transitional rules regarding customs debt have been introduced, so after accession, the customs duty is applied on the basis of the Customs Code and the Common Customs Tariff (apart from some exceptions concerning Finland and Norway). This applies also in cases where Art. 135 of the Customs Code is applicable, i.e. where the goods have not or not entirely been processed. Therefore, even though the bases of assessment to be applied are those which were valid at the time the goods were declared for entry to the procedure (before accession), the customs debt is calculated according to Community legislation.*

*In accordance with Art. 144 of the Customs Code in the case of **temporary importation** the customs debt incurs on the bases of assessment valid on the day of acceptance of entry for temporary importation; therefore classification (including duty rates), quantity, value for customs purposes and origin are to be determined according to the rules which were valid in the acceding countries at the time of acceptance of the entry (i.e. before accession). As in the case of inward processing - in accordance with Art. 709 of the implementing provisions of the Customs Code - compensatory interest is to be paid (since temporary importation is for goods intended for re-exportation and not for the subsequent entry of goods into free circulation).*

*In the case of **outward processing** the Community uses the system of differential taxation (Art. 151 of the Customs Code), whereas some acceding countries have based their customs duties on the added value. Insofar as processed goods which have been declared in future Member States before accession for this procedure return there after accession, their former regulations apply for the calculation of customs debt. However, this is provided that:*

- *the law of the acceding country backdates the time applicable for the determination of the customs debt to the day of acceptance of the declaration for outward processing, and*
- *the conditions of the authorization granted according to former national regulations are satisfied.*

Free zones and free warehouses

Authorizations for free zones and free warehouses may be retained for one year at the most after accession. Before this they must be replaced by authorizations which correspond to Community legislation. Where operators in free zones or free warehouses have previously kept no inventory records in accordance with Art. 176 of the Customs Code, they must introduce such an accounting system during the transition year and the Customs authorities must approve it. If the law of an acceding Member State allowed goods from a free zone or free warehouse to be transferred into inward processing, processing under customs control or temporary importation, then the corresponding authorizations are still applicable until the expiration of their period of validity, up to a maximum however of one year after accession. At the end of this year, at the latest, these are to be replaced by authorizations issued according to Community legislation.

Entry in the accounts, post-clearance recovery, repayment and remission

From the date of accession, entry in the accounts (including post-clearance recovery), repayment and remission of import duties are to be in accordance with the Articles 201-242 of the Customs Code. However, where the customs debt was incurred before the date of accession, then recovery and/or correction is also to be in accordance with the regulations which applied in that new Member State before accession. Since this involves correction of an error which arose before accession, duty imposed according to national law is to be refunded or recovered at the expense of or in favour of the acceding country rather than the Community.

Special tariff and external trade arrangements in relation to individual countries of accession

Special arrangements in relation to the individual new Member Sate for intra-Community trade and goods from third countries are given below. According to the internal market principle embodied in Art. 7a of the EC Treaty, these deviations from the general rule of free circulation of goods and/or the uniform external trade system may not be misused to justify the carrying out of any controls at the internal frontiers.

Austria

Austria may maintain import quotas for tobacco products from other Member States for three years (Art. 71 of the Act of Accession). For some liquors in heading 2208, Austria may maintain its customs duties and license regulation vis-à-vis the remaining Member States up to 1.1.1996 (Art. 72 of the Act of Accession).

Austria can maintain its previous import restrictions for lignite (CN code 2702 1000) up to 31.12.1996 for goods coming from Hungary, Poland, Slovakia, the Czech Republic, Romania and Bulgaria (Art. 74 of the Act of Accession).

Finland

Finland may maintain its higher rates of duty for the goods specified in Annex XI of the Act of Accession. These are to be gradually lowered to the level of the Common Customs Tariff (Art. 99 of the Act of Accession) by 1.1.1998. Furthermore, up to 31.12.1999 Finland may open an annual duty-free tariff quota for styrene (CN code 2902 5000) (Art. 101 of the Act of Accession). The end use of the goods in Finland is to be supervised by customs according to Article 82 of the toms Code.

Michael LUX B-6

"Fourth Accession ..... some VAT Aspects"

The process of enlarging the European Economic Community - now the European Union - for the fourth time since its establishment is entering into its final phase. From the date of accession - which is still scheduled for 1 January 1995 - the new Member States shall apply in those States the provisions of the original Treaties and the Acts adopted by the institutions before Accession. Thus, within the field of VAT the new Member States will be applying the acquis communautaire with the exception of the cases specifically provided for in Annex XV of the Act of Accession. Generally speaking, these provisions cover mainly the possibility to continue to tax some operations, exempted from VAT subject to Annex E of the Sixth VAT Directive or to continue to exempt from VAT some operations which have to be taxed subject to Annex F of the same Directive.

Measures relating to the transition from 1994 to 1995

As a result of the above, this means that from the date of accession the system of tax on imports and tax relief on exports for trade between, on the one hand, the existing and the acceding Member States, and on the other hand, between the acceding Member States themselves, will be abolished. From then on, the transitional arrangements for the taxation of trade between the Community and the new Member States as well as to trade between the acceding Member States themselves will apply as laid down in the Sixth VAT Directive, as amended. In other words, the accession of the new Member States will have as a consequence the abolition of frontier controls for fiscal purposes.

Within this context transitional measures are necessary in order to ensure the neutrality of the common system of value added tax and to avoid situations of double-taxation or non-taxation, particularly in situations where goods were put under a suspensive customs regime or procedure before the date of accession and will leave these regimes only after the date of accession. The measures envisaged are similar to those taken at the time of the abolition of fiscal frontiers between Member States on 1 January 1993.

The nature of the transitional measures to be adopted depends on the customs status of the goods leaving, after accession, a suspensive customs regime or procedure under which they were placed before accession. For customs purposes for instance,

goods which were in free circulation in, say, Austria, and which have been placed under a suspensive customs regime in the Community before the accession, will be in free circulation in the enlarged Community from 1 January 1995. The same applies to goods which were in free circulation in the Community before the accession and which are under a suspensive customs regime in one of the acceding Member States at the time of enlargement. As at the moment that these goods leave these customs regimes after accession they will be treated as Community goods, there will be no importation for VAT purposes. In this particular case, a taxable event has to be created in order to avoid non-taxation except where an intra-Community acquisition is deemed to take place in 1995 (for instance, a transit procedure started in 1994 for the purpose of a supply taking place in 1995).

As for the changeover from 1992 to 1993, special measures are proposed for means of transport which, at the moment of accession, will be covered by temporary importation arrangements in the relations between, on the one hand the existing and the acceding Member States, and on the other hand between the acceding Member States themselves.

The transitional measures in the field of VAT will have to be introduced by means of a Directive modifying the Sixth VAT Directive. This Directive will be based on Article 169 of the Act of Accession. This Article lays down a simplified procedure that allows, prior to the accession, adaptations of acts of the institutions, required by reason of accession and which had not been provided for in the Act of Accession.

Administrative Co-operation.

The Community VAT regime and the system of Administrative Co-operation set up under the terms of Council Regulation 218/92/EEC will apply in the acceding States from 1 January 1995. This requires considerable efforts of adaptation and organisation on the part of traders and administrations, primarily in the acceding States themselves but also within the existing Community.

Immediately after the conclusion of the accession negotiations, DG XXI set work in hand to plan the smooth integration of the new Member States into the administrative co-operation system and the telematic VAT Information Exchange System (VIES) which underpins it. A Commission-chaired working party was set up with representatives of the acceding States' VAT administrations to co-ordinate the preparations, and the Commission undertook a number of

bilateral visits to the acceding States to help ensure that they covered the full range of measures which needed to be taken.

With the assistance of Marben, the consultant originally in charge of setting up the VIES, the system has now been extended to all four acceding States and technical tests have all so far proved satisfactory. The new Member States will be in a position from the beginning of December 1994 to test the system by exchanging real VAT registration data, thus enabling traders in all 16 States to make any VAT Identification Number verifications which may be necessary to prepare for what will be intra-Community transactions after the turn of the year. (All four will, in principle, be "switched on" from early December).

The necessary administrative and other preparations have all been set in train, with the establishment of Central Liaison Offices, the launch of trader information campaigns, staff training programmes, the allocation of new VAT Identification Numbers, the publication of new forms for VAT returns and recapitulative statements already in most cases well advanced. These preparations have all been monitored and assisted by DG XXI, with regular reports to the Member States through the Standing Committee on Administrative Co-operation.

Susanne Birk JACOBSEN C-3
Marie Claude BLIN C-1
Jan VANGHELUWE C-1

Paris tenus. Ou presque!

Il y a les engagements sans délais, les délais auxquels on s'engage, ceux que l'on respecte, ou qu'on vous fait respecter, les trains manqués, les T.G.V. et les délayages.

En cette fin d'année, la Direction C est au rapport. Elle s'était en effet engagée à présenter:

1. *Un rapport sur la <u>représentation fiscale</u> qu'elle a d'autorité étendu à la notion de redevable de la TVA. Promis pour février 1993, le rapport de 150 pages, assorti d'une communication de la Commission, a été adopté le 3 novembre dernier par le Collège (document COM(94)471): délai raté ou délayage?*

   Généralement bien accueilli par la critique, le rapport n'a cependant par obtenu, en cette période de palmarès littéraire, un prix justifiant d'un cocktail chez l'éditeur. Il reste néanmoins que le travail effectué a permis d'identifier, dans le cadre de la législation communautaire actuelle, un certain nombre de solutions aux préoccupations des assujettis réalisant des opérations dans des Etats membres dans lesquels ils ne sont pas établis, tout en assurant aux Etats membres toute garantie en termes de contrôle et de recouvrement de la taxe.

