No 24-AUTUMN 1995
Directorate General XXI
Customs and Indirect Taxation

CONTENTS

EDITORIAL

So we are back from foreign and other strange places and settling into the routine of achieving the targets set out in the Boards' Plan. The reminiscences of holidays have given way to the Rumour mill that is turning as fast as ever.

Worth mentioning perhaps is The Rumour that we will be leaving this building for "foreign" parts, (hopefully not Mururoa) in the course of next year which is why the new carpets are all leftovers and so thin they will only last 13 months!

We are told by somebody that should know that this is more than a rumour and is actually an unconfirmed fact. Apparently our tired old building needs new windows as they cannot get the chalk rain streaks off. So where are we going? Is it covered in gold, is it closer to the throbbing arteries of Brussels? Is it close enough to the Metro to be able to walk therein the rain? This is important because nowhere are the parking facilities so good as here. At least a move will encourage some of us to at least make an effort to park more neatly in the new building, use public transport or get on their bikes.

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So what has been happening? Well Directorate C has at last been organized and Director Michel tells us the whys and wherefores of this in his ar-

ticle. I gather that C1 have reorganized internally in sympathy or perhaps because their last reorganization was worked out by Michel as well?

Fido has woken up from his summer sleep and is scampering round encouraging us all to learn new tricks. This is perhaps boring for those giving the lectures, except for Nikolaus Vaulont who enters the ring for the first time, as they will all largely be regurgitating what they said last time - or were there enough useful remarks on style and presentation made last time to rejuvenate the presentation?

Certainly they shouldn't be boring for those on the receiving end and it is to be hoped that the listeners will appreciate the effort being made on their behalf. But why not Video tape the lectures, including the questions? Then the poor lecturers can have a break next year and only cover the new bits and be prepared to answer new questions.

This could be developed as a home learning pack - combined with FIDOFAX on what "should have been said", with good marketing we could sell them to the Member States and to prospective new Member States? Move over Disney and make room for Leon. However hopefully those going to the courses won't read Fidofax first - if they do they will avoid the lectures or fall asleep during them!

Apropos Fidofax, Mr Griffiths is sure that he didn't start his talk with point 8 and in any case he doesn't speak French let alone write it. Are there any other mistakes? Leon expounds on this and other aspects of training on page X. Should we run a competition for how many footnotes he achieves by the time he retires?

What else? Well, calm has broken out in the central regions of the 4th floor and on the 5th they have made a good choice of Secretary for one of the Info editorial Board acting up in the lofty office of Head of Unit (hopefully not for long) as she is a trained psychiatric nurse!

♈♉♈♉♈♉♈♉

Preparations are already being made for the Italian Presidency, new things appear on the agenda, but old things seem to hang there like dismal rain clouds mistily dispersed over tropical mountains. Is it because the Council doesn't have enough to do in the "pink elephant", while we have meetings canceled with the speed of machine gun fire down the road?

Should we deduce from this that we should do less preparation of propo-

sals so as to give the Council some real work to do? Or should we help them by making more proposals that are not really necessary, but would be nice and give us a sense of importance as well?

We must be careful not to do either or make proposals just for the sake of retaining staff in their existing slots. How many of us would actually be more usefully employed in another Unit on another dossier that has a real need to be pushed? How many things are still being done because they have always been done? How many of us are doing things because someone else (or ourselves) have thought up something so as to justify their (our) existence?

The Board's Plan was set up to help management to manage, hopefully it has, but there is still need for the surgeons knife and some organ transplant operations.

A copy of a discussion paper about the 1996 Plan that the Board has circulated blew into our office suite recently from somewhere down the corridor. It was intended to stimulate thought on how to improve its readability, make it more usable as a planning and monitoring tool and revealing what the actual objectives, priorities and targets of each unit and Directorate are.

Oddly enough it makes the statement that "the ideal management plan is one with which the staff feel associated. Such association is best ensured by consultation at the preparatory stage....!" The need to distinguish between the real major objectives and proposals and the mass of necessary minor adjustments and updates that need to be made all the time is set out. "The key targets should not be swamped in routine matters which should be done anyway".

Should we feel

WHO DOES WHAT

Sanctions
Part 2 - Operations

In Part 1 Richardt Vork gave the story of setting up the SAMs, in Part 2 he tells us about their operations.

Control of vessels and goods on the Danube

The Danube river is a very important waterway for the transport of goods. Transiting the F.R.Y. controlled part of the Danube implies an obvious risk of sanctions violations. It was clear that the Danube could easily become the theatre of large-scale sanctions violations that might render ineffectual all the efforts of sanctions enforcement along the land borders of F.R.Y.

This risk was highlighted in January 1993 when several barge convoys carrying fuel products sailed up the Daube and delivered their cargo to F.R.Y. in violation of the sanctions. Duing their voyage up the Danube the captains of the convoys ignored orders to stop issued by the authorities of the riparian States, and threatened to cause an ecc'ogical disaster by blowng up the barges if attempts were made to stop the convoys by force.

It was imperative to deal with this risk of sanctions violations.

On the other hand the imposition of sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro) had serious consequences for the cargo traffic that uses the part of the Danube flowing through F.R.Y. There was a strong interest in maintaining intact the possibility of using the Danube for the transport of goods between the interested countries, notably Germany, Austria and Hungary upstream of F.R.Y. and Bulgaria, Romania and the Ukraine downstream of F.R.Y.

It was decided to ask the Western European Union to consider the deployment of a customs/police force on the Danube. This force should assist the authorities of the riparian States with inspection and monitoring of the river traffic upstream and downstream of F.R.Y.

Simultaneously, the SAMs put in place a river traffic monitoring pro-

cedure established by SAMCOMM in close cooperation with the SAMs in Hungary, Bulgaria, Romania and the Ukraine.

Under this procedure, known as the Serbian Water Control System (SWCS), the SAMs inspect and seal vessels and barges before they cross into the stretch of the river that is controlled by F.R.Y. The SAMs also take note of quantities of fuel and lubricants carried and of the load line of each vessel and barge. The SWCS contains information regarding departure, transit and arrival times of each vessel and barge. The procedure makes it possible to detect irregularities and cases where convoys or vessels are unduly delayed in the F.R.Y. controlled stretch of the river.

Control of United Nations authorisations and acknowledgements

The United Nations SC resolutions provide that import to, export from and transhipment through the areas on which the sanctions are imposed shall be permitted only with proper authorisation from the Security Council Committee established pursuant to resolution 724 (1991). For certain goods (medical supplies, foodstuffs, humanitarian aid) the import, export or transhipment may only take place if the consignment has been notified to the Committee. Transhipments of commodities and products through the Federal Republic of Yugoslavia (Serbia and Montenegro) on the Danube are permitted only if specifically authorised by the Committee.

It follows from these rules that an authorisation or a letter of acknowledgement of notification must accompany all consignments of commodities and products or goods destined for import to, export from and transhipment through the areas on which the sanction are imposed.

The control of the authenticity of the United Nations authorisation papers and letters of acknowledgement of notification presented at the borders as well as the monitoring of their use, are important tasks for the SAMs.

In 1992 and 1993 the SAMs discovered many attempts to use forged authorisations or letters of acknowledgement, or of multiple use of a genuine authorisation or letter of acknowledgement. SAMCOMM informed the Sanctions Committee of this problem and suggested that a proper control would be greatly facilitated if each authorisation or letter of acknowledgement of notification could only be used at one single border crossing point. The Sanctions Committee accepted this view.

In order for the SAMs to be able to monitor the use of these United Na-

tions authorisations or letters of acknowledgement a procedure has been established whereby the SAMs are informed of all the authorisations or letters of acknowledgement that are issued by the Sanctions Committee. The SAMs take note when a consignment is presented at the border accompanied by the relevant authorisation or acknowledgement.