2. *Un rapport sur le <u>régime transitoire de TVA</u>, que la Commission devait élaborer avant la fin de l'année, avant de faire ses propositions sur le régime définitif: pari tenu pour le rapport, ambiance T.G.V. pour ce qui doit suivre.*

   Après pratiquement 2 ans de fonctionnement, il se confirme que le régime transitoire fonctionne de façon globalement satisfaisante et a permis de remplir l'un des objectifs retenus déjà par la 1ere directive: la suppression, pour les échanges intracommunautaires, des détaxations à l'exportation et des taxations à l'importation, et, ainsi l'abolition des contrôles à des fins fiscales aux frontières.

   Cependant, ce régime ne permet pas de donner sa pleine dimension au marché intérieur. Justification du caractère intra-communautaire des opérations, poids des obligations d'identification et de déclaration impo-

sées aux assujettis, effet dissuasif des régimes particuliers qui restent des obstacles au développement des échanges entre Etats membres, sont autant de paramètres qui plaident en faveur d'un passage "à très grande vitesse" à un régime définitif.

3. *Un rapport sur les taux de TVA que la Commission est tenue de présenter au Conseil, avant la fin de l'année qui se décomposera en:*

   - *un rapport qui passant en revue le champ d'application de la liste des biens et services pouvant faire l'objet d'un taux duit de TVA (annexe H de la 6ème directive), et*
   - *un rapport sur le (bon?) fonctionnement des mesures transitoires appliquées par les Etats membres en matière de taux, comme, par exemple, les mesures adoptées pour appliquer les taux zéros, super-réduits, "parking", etc. Ce rapport aura pour objet d'établir si, et dans quelle mesure, les règles actuellement applicables dans ce domaine ont donné lieu à des distorsions de concurrence entre les Etats Membres*

Dans ce contexte, la Commission devra bien entendu tenir compte, dans son rapport et dans ses réflexions concernant d'éventuelles modifications aux dispositions actuelles, de ses objectifs, à plus long terme, en matière de rapprochement de taux et notamment de la discipline qu'elle jugera nécessaire d'imposer pour faciliter l'introduction du régime définitif de TVA prévu pour le 1er Janvier 1997.

Il va sans dire que ces rapports trouveront leur inspiration dans le rapport lugraineusement foudroyant que la Commission a sorti au début de cette année sur la coopération administrative. Ce monument représentait un sommet intellectuel de rédaction et d'analyse dont les autorités les plus renommées parlent toujours;

4. *Un rapport sur les droits d'accises. Bien qu'elle ne soit tenue qu'à un rapport, la C2 a trouvé le moyen de le couper en deux! Concurrence oblige...*

   Le premier examine la situation en matière de droits d'accises sur le tabac et les boissons alcooliques. Outre la question d'une révision éventuelle des taux minima actuellement appliqués, le rapport devra traiter également la question épineuse suivante: la Commission doit-elle changer de politique et définitivement abandonner l'idée d'appliquer les droits d'accises

aux vins? Le deuxième fait une analyse de la situation actuelle en ce qui concerne les huiles minérales, tout en tenant compte des objectifs plus généraux du Conseil, résultant des orientations retenues pour sa politique environnementale et énergétique.

Thomas CARROLL C- 3
Valère MOUTARLIER C- 1

Encore un petit effort, Madame, et tous ces rapports pourront sortir.

BEYOND MINESWEEPER AND SOLITAIRE:

The computerization of customs procedures:- present situation and future prospects

While DG XXI has learned to play "solitaire" and "minesweeper", the computerization of customs procedures is in progress in all Member States, although its speed and extent, and the architecture selected, vary greatly. The use of information technology, even where it entails considerable initial expenditure on equipment and training, as well as subsequent maintenance and renewal costs, may provide net savings for an administration in so far as it reduces manpower budgets, and may seem an attractive option in a period of downward budgetary pressure, especially in Member States where salary levels are relatively high. But computerization has a number of other advantages.

First, it can provide greater security than manual procedures by eliminating some human error, negligence or inattention (although data must be entered by human intervention) and can thus make customs controls more effective without necessarily increasing the burden on enterprises. The pilot study for the computerization of the Community/Common transit procedure, which is one of DG XXI's current projects, was initially launched precisely because the European Court of Auditors considered that this would provide greater security in the collection of own resources than existing manual methods. Thus there is no necessary incompatibility between the use of computerized procedures as a means of strengthening enforcement and the Community policy of greater facilitation of procedures.

Second, enterprises themselves increasingly use information technology for their own management and auditing purposes and may find it convenient to supply information to customs by electronic means. This transmission may take various forms, the most far-reaching being to give the customs administration direct access to the enterprise's own data-bases, using internal auditing and stock-accounting mechanisms which may need to be developed in close consultation with customs specialists. The development and increasingly widespread acceptance of the EDIFACT standard for the communication of data on commercial operations are likely to provide an incentive for

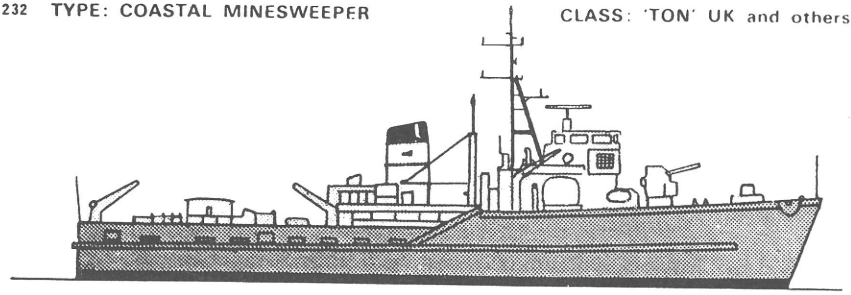
electronic communication between economic operators and the administration.

In 1992, the Commission's services engaged a consultant, Andrew Ronaldson Associates (ARA), to examine the existing situation and the likely prospects for the computerization of simplified procedures for customs clearance. The report in fact went some way beyond this mandate and recommended a generalized two-stage system of computerized customs clearance: third-country goods arriving in the Community would generate an initial electronic declaration to customs, at the place where the external frontier was first crossed, containing only the essential data to permit the consignment to be subsequently identified and dealt with. In due course, the consignment would be the subject of a complete computerized declaration - normally in global, periodic or recapitulative form - indicating the customs procedure(s) under which it had been placed. The fact that the consignment might meanwhile have crossed one or more internal Community borders was not considered an insurmountable obstacle to the ultimate introduction of such a system. However, there is at present no example of a computerized customs control system that operates across internal frontiers.

The ARA recommendations, which have interesting implications for the "integrated" system outlined below, have not been formally endorsed or rejected by the Commission's services, and have been greeted with a variety of reactions by the Member States, ranging from enthusiasm, through cautious willingness to consider the proposal, to rejection. The likeliest outcome is that some of the suggestions made in the report will be taken up and developed, while other recommendations will most probably remain a dead letter.

The completion of the internal market on 31 December 1992 has inevitably changed the context in which any consideration of customs controls must be undertaken. The need for the most uniform possible implementation of Community customs rules has always been recognized by the Commission's services, and was indeed the prime reason for the start of work on the Community Customs Code in the early 1980s. However, the abolition of internal border controls and the fact that goods which have been presented once only to customs at the place of import can now circulate freely throughout the Community, that the internal transit procedure has virtually ceased to be used, and that the usual export procedure will not normally involve significant cus-

232 TYPE: COASTAL MINESWEEPER CLASS: 'TON' UK and others



151·6 114 76 38 FEET
46·2 36 23 12 METRES 0

Displacement, tons: 360 standard, 425 full load
Dimensions, metres: 46·2 × 8·8 × 2·5 (151·6 × 28·8 × 8·2 ft)
Guns: 1—40 mm AA, 2—20 mm AA (minehunters 2—40 mm)
Main machinery: 2 diesels (Mirrlees or Deltic), 2 500 bhp; 2 shafts
Speed, knots: 15
Complement: 27 (36 in minehunters)
Range: 2 300 at 13 knots
Building dates: 1953-60

NOTES: In service in: UK (37 incl. 14 minehunters), Argentina (6), Australia (6), Ghana (1), India (4), Ireland (3), Malaysia (6), South Africa (10). Five of this class now serve in RN as coastal patrol vessels in addition to the above CMS. French 'Sirius' class and Portuguese 'San Roque' class generally similar. All names in Index.

toms intervention at the place of exit from the Community's territory, have reinforced the need to ensure that all Member States attain comparable results by enforcing really effective levels of control when the customs procedure is actually implemented. This is essential in order to avoid creating difficulties for other Member States, either through failure to protect society and the economy or through displacement of economic activity for reasons relating purely to the ease or difficulty of complying with administrative requirements.

Moreover, there has been increased pressure in the completed internal market for equal treatment to be guaranteed to all economic operators, regardless of where they do business in the Community. Increased computerization of procedures, particularly if it is carried out in accordance with standards adopted at Community level, generally provides greater assurances of such equal treatment. Furthermore as Community business becomes increasingly integrated and rationalized in the internal market, there will be growing pressure from business, and especially from multinational enterprises that carry out customs operations in a number of Member States, for such an approach. Indeed, some large compa-

nies are already claiming that the completion of the internal market is not a reality in the absence of such cross-border links as there is a minefield of conflicting requirements imposed by Member States in solitary sovereignty.