The control procedures have eradicated the problem of false or forged United Nations authorisations or letters of acknowledgements. Furthermore, the monitoring makes it possible to control that only the approved quantities of the products and commodities in question cross the border to the areas on which the sanctions are imposed or transit F.R.Y. on the Danube.

The monitoring also makes it possible to determine what has been the actual use of the United Nations authorisations or letters of acknowledgement.

Actual use of United Nations authorisations and acknowledgements

In early 1995 two studies were carried out in order to determine the extent of the actual use of United Nations authorisations and acknowledgements.

The studies show that only between 9 and 12% of all United Nations authorisations and acknowledgements were actually used with regard to consignments that crossed the border into F.R.Y. (Serbia and Montenegro) and into the Bosnian Serb forces held areas. The figure is somewhat higher (21%) with regard to transit authorisations issued by the Committee for goods to be transported on the Danube through the part of the river under F.R.Y. control.

The fact that an authorisation or an acknowledgement has been used does not necessarily mean that all of the approved quantity of goods has been shipped. Of those authorisations or acknowledgements used, the actual quantities of goods shipped average 21% of the total quantities that had been approved by the United Nations Sanctions Committee. In more than 50% of the cases less than 10% of the approved quantity of goods was actually shipped.

Extrapolation of the figures suggests that only about 2% of the quantities of the goods covered by authorisations or acknowledgements have actually been shipped.

Combating of fuel smuggling

The most serious sanctions violations concern the illegal introduction of fuel products into F.R.Y. (Serbia and Montenegro) and the Bosnian Serb forces held areas. The quick profits that can be made are considerable

and the fuel smuggling has been found to occur in many areas.

The main methods of fuel smuggling have been:

at the land borders:

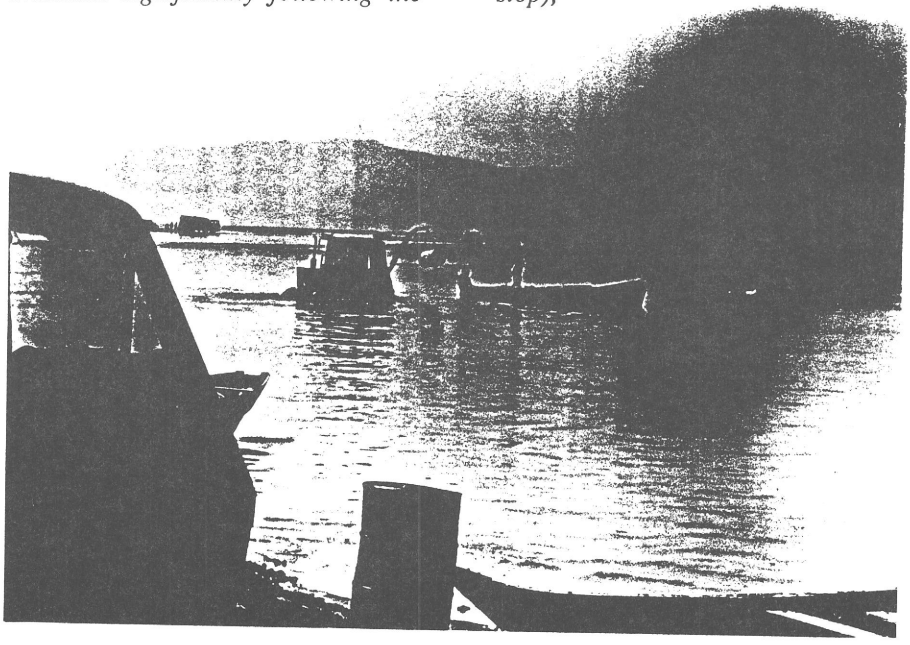
Trains carrying fuel products into F.R.Y. in violation of the sanctions (the closure by the Greek government of the Greek border to the Former Yugoslav Republic of Macedonia (FYROM) brought this traffic to a stop);

Lorries and buses carrying excess fuel in extra tanks (this traffic has diminished significantly following the adoption of measures by Bulgaria and Romania);

Private cars and motor-cycles carrying excess fuels in loose containers like jerry cans, bladder bags, plastic bottles, etc. (this traffic has diminished significantly following the adoption of measures by Bulgaria, Hungary and Romania);

on the Danube:

Barge convoys carrying fuel products sailing up the Danube into F.R.Y. in defiance of the riparian States' authorities (the deployment of the WEU force has brought this traffic to a stop);



Small boats sailing across the Danube with fuel products (this traffic has diminished significantly following the adoption of measures by Romania);

in the Adriatic:

Vessels carrying fuel products sailing into a port in Montenegro; (the deployment of the NATO/WEU force "Sharp Guard" in the Adriatic has brought this traffic to a stop);

on the lake of Shkoder and on the Buna river in Albania:

Smuggling of fuel by barges, small boats or by rafting fuel drums together and towing them to Montenegro (the introduction by Albania of an oil pre-verification system has led to a significant reduction of this illegal traffic);

The oil pre-verification systems (OPVS)

The SAMs have spared no effort in assisting the national authorities with combating these smuggling activities. The SAMs notably assist the authorities in the operation of what is known as the oil pre-verification systems (OPVS).

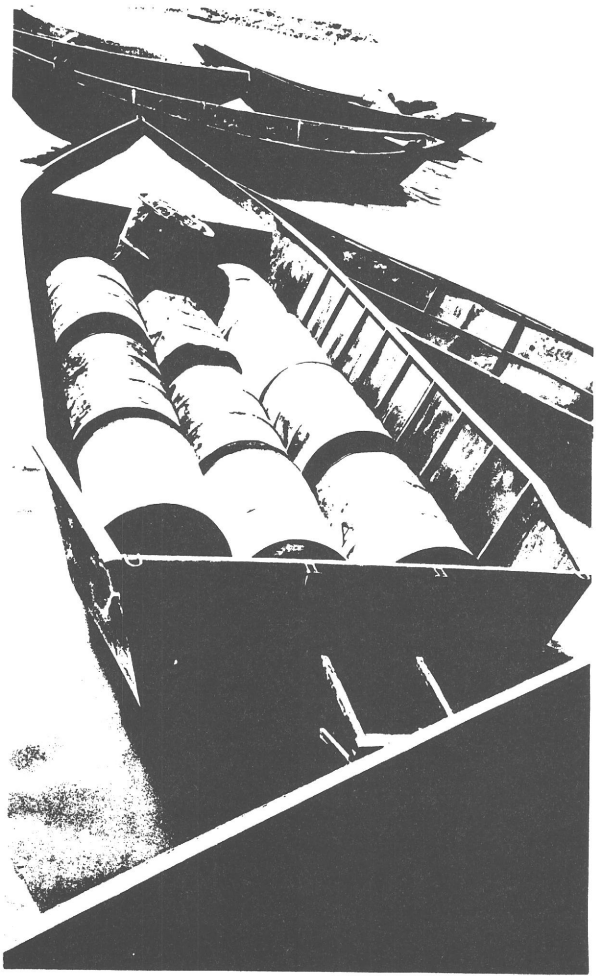
The principle of OPVS is that the country from where the smuggling of fuel products to F.R.Y. has been taking place agrees with certain supplier countries that these countries will not allow fuel shipments destined to that country to leave from their territory unless the authorities in the country of destination have certified the bona fides of the consignee.

The authorities of the country of declared destination undertake to examine the bona fides of the consignees of fuel shipments in cooperation with the SAM in the country. Normally, the result of the verification should be communicated to the authorities of the country of departure within five working days. If the result of the verification is that the bona fides of the consignee cannot be certified, the authorities of the supplier country will not allow the consignment to proceed from their territory.

Until now (March 1995) two OPVS have been in operation; the first involves Bulgaria and Greece as supplier countries and the Former Yugoslav Republic of Macedonia (FYROM) as declared country of destination, the second OPVS involves Greece and Italy as supplier countries and Albania as declared country of destination.