A Community strategy for the computerization of procedures can be established successfully only if the Member States are consulted and associated with the exercise at every stage; the Commission's services are anxious to pursue computerization in partnership with the national customs administrations.

Computerization implies the provision of resources, and firm commitments will have to be given both by the Commission and by the Member States in order for necessary long-term planning to be possible. Careful consideration will need to be given to the existing computerized procedures in use in the Member States. Some Member States have opted in favour of direct input of data by importers and exporters or their agents, or alternatively by customs personnel using information provided by economic operators, while others have preferred to have on-line access to internal audit and stock-control systems established by enterprises for their own purposes. In some Member States the computerized system continues to take paper-based entries as the norm and attempts to reproduce such entries electronically, whereas other national administrations have taken a more radical approach and designed more innovative computer systems, while having naturally to ensure compliance with Community law. Member States' systems also differ with regard to the relative importance of transaction-based and globalizing or audit-based models. One of the problems that must be examined concerns precisely the relationship between these different approaches and their mutual compatibility or lack of it.

In order to establish a Community strategy, it is necessary to identify the functions that a computerized system must perform (i.e. what do we want it to do?) For customs purposes it should:

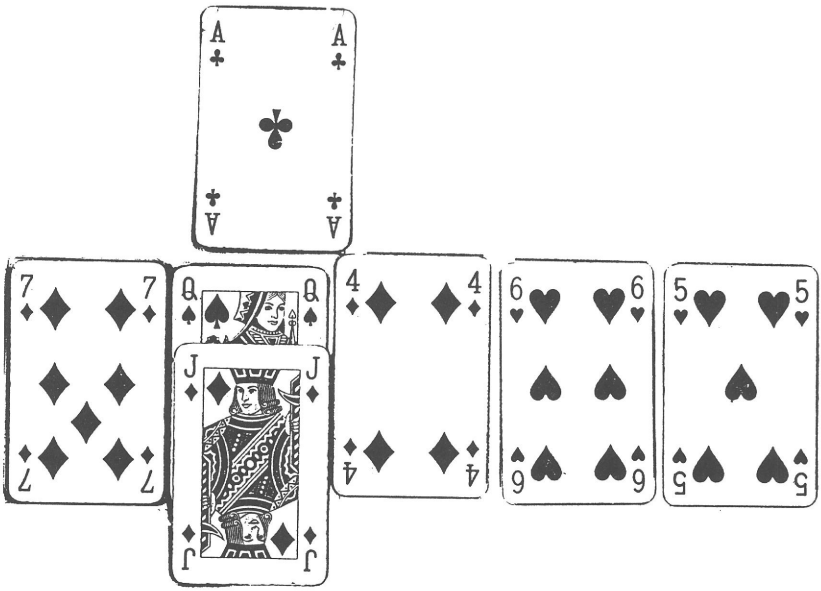
a) provide secure and efficient control at the external border, covering all customs procedures, both at import and at export. Depending on the approach adopted, these procedures may be identified and controlled either separately or as successive stages in a seamless operation;

b) meet the needs of Member States with respect to the exchange of

information in relation to goods and procedures between them: attention must be given to the prospects for linking national systems in a cross-border network;

c) *comply with the need for the exchange of certain data between the Commission and the Member States, such as TARIC, quota management, BTI, SCENT/SID. Any computerized system of customs clearance and control needs to be integrated with these various requirements and should take account of possible future developments in information exchange.*

In addition, the system should be able to meet other requirements, for example the generation of external trade statistics, the collection of indirect taxes, on imported goods (and their remission on exported goods) and the implementation of a variety of other legislative provisions, for example in the fields of environmental and consumer protection; but it is logical to give primary consideration to the basic customs requirements and if possible build the mechanisms required by other policies on this foundation.



There has been a tendency in the past for the role to be played by information technology in each individual customs procedure to be examined by the relevant committee or working group in isolation, without any obligation to consider these separate exercises as part of an overall programme of computerization. The Customs Code has inevitably introduced a greater degree of uniformity into the formalities and conditions for placing goods under the various customs procedures, but no serious consideration has yet been given to comprehensive computerization of all these procedures along identical or even similar lines, and still less to any notion of an integrated system. Computerization should, in the author's view be pursued in a way analogous to the development and introduction of the Single Administrative Document, that is to say by seeking agreement on the minimum of data required for placing goods under the various customs procedures, while taking account of fiscal, statistical, licensing, quota and other possible requirements. As with the SAD, there might be a need, at least initially, to allow some Member States to provide for optional data-elements.

The relentlessly accelerating pace of development in the field of information technology makes it difficult to fix at the outset strict guidelines that will shape the future of computerization in the customs sector, but it is already clear that modern technology can provide certain kinds of information in a time frame that has important implications for customs controls. In particular, the capacity of declarants to provide customs with complete data even before goods arrive, (so that consignments may be separated, before presentation to customs, into those that will be subject to detailed documentary or physical checks and those that can benefit, apart from the occasional random check, from immediate release,) will almost certainly reshape customs practice, as it already has done in particular with certain Member States' treatment of "express" consignments. This procedure may, however, require amendments to the Community rules on the presentation of goods to customs for release for free circulation. Customs procedures must in future be systematically designed with computerization in mind, rather than inventing procedures and then examining how they may be adapted to computerized systems. However the minefields of conflicting requirements must be swept away and the Member States released from their solitary existances.

Richard CONDON B-7

Free Trade Fever

From North Pole to South Pole! From dream to reality?

Oh sorry... I am speaking about free trade fever which is sweeping across North and South America and is becoming a challenge for the European Union. The table below gives an idea of the dimension of this phenomenon and give us the occassion to write this article about one of the most dynamic free trade zones (MERCOSUR) in the south corner of the American continent.

Agreements	**Countries Involved**
NAFTA	Canada, U.S., Mexico
Mercosur	Brazil, Argentina, Paraguay, Uruguay
Andean Pact	Bolivia, Colombia, Ecuador, Peru, Venezuela
Central American Economic Union (CAEU)	Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama
CARICOM	Caribbean Community
Bilateral	Colombia-Venezuela Chile-Mexico Chile-Venezuela Chile-Colombia Bolivia-Peru Mexico-Costa Rica Mexico-Bolivia
Trilateral	Group of Three (G-3) Colombia,Venezuela,Mexico

NEW PARTNERSHIPS

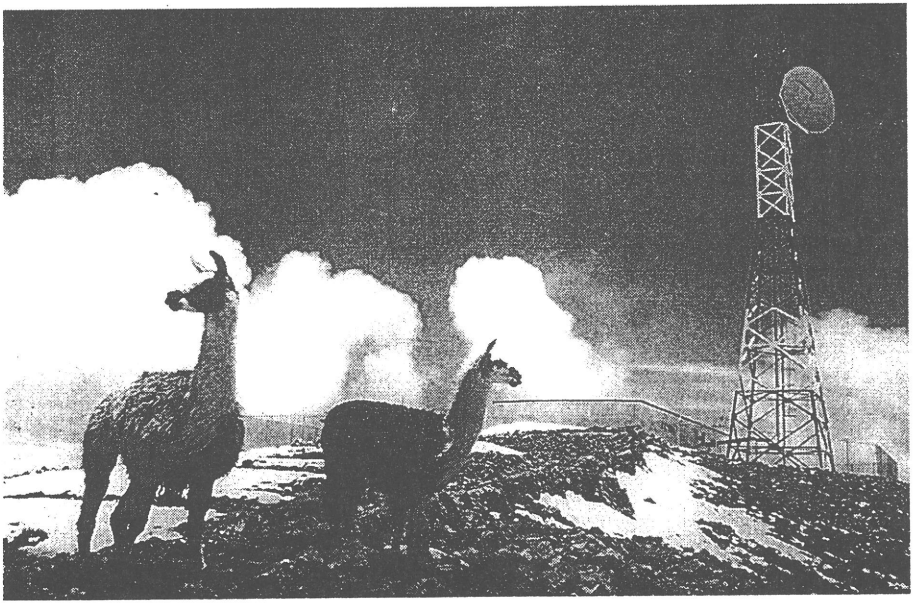
Date Signed	Target for Free Trade	Status
1993	2009	First phase 1994
1991	1995	Will meet target date with exceptions in capital goods and computers; Chile seeking associate membership; Bolivia interested.
1969	1995	Preferential treatment for Ecuador and Bolivia; Peru's full participation under negotiation.
1993	--	No target date set.
1973	--	Monetary union proposed for 1995.
1992	1992	Implemented
1991	1998	First phase 1992
1993	1997	First phase 1994
1993	1999	First phase 1994
1994	1994	Implemented
1994	2005	First phase 1995
1994	2007	First phase 1995
1994	2004	First phase 1995; agreement between G3, CARICOM and CAEU under discussion.

MERCOSUR is the common market established by the Treaty of Asunción signed on 26 March 1991, which entered into force on 29 November of the same year. Argentina, Brazil, Paraguay, Uruguay are the four founder (and current) members of Mercosur although Bolivia and Chile have expressed their willingness to join the group.

The Treaty, although having only 24 articles and 2 annexes, sets up the framework for an ambitious programme of regional economic integration which will start with the application of a common customs tariff as of 1 January 1995.

The main bodies of MERCOSUR are the Council of the Common Market (Ministers of External Relations and Economy) at a political level, the Common Market Group (representative of Ministries of Foreign Affairs, Economy, Industry, Foreign Trade) as executive body with powers of initiative and assisted by 10 technical Working Groups, one of which deals with customs matters. At the highest level, the Presidents of the Member States define the global strategy and establish the timetable of the actions to be implemented.

Why such a free trade area and why is the EU concerned?. The following figures will give a clearer idea about the scope of MERCOSUR. With a territory of 11,7 million Km² (four times the EU surface) and a popula-



tion of 200 million, this group is already the fourth economic power in world trade after NAFTA, the E.U. and Japan with with a GDP of $ US 642 billion. The outstanding dynamism of its economy is clearly demonstrated by both a foreign trade growth of more than 10% and the 100% increase in the intra regional economy. As far as the trade relationship between EU and Mercosur is concerned, it must be pointed out that the EU exports to the region grew by more than 40% during 1992 and 1993.

However, the reasons for the EU and its Member States' interest in the region go far beyond pure economic factors. Firstly, Europe has deep historical ties with Latin America in general and these four countries in particular. In this respect, the Community launched a coherent Development Policy more than 25 years ago. Cooperation ranges nowdays from social initiatives to the fight against drugs. Furthermore, Latin America currently represents one of the most important strategic challenges to the EU external policy.

This challenge has been emphasized by Heads of State/Government at the ***European Council of Corfu*** *(June 1994) and followed by the Commission with its Communication to the Council on a "New Strategy between European Union and MERCOSUR"(1). In this paper, the Commission emphasizes the increasing globalization of economic and financial flows as a prominent phenomena in international relations and stresses the need for EU to seek to avoid the growth of mutually closed off regional blocs. This is particularly important in Latin America, a region where the attraction of NAFTA is a real challenge.*

The Commission is therefore proposing a dynamic strategy whose ultimate goal is an EU-MERCOSUR interregional association on the basis of a balanced political, economic and trading partnership conducted in a spirit of solidarity. Therefore, the Commission has decided to call on the ***Essen European Council*** *to approve this ambitious strategy, which aims, in the short term, to conclude an economic, trade and development cooperation agreement between the Union and MERCOSUR and in the longer term, to establish the interregional association mentioned above.*

Antonio QUEIROZ A-3

(1) see COM(94)428/3, from 13 October 1994

POST BOX 21

Sir,

Firstly I would like to put the record straight. I was not a contributor to edition No 19 of your scurrilous magazine as erroneously stated. The fact that you published a letter addressed to me (and not by me) does not make me a contributor!

However, just to show that there are no hard feelings, I am prepared to give you a world scoop - please find attached an advanced copy of DG XXI-C-2's review of the minimum excise duty rates.

Publish and be dammed!

Yours in disgust,

S. Bill

"Of course I'm merely the victim of an iniquitous tax loophole."

Review of minimum excise duty rates

Excise duties are taxes on consumption. That big word really means they are taxes on fun. Some people say they are charged by bad men, not to stop us having fun, but simply to take some of the fun out of fun. Robin Hood (Robin des Bois) would not have approved of them. He robbed from the rich, gave the poor: Excise duties do the opposite. They are very clever: they are only charged on products that even very poor people will still buy. This means fags, booze and gas.

Excise duty must be paid in the country of consumption (fun). In 1992, a bright light went on in the EC. The wise men recognised that there is more fun in buying than in consuming, so they decided we would pay the duty in the country where we buy the stuff. This is entirely reasonable. I have often felt sick or had a headache as a result of consuming alcohol, but not from buying it (even at Irish prices).

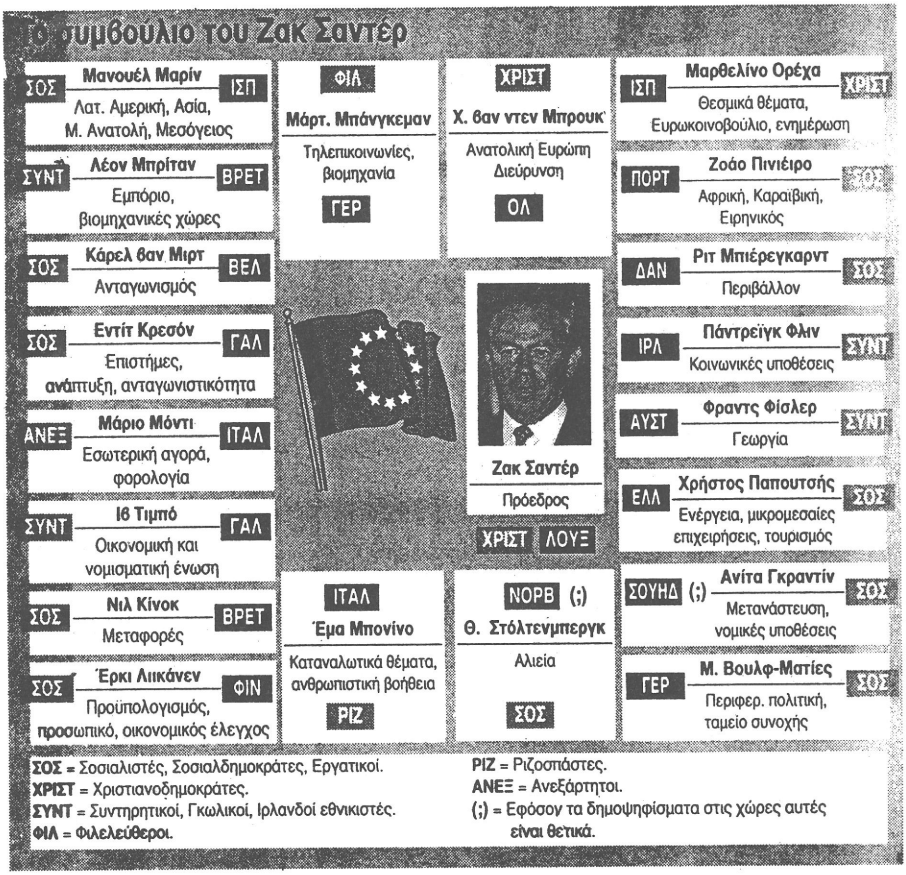
This new rule only applies if you drink all the booze yourself. If you try to sell it to your mates, you have to run along to Customs and Excise in your own country and pay them lots of money. You then write to the nice Customs and Excise people in the country where you bought the stuff, and they will give you back some money.

This has caused problems for wine.

Lots of people have written to the nice Customs and Excise people in hot countries looking for some money back for wine, and they haven't got any. The reason given is that no tax was paid in the hot country. (This seems very odd, but it is not the reason so many people retire to Spain.)

Anyway, not being able to get money back from hot countries makes a mockery of the system. So everyone should have to pay tax on wine.

CLIPPINGS



from TA NEA 31/10/94. Our new Commissioner is Professor Mápio Móvti

Exercise room

■ Spotted in the postroom of a large London publishing company: "This department requires no physical fitness program; everyone gets enough exercise jumping to conclusions, flying off the handle, running down the boss, flogging dead horses, knifing friends in the back, dodging responsibility and pushing their luck." .

from the "Independent"

EU who?

■ Disappointing news for anyone trying to sell Europe to Asia's booming economies. A study by the European Commission into the European Union's image in south-east Asia found. . .no image at all. "Most people thought 'European Union' was an insurance company," sighs one Eurocrat.

from the "Financial Times"

of 20 October 1994

extrait du "Soir" 17 d'octobre 1994

EXERCICE DE ROUTINE...

Récemment, des douaniers en civil de l'aéroport londonien de Heathrow avaient été chargés de cacher de la cocaïne dans une valise spécialement prévue à cet effet et glissée au milieu des bagages d'un vol de la compagnie australienne Qantas en provenance de Bangkok.

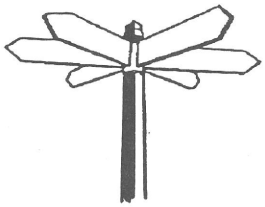
But de l'opération : vérifier les compétences de Jasper, un épagneul « renifleur », lâché peu après au milieu des valises. Le chien s'est acquitté sans problème de sa mission, à l'inverse d'un douanier particulièrement étourdi qui, au lieu de remettre la cocaïne dans la valise des douanes et de la retirer de la circulation, l'a placée dans une « valise presque similaire » appartenant à un avocat néo-zélandais venu passer une semaine de vacances à Londres avec son épouse.

...QUI TOURNE AU FIASCO

Ne se doutant de rien, le couple a passé sans encombre l'ensemble des contrôles de l'aéroport en transportant pour 450.000 FB de drogue. Arrivé à son hôtel, l'avocat a eu le choc de sa vie en découvrant dans ses affaires le paquet dûment estampillé : « Échantillon destiné à l'entraînement des chiens - COCAÏNE ».

Le douanes ont assuré avoir présenté leurs *excuses les plus sincères* aux touristes néo-zélandais, qualifiant cet incident sans précédent *d'extrêmement embarrassant.* (AFP.)