SAMCOMM's functions are to effect the following:

SAMCOMM co-ordinates and supervises the work of the SAM Teams which in collaboration with local customs officers monitor the imple-



mentation of the sanctions as well as the verification of the authorised cargoes at the border crossing points. For that purpose, the Teams are provided with the resources necessary in terms of personnel, communications, logistics and guidance.

Co-ordinate multinational investigative activities for cases of suspected violations or attempted violations, as well as develop and maintain an investigative database to facilitate follow through on long standing cases, operational link analysis, and security and reliability of data;

Perform risk analysis regarding geographic areas and their transportation and commercial infrastructures, corporate entities and relationships, and United Nations authorisations;

Provide formal and informal advice and assistance to the leadership of front line state national authorities responsible for operational sanctions enforcement;

Disseminate operational information and analytical products to the EU/ OSCE Co-ordinator, OSCE Sanctions Liaison Group, and the Sanctions Committee in support of the policy decision-making process and diplomatic actions.

The daily verification of authorisations at the border crossings permits SAMCOMM to identify potential risks of fraudulent commerce because of the format of authorisations:

SAMCOMM is not always in a position to provide the SAM Teams and the local customs authorities with an appropriate solution to the daily problems when verifying authorisations presented at the border. SAMCOMM then needs the assistance of the Committee, such as:

- *A missing authorisation record in the computer database makes it necessary to request a paper copy from the Secretariat. Because of increased use of computerised databases and satellite transmissions of data directly to the SAM's, human errors and technical problems in the input recording of information occur frequently. As a result, the authorisation presented at the border may not match with the data available.*

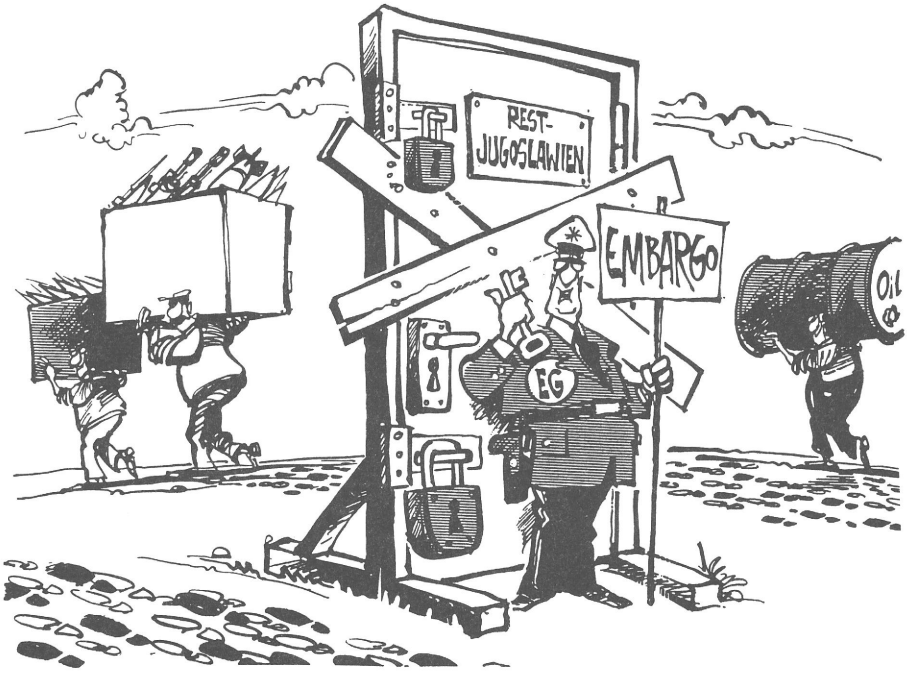
- *A shipment includes goods which might go beyond the Committee's intent (computers as office supplies). SAMCOMM requests the Committee for the company's application for authorisation in order to verify the original intention of the company.*

- *A document presented at the crossing point as an authorisation appears to be a forgery or in some way fraudulent. Copy of the original authorisation is essential for establishing the authenticity of the document.*

Conclusion

The experience that has been gained since the SAMs and SAMCOMM began to operate in 1992, and since the EU/OSCE Sanctions Co-ordinated was appointed in February 1993, is conclusively positive. Only strict implementation can ensure the economic and political impact of the sanctions. The SAMs and SAMCOMM, working in close cooperation with the EU/OSCE Sanctions Co-ordinator, have proven that United Nations sanctions can be an important political instrument of the peace process when an international effort of co-operation is undertaken with a view to ensuring their strict implementation.

By establishing appropriate control procedures and presenting proposals to the Yugoslav Sanctions Committee the SAMs and SAMCOMM have also contributed to facilitating the unhindered flow of legitimate traffic and trade. They have thereby mitigated the unintended burden of sanctions enforcement that has fallen upon the States surrounding the Federal Repu-



"Get away, nobody can go through here!"

blic of Yugoslavia (Serbia and Montenegro) and those areas held by the Bosnian Serb forces.

All this has been achieved with limited resources. The total staff of the SAMs and SAMCOMM and the Sanctions Co-ordinator's office has never exceeded 250 persons.

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Richardt VORK - Director SAMCOMM

The sanctions are a political instrument, not an aim in themselves. They are imposed in order to contribute to achieving certain political goals of the United Nations Security Council. The more efficiently the sanctions are implemented the stronger will be their economic and political impact.

Plant smuggling is being nipped in the bud
From "Portcullis"

WILD ORCHIDS from Bangkok, cycads from South Africa, blocks of wood taken from 2,000 year-old Argentinian trees - they're all in a day's work for Heathrow-based CITES enforcement officer Ann O'Connor and her colleagues.

Ann forms part of a sub-team which specialises in plants and is frequently required to comb through entire shipments of stems, roots or even in seeds in search of threatened species.

And although CITES (Convention on International Trade in Endangered Species) controlled plants do not receive quite such a high publicity profile - or fetch such high prices - as reptiles and birds, they are every bit as challenging from Customs point of view.

"People smuggle plants in on their person, by post, among clothing or in their hand luggage." said Ann. "They smuggle to sell to collectors or for their own private collections.

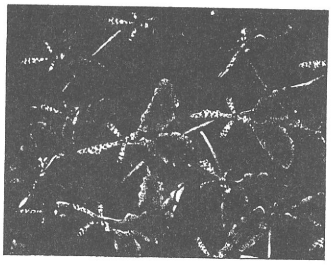
"Sometimes they smuggle plants because they can't be bothered to obtain the necessary permits or because they wouldn't be allowed to import them legally in any case," she added.

Ann explained that commercial importers of propagated plants will sometimes bury CITES controlled wild plants deep within a shipment of legitimately imported plants.

When importers bring in plants, CITES control officers are on hand to establish whether any are suspected of belonging to an endangered species of wild plants, these might be orchids, cacti or succulent plants, often from tropical countries, although the convention also covers timber from endangered trees.

Team members are trained to look for tell-tale signs that plants may be wild and, with the aid of manuals, are continuously developing their expertise although they could not possibly be expected to identify every single species covered by the convention.

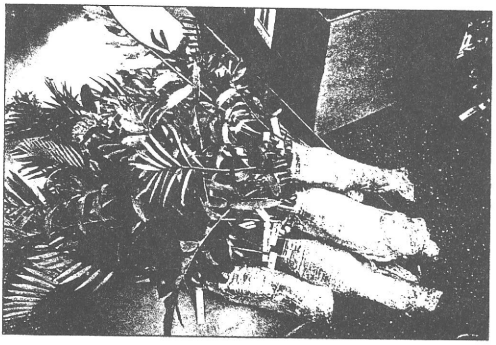
"Plants that come from the wild might, for instance, have slightly less regular leaves then ones that have been cultivated, so that is one of the things we would look out for," Ann explained.



Next page: Ann O'Connors job involves regular visits to Kew Gardens to consult the experts. Ann is pictured with orchids in the Kew Collection.

Left: An endangered species.

Below: part of a shipment of CITES controlled orchids.



If Ann is suspicious about a batch, she will send a sample to nearby Kew gardens where conservation officer Noel McGough and colleagues can identify it and come back with a verdict within a couple of hours.

"An internationally acknowledged expert must identify the plants if there is a likelihood of a court case," Noel explained.

If the experts at Kew find the plants to be CITES controlled, they will then be stored at Kew until any court case takes place, and after a period in quarantine can be included with the Kew collections.

Samples of endangered timber are stored at Kew's second botanical garden. Wakenhurst, near Gatwick, where they are used for educational purposes.

In May 1992 more than 28 tonnes of CITES appendix one listed timber was seized on its way to a UK importer and found to be from a threatened species of South American hardwood found in Chile - some from trees 2,000 years old.

Experts were able to identify the wood by examining it in section. The wood is now at Wakenhurst.

CITES governs more than 800 species of animals and plants under appendix one - with thousands more under appendix two. Appendix one means international trade is totally prohibited while under appendix two importers must obtain licences from the country of origin and from the Department of Environment in order to trade.

Updated

Experts at Kew also give advice on licences and on proposals to list new species under CITES - as listings are updated every two and a half years.

"There is a big commercial demand for orchids and cacti," said Ann, adding that consignments of plants often came in the form of roots and stems without the flowers - making identification less obvious.

Some plants - such as certain South African cycads - are so endangered that even their seeds are CITES controlled, she explained.

She said most collectors are based in Germany or Italy, with other big importers to be found in France, Spain, Colombia, Russia and the UK. It is common for plants brought into the UK to be sent on to collectors across Europe.

In February this year officers seized 190 Cypripedium Japonieum orchids brought in from Japan to Middlesex which were subject to licence control.

"Orchids tend to be the most popular plants that people want to bring in," said CITES senior officer Charles Mackay.

"When there are large orchids show in the country you get an increase in importation. Last year someone from CITES went round to check none of the plants on display were from the wild."

A growing part of the team's work is to research into known importers of plants and build up profiles so that when a shipment comes in officers can access details of the importer on a database.

"If its know that someone imports CITES goods we will check every single item in the consignment," said Ann, who has been busy building up profiles over the past four months.

"Most of our work has to be intelligence led," explained Charles. "And we are now able to be much more pro-active in profiling importers and exporters, setting parameters and targeting suspect shipments."
Co-operation with CITES teams in other countries is of paramount importance - with 128 states now signed up to the agreement. As with anything else, some countries are move vigilant in their controls than others. Australia, for instance, check all its plants at export.

In 1992 there was a total ban on wildlife from Thailand. Since then the Thai government has been keen to co-operate in the development of CITES controls and has become so organised it even produces its own annual reports on the subject.

A current ban exists on the export of all wild plants from Mexico - which is a source country for many rare cacti.

Clare STEVENS - HMC&E

HAPPENINGS

Europe - Les Cercles de l'intégration
2ème partie

Dans la première partie de cet article ont été présentés les instruments d'intégration économique offerts par le GATT ainsi que l'évolution de l'intégration européenne "interne", des Communautés originelles à l'Union européenne actuelle.

La seconde partie sera consacrée au volet externe de l'intégration, opérée aux moyen des relations plus ou moins privilégiées que l'Union européenne entretient avec le reste du monde. Elle servira également d'introduction à l'article de Veva Ruiz Calavera dans la prochaine édition relatif à la stratégie de préparation à l'adhésion (c'est-à-dire, notamment, au marché intérieur) des PECO.

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2. ***L'intégration externe des partenaires tiers de l'Union européenne***

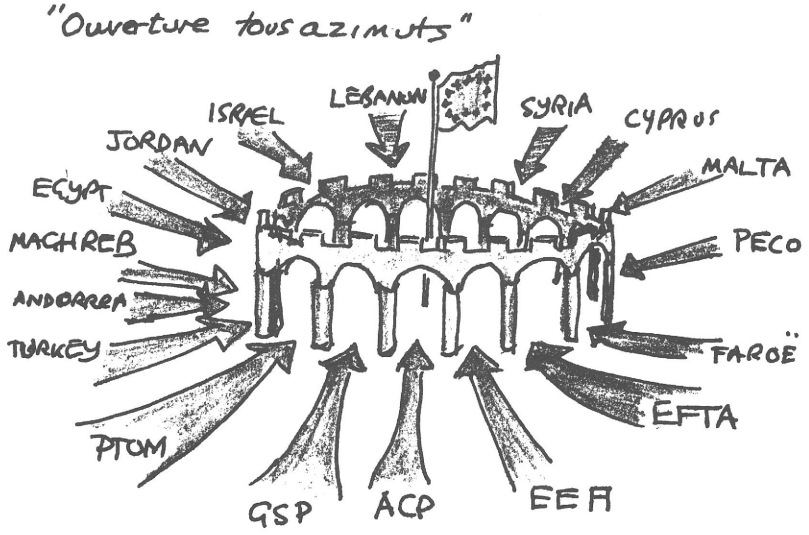
Les instruments de cette intégration sont assez souvent d'une approche difficile car ils mêlent le recours nécessaire aux outils conventionnels et aux bases juridiques offertes en la matière par les traités et le choix de dénominations diplomatico-artististiques, généralement destinées à faire croire que l'accord conclu va bien au-delà de ce qu'il contient réellement. A cet égard, l'imagination des négociateurs est infinie et il est bien difficile de déterminer à la simple lecture de l'intitulé d'un accord s'il s'agit d'un accord d'association, d'un accord de libre échange ou d'un simple accord commercial non préférentiel. Que nos amis de l'unité A/3 soient remerciés de nous éclairer périodiquement (mais pas encore assez souvent à mon goût), par leur "Nouvelles Internationales", sur une situation conventionnelle particulièrement évolutive ces dernières années. La lecture du Rapport général sur l'activité de l'Union européenne pour 1994 (pages 293 et suivantes et tableau III, page 577, pour les amateurs...) est également très édifiante à cet égard.

Il ne faut pas négliger bien sûr l'existence de préférences accordées unilatéralement par la Communauté européenne, en particu-

lier aux pays ou terrritoires en développement (Système des Préférences Généralisées et association des PTOM), qui constituent également des instruments d'intégration économique et commerciale. Mais le parti pris est ici de se concentrer plutôt sur les instruments conventionnels.

Compte tenu de la boulimie conventionnelle de la Communauté, on en viendra dans quelque temps à avoir du mal à trouver un pays tiers avec lequel elle n'a pas d'accord commercial. Il serait intéressant de savoir si la DG I a vraiment mesuré les retombées attendues pour l'économie et les opérateurs communautaires de cette ouverture tous azimuts ou si elle est ne serait pas victime d'une passion frénétique de collectionneur de conventions ...

Ne vous laissez donc pas impressionner par des titres ronflants tels que **accords de coopération et/ou de partenariat** *évoluant parfois vers des* **accords-cadres de coopération**, *avec leur multiples variantes dont seuls les experts peuvent apprécier les subtilités (voir à ce sujet les bulletins A/3 n° 2 et 3/92). Ils sont en principe dépourvus de toute por-*



tée commerciale effective en termes de préférences et n'offrent qu'un cadre de discussion ou de négociation de futurs accords plus "consistants" avec, pour ce qui nous concerne, un rappel des principes de base du GATT, quelques éléments de coopération douanière et une clause sur l'admission temporaire de marchandises en suspension de droits et taxes, d'ailleurs dans les conditions des conventions internationales en la matière.