"ENTRE NOUS"



We welcome the colleagues who have joined DG XXI or who will join before our next edition:

Officials:

Mia COUSSENS	*BE*	*B-2*
*Freddy DE BUYSSCHER**	*BE*	*C*
Philippe DELCROIX	*FR*	*B-4*
Peter DIERICKX	*BE*	*A-1*
*Diego PAPALDO**	*IT*	*A-1*
Kristian VAN GRIEKEN	*BE*	*B-7*
Silke WRAGGE	*DE*	*A-3*

** Apologies to these colleagues who somehow were "forgotten" last time although they were still paid!*

Internal DG XXI movements

Dirk DAHLKE	*Expert*	*→temporary*
Terence EMMS	*Expert*	*→auxiliary agent*
Florence HAGE	*"Prestataire"*	*→auxiliary agent*
Marina PEREMANS	*"Prestataire"*	*→auxiliary agent*
Charlotte PRICAUPENKO	*Expert*	*→temporary*
Franck RYCKEBOER	*Prestataire*	*→auxiliary agent*

and we say goodbye to those who have left us or will be leaving shortly:

Auxiliary agents:

Roger ACHKAR	*Lebanon*
Lars JENSEN	*DK*
Marc SIMON	*BE*
Anders WILLUMSEN	*DK*

National experts (detached):

Danièle MANIER	*FR*
Christian VALENDUC	*BE*

CONGRATULATIONS

to: *Barbara (B-4) and Jan Delarue-Billerbeck*
proud parents of Sarah, born on 19 July 1994,

Valère (C-1) and Isabelle Moutarlier,
proud parents of Juliette, born on 26 October 1994,

James (A-3) and Tina Creed,
proud parents of Chiara-Rosanne, born on 23 November 1994

L'union douanière allemande
Deuxième partie : Evolution

Les fondateurs de l'union douanière allemande étaient prudents. Ils n'ont pas créé une organisation supranationale comparable à la Communauté Européenne. Au contraire, les traités d'union douanière ont d'abord été limités à 8 ans, assortis toutefois d'une clause selon laquelle ils seraient chaque fois prolongés d'une période de 12 ans (au cas où ils ne seraient pas dénoncés dans les délais impartis). L'organe de direction de l'organisation était constitué par une conférence générale des plénipotentiaires des Etats membres de l'Union se réunissant une fois par an. Celle-ci décidait, sans appel, du règlement des revenus communautaires, des questions d'interprétation et des contestations qui résultaient de l'application des traités d'union douanière, et était compétente en matière de modifications et de compléments des dispositions d'union douanière. (La conférence générale ne pouvait prendre de décisions qu'à l'unanimité. Ses décisions n'avaient aucun effet direct, mais devaient être intégrées à la législation de chaque Etat membre; dans la mesure où ces résolutions étaient soumises à approbation parlementaire, celles-ci étaient adoptées sous réserve de ratification.) Cette procédure était très lourde.

Abb. 30. Blick von den Linden auf das Denkmal Friedrichs des Großen, Universität, Zeughaus, Dom und Schloß

C'est surtout dans les affaires de politique douanière - telles que la modification du tarif douanier - que le principe d'unanimité se révéla être un obstacle. La Prusse ne pouvait donc imposer les décisions politiques les plus importantes que sous la menace de dissolution de l'union douanière.

La première crise politique grave survint entre 1850 et 1853. A l'époque, l'Autriche s'efforçait de parvenir à une union douanière entre l'union douanière allemande et l'Autriche-Hongrie. Sa proposition prévoyait une période de transition à plusieurs paliers et un tarif extérieur commun élevé pour la création d'une grande zone économique de l'Europe centrale, protégée de la concurrence étrangère. Plusieurs Etats de l'union, surtout en Allemagne du Sud mais également dans les sphères économiques d'Allemagne du Nord, qui étaient partisans d'une protection douanière plus élevée, soutenaient la proposition autrichienne. La Prusse ne ressentait cependant aucune inclination pour une telle union douanière car elle y voyait une menace pour sa position jusqu'alors dominante dans l'union douanière allemande. Elle traita d'abord la proposition autrichienne de manière dilatoire et conclut une union douanière avec Hanovre et l'Oldenbourg. De cette manière, elle

"Les 'pays' d'Allemagne" aujourd'hui

voulait, d'une part, équilibrer le territoire de l'union douanière au Nord et simplifier le contrôle des frontières, mais d'autre par assurer la jonction entre ses provinces orientales et occidentales pour le cas où l'union douanière viendrait à être dissoute. Hanovre, qui jusqu'alors avait opposé un refus à l'union douanière allemande, était confrontée à des difficultés financières. La Prusse lui offrit des avantages spéciaux considérables lors de la répartition des recettes douanières communautaires et des privilèges à l'importation. C'est sur cette base qu'un traité de douane fut conclu en 1851 entre la Prusse et Hanovre. Lorsque les Etats associés de l'Allemagne du Sud refusèrent de ratifier le traité, la Prusse dénonça les traités d'union douanière. Pour retirer le soutien autrichien aux Etats de l'union qui s'étaient opposés, la Prusse, dans le traité de commerce du 14.02.1853, se déclarait disposée à entamer en 1860 des négociations sur l'union douanière telle que le souhaitait l'Autriche. Sur ce, les autres Etats de l'union levèrent leur opposition à l'adhésion de Hanovre et de l'Oldenbourg. La poursuite et l'élargissement de l'union douanière allemande furent décidés dans le traité du 04.04.1853.

Un traité de commerce franco-anglais déclencha la création, en 1860, en Europe de l'Ouest d'un réseau de traités de commerce de libre-échange avec une clause de la nation la plus favorisée. Pour y obtenir l'adhésion, dans l'intérêt des exportations allemandes, la Prusse conclut en 1862 un traité de libre-échange avec la France, lequel prévoyait de nombreuses franchises douanières et réductions tarifaires ainsi que le bénéfice de la clause de la nation la plus favorisée. Après des négociations pénibles et difficiles avec les Etats de l'union d'Allemagne centrale et du Sud (soutenus par l'Autriche), la Prusse parvint, en 1865, à faire incorporer au tarif douanier de l'union, la réglementation douanière convenue avec la France. Lors des négociations, elle utilisa encore la menace de dénonciation des traités comme moyen de pression, partant de l'idée que finalement aucun Etat de l'union ne pourrait se permettre de mettre en jeu l'unité économique de l'Allemagne. Les projets d'union douanière entre l'Allemagne et l'Autriche, rejetés par la Prusse pour des considérations de politique générale, échouèrent en même temps que la réforme du tarif douanier de 1865, car la monarchie danubienne n'avait, ni la volonté, ni la capacité de se charger d'un tarif douanier.

La guerre allemande de 1866 n'eut aucune influence sur l'union douanière. Alors que les armées des Etats de l'union douanière s'affrontaient

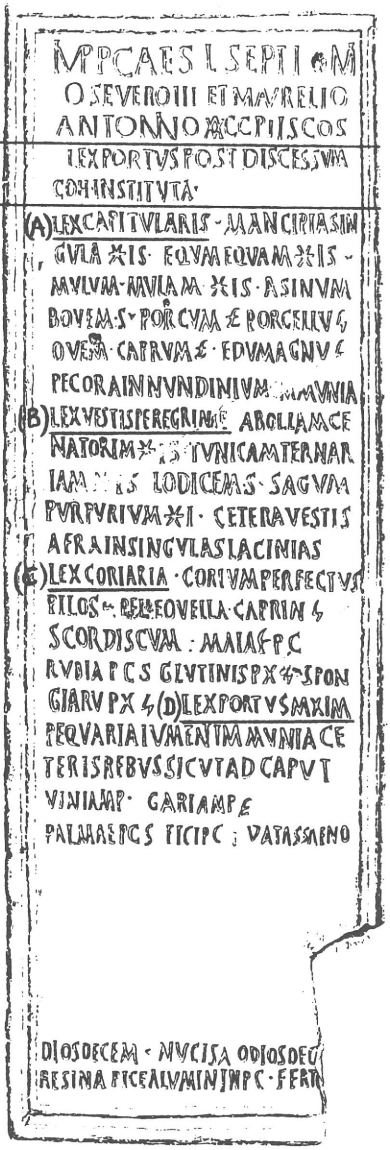
A current federalist

sur les champs de bataille, les administrations des douanes continuaient à percevoir des taxes au nom de l'union douanière et à les compenser entre elles, une curiosité qui suscita l'étonnement général à l'étranger. Après la guerre, les Etats d'Allemagne du Nord s'unirent dans la Confédération de l'Allemagne du Nord, laquelle était compétente, entre autres choses, pour les affaires douanières. Ainsi, Lübeck, les deux Mecklenbourg et le Schleswig-Holstein ralliaient le territoire de l'union douanière. Seuls Hambourg et Brême, bien que faisant partie de la Confédération de l'Allemagne du Nord, restaient en dehors du territoire de l'union douanière. Pour maintenir l'unité économique de l'Allemagne, la Confédération de l'Allemagne du Nord décida, le 08.07.1867, de poursuivre l'union douanière allemande avec les autres Etats de l'union. En lieu et place de la lourde conférence générale, le Conseil générale, furent désormais choisis comme organe de direction, lesquels pouvaient tous deux pouvant prendre leurs décisions à la majorité.

Quiconque observe attentivement les crises du Parlement Européen trouvera rassurant de lire, dans le rapport du Conseil fédéral de la Confédération de l'Allemagne du Nord sur le nouveau traité d'union douanière de 1867, la phrase suivante: "Il est facile de se convaincre, si on considère l'histoire de l'union douanière, que tout progrès réalisé par cette dernière n'a pu être obtenu qu'au prix d'une crise et que le passage à une nouvelle étape ne s'est jamais fait avec douceur et sans douleur". En 1871, l'union douanière fut dissoute dans le Reich nouvellement créé. Celle-ci continua cependant à exister vis-à-vis au Luxembourg jusqu'en 1918.