Certains de ces accords sont conclus par la Communauté avec des groupes de pays, tels que Pacte Andin, Isthme Centro-Américain, ANASE, Etats arabes du Golfe. Un accord de coopération a été conclu avec l'Afrique du Sud à la suite de l'abolition de l'apartheid, et devrait être suivi d'un accord de libre échange. Des accords de coopération sont également envisagés avec des partenaires commerciaux avec lesquels aucun accord n'avait jusque là été passé par la Communauté: Japon, Corée du Sud, Hong-Kong, Etats-Unis, Canada, sur la base d'un mandat de négociation donné par le Conseil à la Commission. Dans certains cas, notamment avec les Etats-Unis et le Canada la perspective d'accords encore plus ambitieux (et donc ressentis comme plus dangereux par certains intérêts communautaires ou nationaux) n'est pas écartée. De tels accords de partenariat et de coopération ont été signés récemment ou doivent être signés prochainement avec les pays issus de l'ex-URSS et se substituent donc progressivement à l'accord de coopération de 1989 entre la CE et l'URSS. Ils constitueront surtout un cadre d'assistance à la poursuite de la mise en place de l'économie de marché dans ces pays, sans préférences commerciales supplémentaires par rapport à celles qu'ils retirent déjà du SPG.

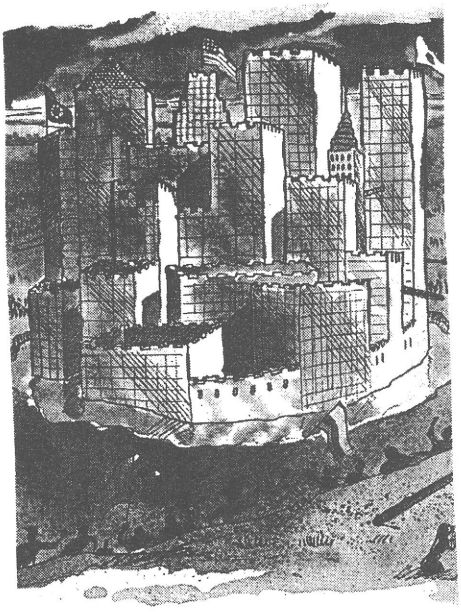
*Les choses deviennent un peu plus sérieuses avec l'octroi de préférences tarifaires et/ou non tarifaires dans le cadre d'***accords de libre échange** *fondés sur l'article 113/CE (ex: avec la Suisse, les pays baltes, ...) qui visent à la constitution d'un zone de libre échange fondée sur l'origine préférentielle des produits entre la CE et des partenaires tiers. Comme indiqué précédemment, cette zone peut avoir un caractère purement bilatéral ou bien, grâce à des systèmes de cumul d'origines, revêtir une portée plus régionale. La plupart de ces accords comporte une clause complémentaire de l'interdiction des*

droits de douane et taxes d'effet équivalent entre pays membres de la zone visant à interdire les discriminations opérées dans les systèmes d'impositions intérieures. Toutefois, ainsi que la Cour l'a précisé, cette clause n'a pas automatiquement une portée équivalente aux articles 95 et 96/CE.

*Assez souvent, ces accords de libre échange constituent l'antichambre d'***accords d'association** *fondés sur l'article 238/CE, qui impliquent une intégration beaucoup plus poussée et à plus long terme, avec un cadre institutionnel plus étoffé, ce qui explique l'exigence de l'unanimité et l'avis conforme du Parlement européen pour leur conclusion par la Communauté. Le plus souvent, leur portée est telle qu'elle excède les compétences strictement communautaires et nécessite une ratification par les Etats membres eux-mêmes, en tant qu'accords "mixtes".*

Ceux qui sont conclus avec des pays européens (d'abord, Malte, Chypre et la Turquie puis les pays de l'AELE membres de l'Espace Economique Européen et, désormais, les PECO) se présentent comme un stade préparatoire à une adhésion ou, au moins, à une union douanière, incluant, outre les aspects commerciaux, des mesures additionnelles notamment dans le domaine de la concurrence, ou de la libre circulation des marchandises. Dans ce contexte d'association, surtout s'il est préparatoire à une adhésion, les clauses d'interdiction des discriminations fiscales pourraient se voir reconnaître une portée plus proche de celle des articles correspondants du traité CE que dans le contexte d'un simple accord de libre échange.

***L'Espace Economique Européen** constitue un stade très achevé de l'association, avec une reprise par les pays de l'AELE membres de l'EEE de pans entiers de l'acquis communautaire et un système institutionnel particulièrement développé comportant, du côté de l'AELE, une Autorité de Surveillance jouant le rôle de "gardienne de l'Accord" et une Cour de Justice. L'équivalence totale entre les clauses d'interdiction des taxes d'effet équivalent, des discriminations fiscales et des mesures d'effet équivalant à des restrictions quantitative est d'ailleurs expressément établie, y compris en ce qui concerne les interprétations de ces interdictions données par la Cour de Justice, qui s'imposent à la Cour AELE instituée pour contrôler le respect*



Les barrières tarifaire : vision américaine ?

de l'accord par les membres AELE de l'EEE.

*Une approche assez comparable a été reprise dans la décision du Conseil d'Association CE/Turquie pour l'achèvement de l'**Union douanière CE/Turquie**, en principe prévu pour le 1er janvier 1996, si le Parlement européen y consent.*

*Quant aux **accords européens** d'association avec les Pays d'Europe Centrale et Orientale (Pologne, Hongrie, République Tchèque, Slovaquie, Roumanie, Bulgarie et, bientôt, Pays baltes et Slovénie), ils sont clairement conclus en vue de l'adhésion future de ces pays à l'Union européenne et ont à ce titre une portée politique très forte. Un cumul paneuropéen d'origine, générateur d'une zone de libre échange unique à l'échelle européenne, devrait à terme être mis en place dans ce cadre. Une stratégie préparatoire à l'adhésion a été mise au point dans le cadre d'un Livre blanc destiné à favoriser le rapprochement progressif de ces pays des conditions du marché intérieur, aux règles duquel ils devront se plier lors de leur adhésion (voir l'article de Veva Ruiz Calavera à ce sujet).*

*Quant aux **pays méditerranéens**, ils font depuis longtemps l'objet d'accords d'association, baptisés toutefois **accords de coopération** (belle transparence) à la demande même de ces pays. Ces accords d'association comportent notamment, outre des préférences commerciales dans le cadre d'une zone de libre échange, des protocoles d'assistance financière. Cette politique méditerrranéenne, afin de maintenir un équilibre avec les concessions offertes par la Communauté aux PECO, vise désormais, sur le plan commercial, à la constitution d'une zone*

*de libre échange euro-méditerranéenne fondée sur un cumul total d'origine, dans le cadre d'**accords euro-méditerranéens** constituant le pendant des accords européens avec les PECO.*

*La Communauté a également eu depuis longtemps une politique d'association avec les **pays en développement**, avec la recherche d'un certain parallélisme entre les préférences octroyées unilatéralement aux territoires dépendants de ses Etats membres (décision d'association PTOM de l'article 136/CE) et celles qui s'appliquent, sans réciprocité, aux Etats des ACP dont la plupart sont d'anciennes colonies (convention de Lomé IV).*

*Enfin, il ne faut pas oublier les deux **Unions douanières** que la Communauté a constituées avec **Andorre** en 1990 et avec **Saint-Marin** en 1992. Ces unions douanières ont eu la particularité de générer des difficultés juridiques d'interprétation et d'application sans commune mesure avec leur impact économique effectif (on pourrait en fait en dire de même des relations avec les Canaries, qui font pourtant partie du territoire douanier communautaire). A noter qu'à chaque fois que la Communauté établit ainsi une union douanière avec un nouveau partenaire tiers, le jeu de la libre circulation des marchandises mises en libre pratique dans le territoire douanier de l'union fait qu'il se crée une union douanière de fait entre le nouveau partenaire et ceux qui étaient déjà en union douanière avec la Communauté. Cette situation peuvent avoir des retombées tout à fait délicieuses lorsque la portée des différentes unions douanières (notamment les produits concernés et le niveau d'alignement des politiques commerciales) et leurs conditions de fonctionnement ne sont pas tout à fait les mêmes. A l'échelle d'Andorre et de Saint-Marin, ce n'est pas très grave, mais avec la Turquie, cela pourrait ne pas être triste.*

*Enfin, le dernier stade de l'intégration, c'est bien sûr l'**adhésion**, ce qui nous ramène à l'intégration interne. Quoiqu'avec un élargissement démesuré de l'Union euopéenne et l'Europe "des noyaux durs", "à la carte" ou "à pluieurs vitesses" qui s'ensuivra certainement, cette adhésion pourrait ne pas avoir la même signification et la même portée pour tous les Etats membres.*

Jean-Michel GRAVE 01

La XXI/C nouvelle formule est arrivée avant le beaujolais...

Cela a la couleur d'une réorganisation, cela en a le goût, pour certains, mais ce n'est pas une réorganisation.

Qu'est ce que c'est?

C'est avant tout un effort pour rendre la Direction C plus rationnelle - donc, en l'espèce, encore plus efficace - et pour l'adapter aux nouvelles tâches qui résultent des orientations politiques de la Commission.

Rationaliser

La répartition de certains sujets entre unités au sein de la Direction C tenait parfois davantage de l'héritage que de l'exercice de la raison. Des changements s'imposaient donc.

Ainsi le traitement des questions relatives aux taux de TVA (ex-compétence C3) sera maintenant confié à l'unité C1 (TVA) dont la compétence portera désormais sur:

- *les travaux d'analyse et de conception de la législation (y compris la partie relative aux taux);*
- *les questions d'interprétation et d'application de la législation (tamment Comité de la TVA, suivi des législations nationales, interprétation et application des dispositions communautaires...);*
- *les questions relatives aux ressources propres (aspects législation, visites de contrôle);*
- *les autres taxes sur le chiffre d'affaires (octroi de mer, etc...).*

L'Unité C2 (Accises), quant à elle, bénéficie du regroupement de tous les sujets qui se rapportent non seulement aux trois accises "harmonisées" (tabacs, alcools, huiles minérales), sur lesquelles elle avait déjà compétence, mais également aux questions relatives à toutes les autres taxes indirectes notamment en matière d'environnement, de transport et d'énergie. Cette compétence élargie et plus rationnelle porte donc sur:

- *les travaux d'analyse et de conception de la législation en matière :*
  - *d'accises*
  - *de taxe C02/énergie*
  - *de taxes spécifiques (assurances)...);*
- *les travaux d'analyse et de conception en matière d'instrument fiscal:*
  - *la fiscalité de l'environnement*

- *la fiscalité des transports (taxe de circulation, taxe d'immatriculation)*
- *la fiscalité de l'énergie*

- *l'interprétation et l'application de la législation en matière d'accises (notamment Comité des Accises, suivi des législations nationales, interprétation et application des dispositions communautaires);*

- *la coopération administrative notamment contrôle du mouvement des marchandises).*

S'adapter

La mise en place des nouveaux régimes de fiscalité indirecte a, comme on s'y attendait, mis en évidence le rôle de la coopération administrative et de l'assistance mutuelle entre les Etats membres sans que pour autant, à ce stade, les instruments mis par la Communauté à la disposition des Etats membres soient pleinement utilisés par ceux-ci. Il est clair que pour dynamiser cette trop lente évolution, une initiative s'impose du côté de la Commission et de ses services. Le point de départ d'un tel mouvement réside dans une meilleure capacité d'analyse de l'ensemble des moyens de collecte et de contrôle des taxes indirectes et à titre essentiel de la TVA. C'est pourquoi toutes les questions relatives aux obligations des redevables, à la collecte, au contrôle, à la lutte contre la fraude, au recouvrement de la TVA, ont été regroupées dans l'Unité C3 qui disposera, par cette compétence élargie et recentrée, des capacités nécessaires à la préparation de nouvelles initiatives dans tout le domaine de l'administration de la TVA, de la coopération et de l'assistance mutuelle entre administrations, en couvrant:

- *les travaux d'analyse et de conception en matière de TVA pour ce qui concerne:*
  - *les obligations et droits des assujettis (y compris questions relatives aux procédures fiscales)*
  - *l'administration de la taxe par les administrations (questions relatives à la collecte, au contrôle, à*

la lutte contre la fraude et au recouvrement de la taxe);

- *l'application et le développement de la législation en matière de coopération administrative et d'assistance mutuelle;*
- *les recettes, les statistiques fiscales, les liens avec Intrastat;*
- *la gestion et le développement du Matthaeus Tax (interne);*
- *les relations avec l'UCLAF.*

Enfin, il convenait également d'adapter les activités et leur répartition aux besoins des nouvelles initiatives prises par la Commission, ainsi qu'aux nécessités d'une coordination toujours plus étroite des travaux tant dans la Direction C et la DG que vis-à-vis de l'extérieur - autres DG, autres institutions, milieux professionnels, etc... A ces fins, l'Unité C4 a connu un redéploiement assez radical de ses activités accompagné d'un important mouvement de personnel.

Parmi la longue liste des tâches de la C4, l'une de ses tâches prioritaires sera d'assurer la coordination et une participation effective à toutes les actions entreprises en matière de fiscalité indirecte (TVA, accises, coopération administrative) en faveur des PECOs (au sens large) dans cette phase pré-adhésion initiée par le "Livre blanc, PECOs". D'autres tâches de coordination des activités fiscales à l'échelon international seront également confiées à cette unité ainsi

que des activités de service aux autres unités de la Direction C, de sorte à couvrir:

- *la coordination et le développement des actions pour le marché intérieur et la coopération internationale en matière de fiscalité indirecte:*
  - *la coordination des questions relatives aux marché intérieur (douane et fiscalité indirecte)*
  - *la coordination et la participation aux actions en relation avec le Livre Blanc PECOs (TVA, accises et coopération administrative)*
  - *la coordination des travaux en matière d'élargissements (TVA, accises et coopération administrative)*
  - *la coordination des activités de coopération internationale (OCDE, FMI, OMC) y compris les questions relatives aux systèmes fiscaux (fédéralisme fiscal, etc...)*
  - *l'étude d'un Matthaeus Tax externe;*
- *les activités de service commun pour l'ensemble de la direction:*
  - *questions budgétaires, coordination et suivi des études;*
  - *constitution et gestion des banques de données internes: obligations déclaratives, niveaux des seuils TVA (VAD, PME, taux, recettes, etc...)*
  - *méthodes d'archivage et documentation de la direction*
  - *information externe: publications*
- *la consultation des milieux professionnels en matière de fiscalité indirecte (y.c. CCMDF);*
- *la gestion du Comité des DG et DGA de la fiscalité indirecte.*

Dans l'attente des procédures qui permettront la désignation officielle d'un chef d'unité à la C4, Tom Carroll a pris en charge la réalisation de ce beau programme et "fait fonction" suivant le jargon officiel.

Cet ensemble de modifications, qui s'efforcent de traduire au mieux la politique poursuivie par la Commission dans le domaine de compétence de la XXI/C s'est déroulé dans la bonne humeur habituelle jusques et y compris les déménagements nécessaires à la mise en oeuvre de cette nouvelle répartition des tâches (bien que nous soyons maintenant très à l'étroit). Rien de surprenant à cela, puisque tout ce mouvement a été préparé en étroite concertation avec toutes les personnes concernées de sorte que l'accord de chacun ne faisait pas de doute et que, la paix règnant, tous peuvent se consacrer, depuis le retour des vacances à une rentrée "nouvelle formule".

Michel AUJEAN - Directeur C

Modifications of the implementing provisions of the Customs Code

The modifications of Regulation (EC) No 2454/93 came into force on 28 July 1995[1]. The effects for the practical application of the customs rules.