Adapté par Ursula Bauman B-3 de "Maut ♦ Zoll, 1834-1984" de Walter Wilhelm et "Vom Deutschen Zollverein zur Europäischen Zollunion" par Ragnvald Christiansen.

Le Tarif Douanier ne date pas d'hier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PALMAE P C S FICI P C : VATASSIENO
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RESINA PICEA LVMINI NP C · FERR

TARIF de DOUANE
trouvé à Zraia (Algérie)

En 1858 fut découvert à Zraïa, en Algérie, dans les ruines de l'ancienne colonie romaine de Julia Zaraï (voir carte), une dalle en pierre de 1,30 m sur 0,40 m environ, gravée d'une inscription latine. D'abord étudiée sur place, cette dalle fut finalement ramenée au Louvre en 1874. Elle s'y trouve certainement toujours.

L'inscription était en fait un tarif de douane de l'an 202 après J-C, sous le règne conjoint des empereurs Septime Sévère et Caracalla (198/211). Il n'a été mis en place, comme l'indique l'inscription, qu'après le départ de la cohorte qui tenait garnison à Zaraï. Jusque là, cette colonie militaire était donc en dehors de la ligne des douanes ou bien constituait une sorte de "zone franche" à l'intérieur et au sud du territoire occupé par les Romains en Afrique du Nord.

Ce document comporte, hormis la codification des marchandises, les caractéristiques essentielles de tout tarif douanier.

NOMENCLATURE - Les marchandises sont regroupées par "chapitres", en fonction de leur nature mais aussi du type d'assiette utilisé: le bétail se retrouve sous lex capitularis, qui comprend également les esclaves, avec une taxation par tête; ensuite vien-

nent les vêtements, taxés à la pièce, et les cuirs, taxés au poids; enfin on trouve notamment des produits alimentaires. Dans chaque chapitre les marchandises sont reprises dans un ordre logique, par référence à un degré décroissant de valeur (A) ou d'élaboration (B et C), et donc de taxation, ce qui constitue une démarche inverse de notre tarif moderne.

A noter également que, contrairement à ce dernier, dont la vocation est d'appréhender toute marchandise susceptible d'être dédouanée dans le territoire douanier, le tarif de Zaraï ne visait que les marchandises habituellement importées à cet endroit précis, dont la nature et la provenance étaient connues et constantes. On pouvait ainsi faire l'économie d'une nomenclature universelle.

ASSIETTE - La taxation est effectuée sur une base spécifique: l'unité (tête ou pièce), le poids (PC = 100 livres, PX = 10 livres), la capacité (amphore pour les liquides, boisseau-modius pour les solides).

Cette méthode de taxation spécifique, pourtant courante en Occident du Moyen-Age jusqu'à la généralisation relativement récente des taxes ad valorem, apparaît toutefois originale dans le contexte de l'époque. En ef-

LES EMPEREURS CÉSARS, LUCIUS SEPTIME SÉVÈRE ET MARC AURÈLE ANTONIN (CARACALLA), AUGUSTES, PIEUX, CONSULS, LE PREMIER POUR LA TROISIÈME FOIS.

RÈGLEMENT DE LA DOUANE ÉTABLI APRÈS LE DÉPART DE LA COHORTE

(A) RÈGLEMENT POUR LES DROITS PAR TÊTE

Esclaves (1d. 1/2) - Chevaux, juments (1d. 1/2) - Mules, mulets (1d. 1/2) - Anes, boeufs (1/2 d.) - Porcs (£) - Cochons de lait ( ) - Brebis, chèvres (£) - Chevreaux, agneaux ( ) - Franchise pour les bestiaux destinés au marché

(B) RÈGLEMENT POUR LES ÉTOFFES ÉTRANGÈRES

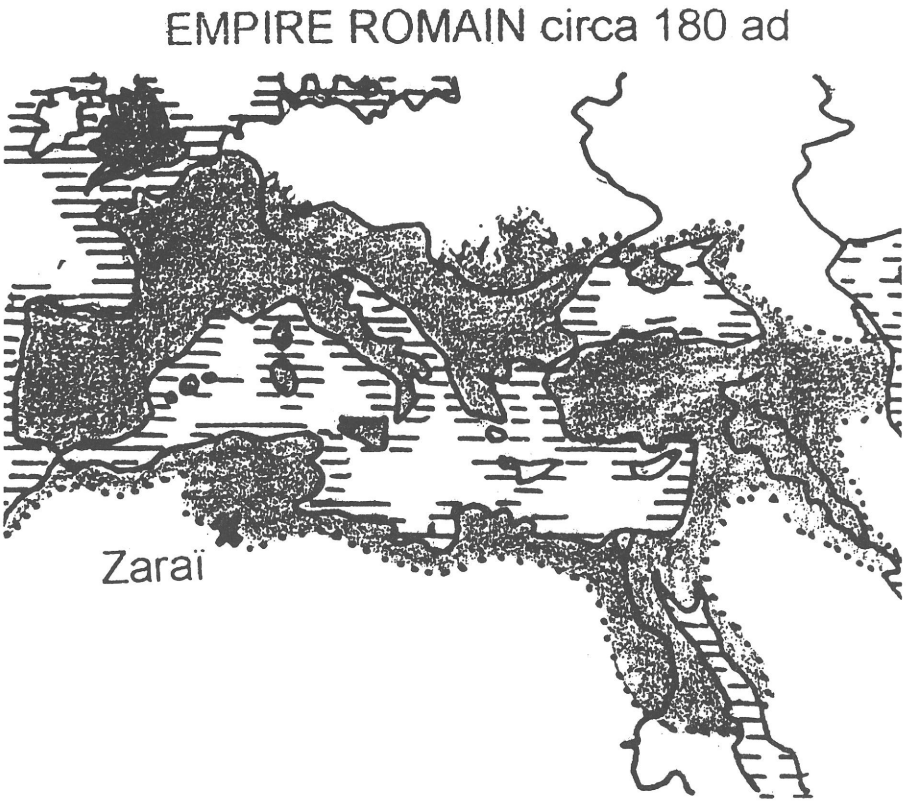
Manteau de table (1d. 1/2) - Tunique de 3 aurei (1d. 1/2) - Couverture de lit (1/2 d.) - Sayon de pourpre (1d.) - Autres étoffes africaines, la pièce (?)

(C) RÈGLEMENT POUR LES CUIRS

Cuir tanné avec ses poils: peau de mouton, de chèvre ( ) - Cuir souple pour les housses (de chevaux), 100 livres (?) - Cuirs bruts, 100 livres (1/2 d) - Colle (de déchets de cuir), 10 livres ( ) - Eponges, 10 livres ( )

(D) RÈGLEMENT PRINCIPAL DE LA DOUANE

Franchises pour les troupeaux se rendant au pâturage et les bêtes de somme - Vin ou garum, 1 amphore (£) - Dattes, 100 livres (1/2 d.) - Figues, 100 livres (?) - Franchise pour 10 boisseaux de ?, 10 boisseaux de noix, 100 livres de poix-résine pour l'éclairage



fet, le droit de douane généralement perçu aux frontières de l'Empire romain s'appelait quadragesima et représentait le quarantième de la valeur des marchandises. Cette taxation ad valorem était facilitée par l'existence de nombreux prix légaux ou de lois de "maximum" qui semblent avoir évité aux successeurs de Matthaeus d'avoir à déterminer dans tous les cas la "valeur en douane".

TAUX - La quotité des droits est indiquée en deniers d'argent (sigle X) et en fractions de denier (S = semis, 1/2 denier; les sigles £ et représentant des fractions inférieures, non déterminées). Comparé au "quarantième", le traitement douanier des marchandises entrant par Zaraï semble avoir été nettement plus favorable que celui qui s'appliquait dans le reste de l'Empire. Le tarif ayant été

établi spécifiquement pour les marchandises passant habituellement par Zaraï, on peut donc considérer que celles-ci bénéficiaient de par leur nature et leur provenance d'une sorte de "régime préférentiel".

EXONÉRATIONS ET FRANCHISES - Le tarif prévoit des franchises pour trois catégories de marchandises.

(9) Bestiaux destinés au marché: la franchise s'explique par le fait que ces bêtes étaient soumises à un "droit de marché" et que l'application d'un droit de douane aurait constitué une double imposition. Elle peut aussi s'analyser comme une véritable "destination particulière".

(20) Troupeaux se rendant au pâturage et bêtes de somme: la franchise est liée au caractère temporaire du séjour des bêtes dans le territoire et, en ce qui concerne les troupeaux, au fait qu'ils devaient pour paître acquitter un "droit de pacage" avec lequel le droit de douane aurait fait double emploi. Cette mesure n'est pas très éloignée de notre moderne "admission temporaire", qui s'applique aussi bien aux "animaux vivants de toute espèce importés pour transhumance ou pâturage" (art. 685.b DACode) qu'aux "moyens de transport routiers" (art. 718.2 et 719.2 DAC), y compris les "animaux de selle ou de trait et leurs attelages" (art. 720.1 DAC).

(24) Noix et poix-résine pour l'éclairage: la franchise est limitée à des quantités qui pourraient correspondre à une consommation familiale courante, "sans caractère commercial".

PROVENANCE - Les marchandises visées par le tarif de Zaraï provenaient essentiellement de régions se trouvant actuellement en Tunisie ou en Lybie, au Sud-Est de Zaraï (voir carte). Les esclaves venaient probablement d'Ethiopie.

Quant au garum ou liquamen, il s'agissait d'une saumure d'intestins de poissons (de maquereau notamment) très appréciée des gourmets romains mais qui passait également pour guérir les brûlures récentes et les maux d'estomac (à condition bien sûr de le mélanger à des limaçons réduits en cendre). Alors, aliment ou médicament? Passionnés de classement tarifaire, à vos nomenclatures...

Jean-Michel GRAVE 0-1
(Source: Héron de Villefosse, c.r. Société Française de Numismatique et d'Archéologie T. VI, 1875)

Smokescreen hides lost Spanish revenue

Cigarette smugglers are earning millions and staying ahead of the customs men, writes David White

In Seville and Malaga the pitches have all been allocated: one cigarette-seller at every traffic light. When each has sold his quota of contraband packets he goes to a telephone and another hawker is sent to take over.

They are known as los winstoneros, *after Winston cigarettes, the RJ Reynolds brand which is Spain's favourite illegal smoke. "If everything in this country worked like the contraband network in Seville, we would be very well organised," commented a representative of Tabacalera, the semi-state tobacco company.*

Tabacalera controls the legal distribution of cigarettes in Spain and has a manufacturing monopoly, including American brands made through joint ventures. Right outside its main office in Madrid is a metro station, where illegal cigarettes are sold at the entrance. Until a few months ago, contraband cigarettes were mostly sold through bars and restaurants. Then the authorities cracked down. Now street sales have shot up.

Tobacco smuggling has been on the rise in other parts of Europe, too, especially Germany. But in Spain the problem is serious. Last year the contraband trade is reckoned to have risen 47 per cent to 650 m packets, almost 23 per cent of total sales of Virginia-tobacco cigarettes and overtaking Italy as Europe's largest illegal market.

These sales, with a street value of almost $ 1bn, are reckoned to have deprived the treasury of $ 750m in revenues, Tabacalera of about $ 320m and retailers $ 100m.

The reason is tax. Special tobacco taxes, levied in addition to value-added tax, have increased in the past two years from 46.8 per cent to 55.4 per cent EU minimum next year. This rules out taking the same path as Canada, which has slashed taxes to discourage a flourishing tobacco racket (Canadian cigarettes are sent to the US and then smuggled back en masse through Mohawk reservations straddling the border).

Higher Spanish taxes have hit Tabacalera's sales, at the same time offering bigger margins for the contraband trade. A packet costing Pta 270 (£ 1.30) at a tobacconist's or

Pta 300 legally in a bar now sells on the pavement at Pta 200.

Until recently, the main route was the Atlantic coast of Galicia in north-west Spain. Consignments would be transferred offshore on to 25 ft launches, each with up to six outboard motors, and concealed in mussel farms and old canneries. Customs took the smugglers on with boats, aircraft and helicopters.

"At sea I think we have won. But now it's getting in more easily by land," says Mr Joaquin Bobillo, director of Spain's customs department. "The people who used to run launches now run trucks".

The lifting of border restrictions within the European single market has opened up the contraband route by motorway across the French-Spanish frontier. American cigarettes are landed at Antwerp or Rotterdam. Officially destined for Morocco or Cyprus, many of them never leave the EU. For Spain, the traffic is mostly Winstons, for Italy, Marlboros.

There is now also a flow of cigarettes coming through Germany from Russia and eastern Europe, again supposedly in transit. Mr Bobillo says there has up to now been no effective way of monitoring the fake papers sent back to Germany declaring that

the goods have left Spanish ports. Other sources are Andorra and by speedboat from the British colony of Gibraltar.

The recent growth in smuggling is based on solid tradition and a structure that has long been in place. There is no stigma attached to a contraband product. It may even be preferred. Spaniards still tend to assume that foreign is best. "It is a problem of culture," says Mr Bobillo, "and a hard one to solve in the short term."

A recently-dismantled operation in Madrid worked by telephone under the trade name Servitabac, offering discounts to large purchases. The offices it would call in search of clients included government departments.

Last autumn Spain introduced special stickers on packets of tax-paid cigarettes and tough penalties for bars and cafes caught selling contraband. The measures have evidently had some effect. Tabacalera's sales of premium Virginia brands, which last year fell by almost 21 per cent, have recovered sharply. More people are buying their Camels, Chesterfields, Winstons and Marlboros legally.

But Mr Bobillo says it would be impossible to round up all illegal sellers. "What would you do with them?" he asks. "We know we can't wipe it out altogether. You cannot pick up and imprison everybody for a few cartons. We have to work on the people who are getting the tobacco to them."

It is a frustrating job for customs and police. They have followed trucks all the way to the southern port of Algeciras without success. They have carried out 35.000 inspections in bars. Of these, 8.000 have produced positive results, but even then the average haul is only 20-25 cartons. Under the law, bars face closure on the second offence. But non has been closed.

Measures against big contraband operators can have undesired side effects. They have led to growing connection between Tobacco and drug traffic. To compensate for setbacks in their tobacco trade, Mr Bobillo says the same operators are increasingly moving into higher-profit items - hashish from North Africa and cocaine from Latin America.

From the Financial Times

Christmas Cards

It may be a surprise but there were no entries for the Christmas card competition. Obviously all the talent is being directed towards official tasks.

But do you know where Christmas Cards came from? Nowadays it would be easy to assume that they were a commercial invention designed to facilitate life and above all to create employment and make money. From what I have been able to find out it seems that they were invented almost by accident some 150 years ago by one Sir Henry Cole. Young Sir Henry found himself too busy to write the letters of seasonal greetings, as were customary in 1843, to all his many friends and colleagues.

Anyway he commissioned John Callcott to design the card. A thousand were printed, those he didn't use were sold at one shilling each (12d then, 5p now). The invention caught on slowly and mass production of cards started in the 1860s with new ideas every year, cards with the lace edgings, gilded, embossed, parfumed.

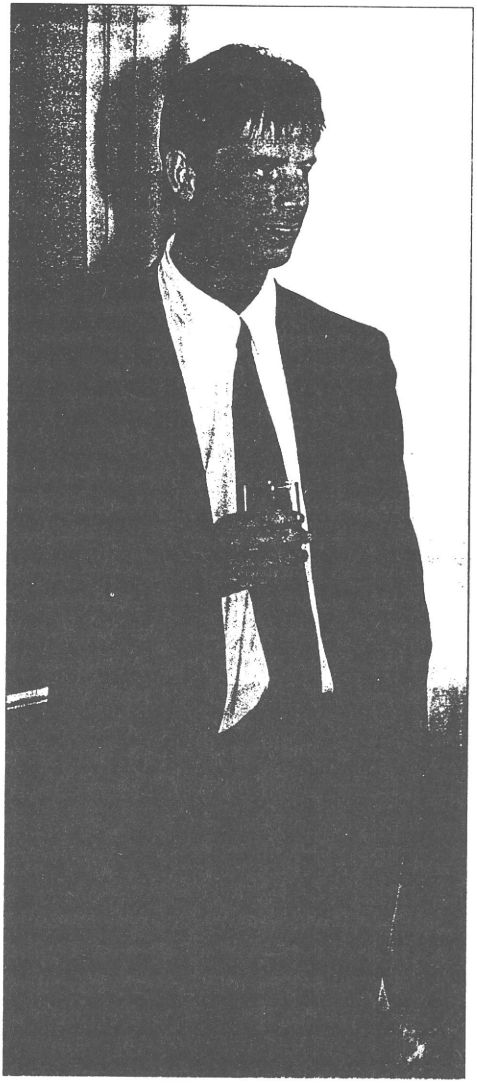
Nowadays the UK post office reckons on around 1.6 billion cards per year - but now perhaps the fax sheet & electronic mail will take over?

Recruiting the North

Our correspondent Marja Kangas in Helsinki sends us this photo of John Taylor during his recent northern tour recruiting for the Commission. He said that he had been attracted to a job with the Commisssion because they performed interesting and many sided tasks. He pointed out that being selected is a slight problem as only 1 in 250 applicants are taken on. He finds that his work in B2 under Mr Casella is interesting and challenging and he has a wide field for which he is independently responsible. He points out that it is stimulating working with so many persons of different cultures, but that one must be careful to handle the English and the French, for example, rather differently (he, being from the island of Ireland, should know: ed). Finally he observes that promotion prospects are excellent for young, capable and ambitious officials. He also explained the work of B2 and what the origin rules were.

Slightly loosely translated from the original Finnish as it appeared in "Tulli Viesti" N° 3/94.