The modifications of the implementing provisions to the customs code concern in particular the rules of evidence for the customs value of goods which are cleared for free circulation after having been subject of more than one sale, the adaption of the customs rules to the new Istanbul convention and the single authorization for the customs warehousing procedure. Some special provisions concern inward processing and the adaption of the annexes. In detail the important modifications are the following:

Customs value

Article 1 item 2 modifies the customs value provisions of Article 147(1) (implementing provisions)[2]. Modified are the following points:

- *According to Article 147(1) first sentence the fact that goods are declared for free circulation, is regarded as adequate indication that they were sold for export to the customs territory of the Community. For successive sales before valuation the revised second sentence of Article 147(1) limits the application of this rule of evidence. In such cases it is now only applied in respect of the last sale which is regarded as the sale that led to the introduction of the goods into the customs territory of the Community.*

- *Also sales which take place in the customs territory of the Community before entry for free circulation of the goods are now covered by the above legal presumption of Article 147(1) first sentence. The revised second sentence allows that such sales can be accepted as sale for export to the customs territory of the Community. This*

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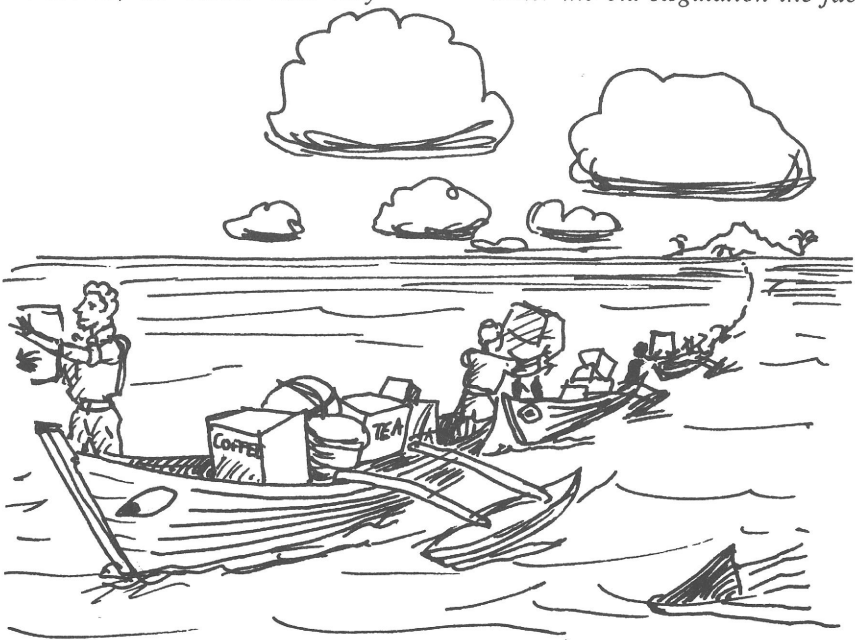
1) Regulation (EC) No 1762/95 O.J.(EC)L 171/95, page 8

2) Regulation (EC) No 2454/93 O.J.(EC)L 253 of 11.10.93, page 1

means that sales of non-Community goods placed under a customs warehousing procedure in the Community may be used for customs valuation purposes. An importer can now sell the goods "duty unpaid" to a Community buyer without disclosing the prior sales price to the buyer or without being obliged to sell "duty paid" to a Community buyer.

- *The amendment of Article 147(1) recognizes that, under certain conditions, an earlier sale may still be taken as the sale for export to the Community. However the revised third sentence prescribes stricter rules of evidence for these so-called prior sales. Where such a prior sales price - representing normally a lower customs value - is declared, it must be demonstrated to the satisfaction of the customs authorities that this sale of goods took place for export to the customs territory of the Community. This is a reversal of the onus of proof. Whilst under the old Regulation the fact*



Sucessive sales while en route for the Community

that the goods were declared for free circulation created the - irrefutable -presumption that the conditions of a sale for export to the customs territory of the Community had been met, the customs value declarant must now demonstrate that, in respect of the prior sale in question, there are specific and relevant circumstances which led to export of the goods to the customs territory of the Community. Such facts, which may demonstrate that the goods have been sold for export to the customs territory of the Community, could, for example, include the following elements of proof:

- *the goods were manufactured according to EC specifications, or are identified (according to the marks etc. they bear) as having no other possible use or destination;*
- *the goods in question were manufactured or produced specifically for a buyer in the EC;*
- *specific goods were ordered from an intermediary who sourced the goods from a manufacturer and where the goods were shipped directly to the EC from that manufacturer.*

If a declarant is unable to provide the required evidence in respect of an earlier sale on the basis of which a customs value declara-tion has been made, then recourse is to be had to the last sale (second sentence of Article 147), in order that customs valuation can be determined in accordance with the transaction value method.

- *The revised fourth sentence of paragraph 1 stipulates that the provisions of Articles 178 - 181A shall apply. This ensures that the customs authorities are not obliged to determine the customs value on the basis of the transaction value if they have reasonable doubts that the declared value really corresponds to the paid or payable price as prescribed by Article 29 of the Customs Code.*

Customs warehousing

Article 1 item 6 adds a paragraph 2 to Article 509 of the implementing provisions. Where the application for authorisation relates to the storage of goods under the customs warehousing procedure of type C, D or E[3] *in more than one Member State,*

3) Ed: Essentially private warehouses

it must be submitted to the customs authorities designated by the Member State where the warehouse keeper's main accounts are kept. Before issuing the authorisation these said authorities are obliged to obtain the agreement of the customs authorities designated for that purpose by the other Member States. The Member States concerned are allowed to lay down, bilaterally or multilaterally, a procedure whereby the respective customs offices can insure the supervision of the procedure, the places of storage themselves and the kind of goods entered for customs warehousing.

The new Article 509(2) of the implementing provisions assures that warehousing of goods entered for customs warehousing may be authorised by a so-called "single authorisation". Much more important in this context is that the customs offices in two or more Member States must themselves agree upon an appropriate procedure to guarantee customs control at the different places of storage and the stored goods. It is evident that the holder of the authorisation can exercise considerable influence on the agreement of this procedure by making proper and appropriate proposals in that respect and can thus assure that he will have the full benefit of the customs warehousing procedure.

Article 1 item 4 of Regulation (EC) No 1762/95 modifies Article 272(2) of the implementing provisions. This modification restricts the use of local clearance procedures for type B and F warehouses[4] and thus assures a better customs control limiting the possibilities of a misuse of the procedure.

Inward processing

Article 1 item 8 contains a modification of Article 577(2) first subparagraph. This amendment makes the repair, modification, conversion and now also manufacture of civil aircraft of parts of civil aircraft equivalent to re-export from the customs territory of the Community. The background of this modification is the following: Article 1(8) of Regulation (EEC) No 2193/94[5] did not provide that the inward processing relief arrangements applied to aircraft manu-

4) Ed: Warehouses where the records are kept by customs

5) OJ No. L 235 of 9.9.94, page 6

facture. Thus a distorsion was created between the treatment, on the one hand, of operators who used parts for repair etc. and on the other hand manufacturers. The modification of Article 577(2d) now eliminates this distorsion and minimises the administrative formalities so helping the European manufacturers to compete with third country manufacturers by discharging the inward processing procedure at each phase of production. This has the effect of easing the administrative formalities for movements of semi-finished goods and of intermediary products between the different production facilities throughout Europe without weakening customs control.

Article 1 items 7, 9, 10, 17 and 18 contain modifications of the rules for the administration of inward processing in various sectors (e.g.: living animals, meat and rice) to ensure equality of treatment. As they only codify already existing administrative agreements, they add nothing materially new.

Temporary importation

The modifications of Articles 1 and 697 of the implementing provisions, as contained in Article 1 items 1 and 12 have the effect that the customs authorities in the Community can also accept ATA carnets admitted in the framework of the Istanbul Convention. However, the international guarantee chain of the chambers of commerce acting as a guarantor has not yet been established.