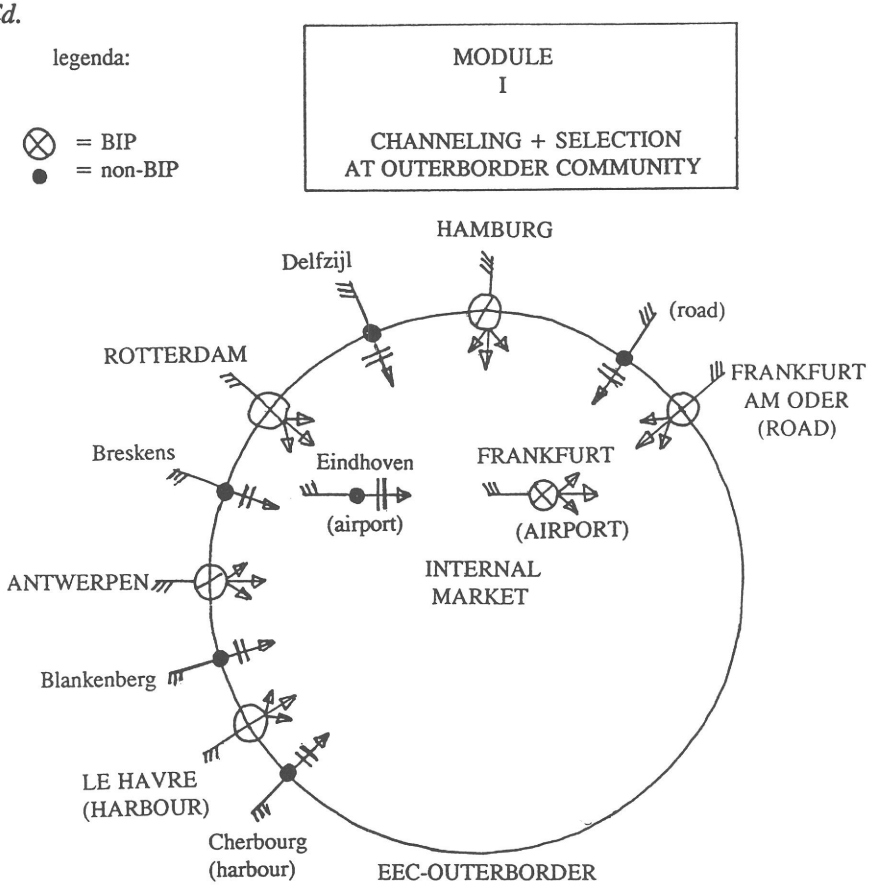
John Taylor, virkamies EU:n komission tulli- ja välillisen verotuksen pääosaston DG XXI:n alkuperäyksikötä B2.



Clarity

While idly chatting to one of our contributors the other day I noticed the diagram below on one of his shelves. As I am occasionally interested in what weather we are going to have at the weekends I picked it up. On examination it has nothing to do with the weather - but what is it about? What are Bips and other things? Answers on a postcard to the Editor please.

Ed.



Trivia Telethon

What have Emmanuelle Béart, Emperor Caligula and Sonja Henie got in common? Each were correct answers to questions put to the team representing DG XXI in the 1994 European Trivia Quiz held on 23 November 1994 ..... and which the team got right![1] The Quiz, which was held at the Conrad Hotel in Brussels, was part of the fund-raising "telethon" for the BBC television "Children in Need Appeal". The money raised went to help children who are seriously ill, living in poverty, or who are victims of violence.

DG XXI team captain was Anders Willumsen of the Task Force, supported by Mario Nava (also of the Task Force), Olga Gazina (Mario's wife) and myself. Anders had carefully ensured a wide geographical spread among his team: Olga, who is Russian, knew, for example, that the name of the world's heaviest bell was the "Czar-Bell" in the Kremlin. The first prize, donated by "the world's favourite airline", were return air tickets to Nice, Rome or London. More ominous, though, was the prospect of collecting the "booby prize" - a year's subscription to the International Herald Tribune (imagine being reminded of having come last, every day for a year!). The quiz was open to all comers, and teams were entered representing private sector companies, embassies and delegations, international institutions (EU, NATO, Eurocontrol) and journalists. Officiating as Quiz-master was His Excellency Mr John Gray CMG, the British Ambassador to Belgium.

The best team in the end was from the Economic and Social Committee, who scored 13 points more than we did. In spite of being wrong almost as often as we were right, getting 42 right answers out of 80, we came a respectable 18th out of a total of 47 teams who entered the quiz. We would have done better still if I had believed Anders that the country which annually consumed the most champagne was the UK. Who won the booby prize? The team (possibly who drank the most champagne) from Deutsche Telecom.

Peter VIS Sec.

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(1) Questions were:
Who starred in the role of Manon in the film "Manon des Sources" by Claude Berri?
Which Roman Emperor made his horse a Consul?
Which Norwegian Olympic ice skating champion went on to have a film career in Hollywood?

EN BREF

A "new caption" competition

"BLIJF EVEN AAN DE LIJN, HERMAN,
DAN ZOEK IK HET OP IN HET ARCHIEF."

Any ideas for a new caption relating to a DG XXI personality or customs theme? The best suggestion will be published in the next Info

Results of the previous "new caption" competition

"DARLING, THE WAITER WILL COME."

There were no entries, not even Mr Coppens could find anything to say about this wine.

"A rose, is a rose, is a rose by any other name" is a quote from Robbie Burns ex-Excise Officer & Poet. His 'day' much celebrated by Scots is 18 January. However it seems that a sausage, is a perhaps a sausage, is not a sausage by any other name!

UNIFORM APPLICATION OF THE COMBINED NOMENCLATURE (NC)

(Classification of goods)

(94/C 208/03)

Publication of explanatory notes made in accordance with Article 10 (1) of Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (1) as last amended by Regulation (EC) No 1737/94 (2)

The 'Explanatory Notes to the Combined Nomenclature of the European Communities' (3) are amended as follows:

Page 'Chapter 16/1'

1601 00 **Sausages and similar products, of meat, meat offal or blood; food preparations based on these products**

The Following paragraph should be added as a new paragraph 1:

'The fact that products may be considered to be "sausages and similar products" for trade purposes is not a determining factor for the purposes of classification in this heading.'

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(1) OJ No L 256, 7. 9. 1987, p. 1.

(2) OJ No L 182, 16. 7. 1994, p. 9.

(3) The publication 'Explanatory Notes to the combined nomenclature of the European Communities' is at present available in all language versions, with the exception of Danish and Greek which are in preparation and will be published as soon as possible.

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All articles or information for the next edition must be sent to the editorial office (MDB 3/01 or 2/35) before ***1 February 1995****, if possible in electronic form by Insem mail to M472 perezid.*

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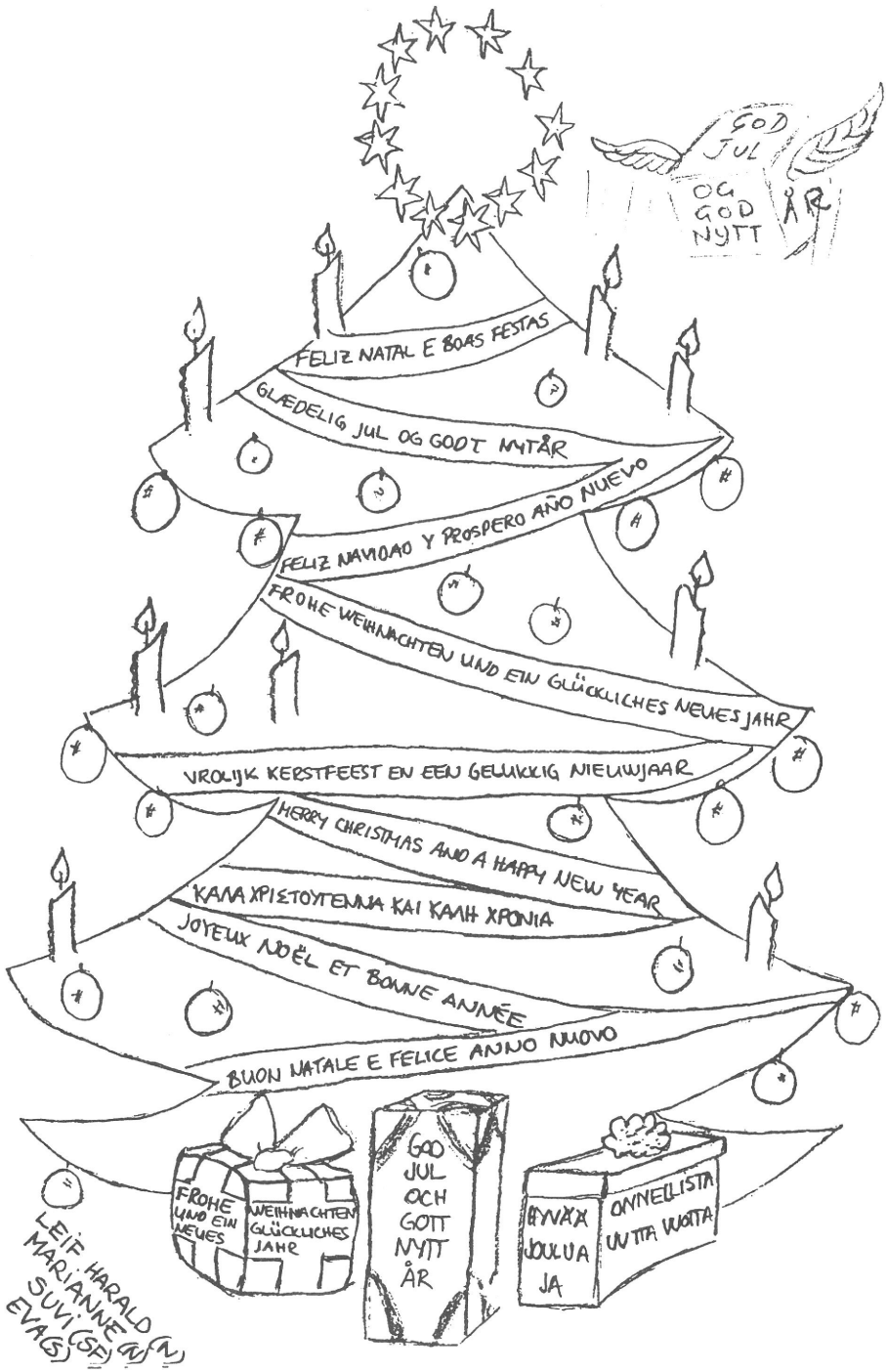
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