The modification of Article 682 of the implementing provisions as contained in Article 1 item 11 extends the period during which works of art, collector's items and antiques as well as consignments on approval may remain under temporary importation. On the other hand the definitions regarding works of art, collector's items and antiques are aligned with those contained in VAT Directive 94/5/EC[6]. The new definitions are now contained in Annex 91 b of the implementing provisions and correspond to the annex of the Directive.

Burkhard HEIN, B-6

6) O.J. No L 60 of 3.3.1994, page 16

EUROPEAN
CUSTOMS AND TAX
ASSOCIATION

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EUROPEENNE
DOUANES ET FISCALITE

BULLETIN No 22

LETTER FROM THE CHAIRMAN

SIMULTANEOUS CHESS MATCHES AT DG XXI

Friday, 23 June 1995, was a special day for DG XXI. On that particular day Mr Ronny BONNE, one of our informaticians, had challenged his colleagues to play the old game of chess against him. Not individually, but all at the same time!

With the help and mental support of his sponsors, our Director-General Mr Peter WILMOTT and the European Customs and Tax Association, we were able to find 15 participants for this event of which 13 came from DG XXI, 1 from the World Customs Organization and 1 promising outsider.

It turned out that a lot of our colleagues have more qualities than just producing sound regulations, being good negotiators, being good organisers and being multilingual.

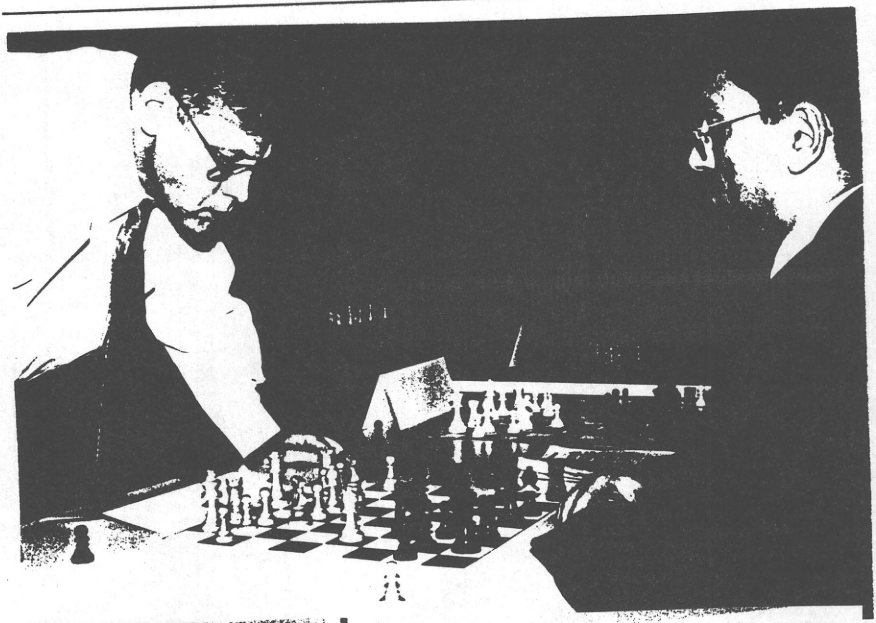
Two of the players were able to beat our "master of chess". Firstly it was Paolo GARZOTTI (XXI/B/7) who had his victory and not long

after that there was a second winner, Alexander WIEDOW (XXI/C/1), who gave Ronny a hard time as well. Of course we must not forget the third person who won 13 out of 15 matches! Congratulations and "chapeau" Ronny.

Reactions have been heard that "we should do this more often!". People would also like to play on a more regular one-to-one basis. We don't think there is any objection to passing our lunch time this way. Maybe the spectators of this time will have the courage to play at a future event. For a win (or a draw) a nice bottle of Commission Champagne is waiting for you in the fridge.

See you all next time and keep on practising!

Ronald W. HORDIJK



	RESULTS	BONNE
De Vos	0	/
Bouwmeester	0	/
Jensen	0	/
Delcourt	0	/
Giarzotti	1	0
Rodrigues	0	1
Wiedow	1	0
De Jobbeleer	0	1
Vis	0	1
Datso	0	1
Van Aalen	0	1
Reintz	0	1
Naitali	0	/
Hien	0	/
Canas	0	/

Les Renseignements contraignants en matière d'origine

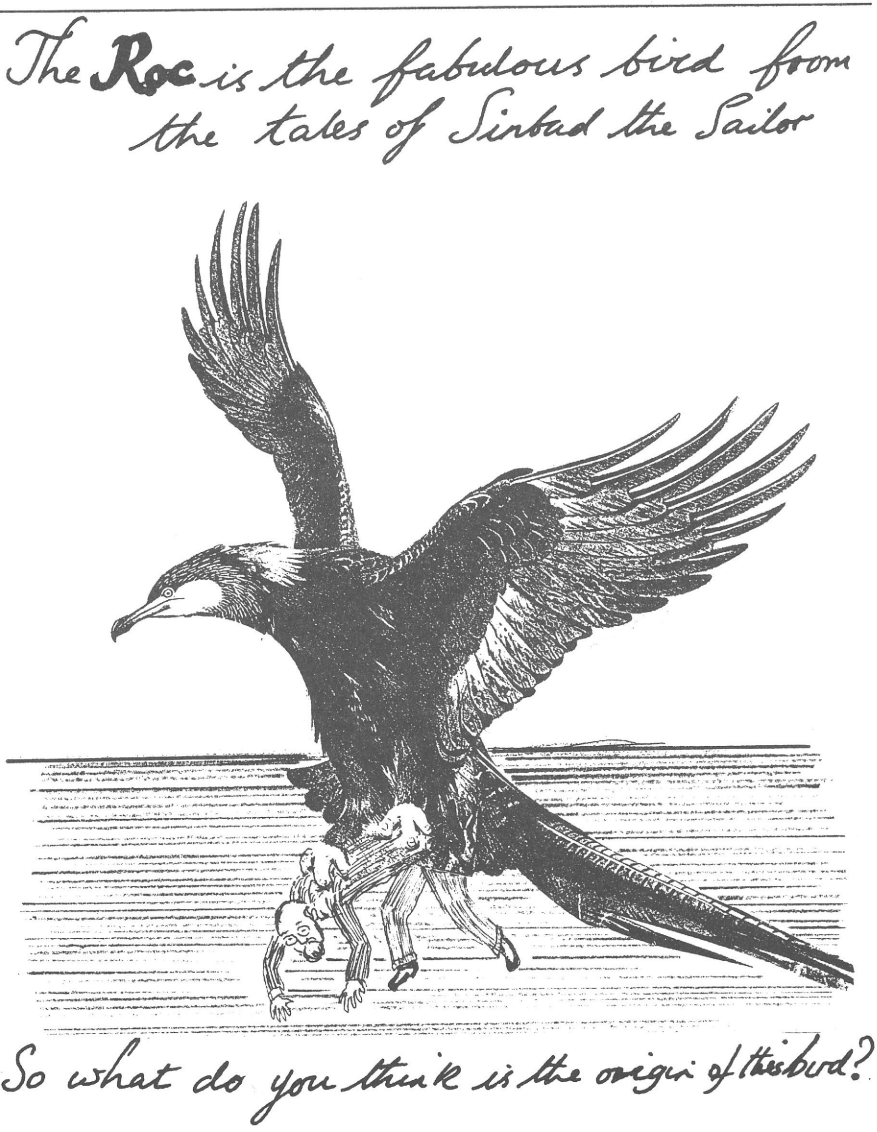
L'Accord de l'OMC sur l'origine

L'Accord relatif aux règles d'origine, annexé à l'accord portant création de l'OMC signé en avril 1994, est l'un des textes les plus importants en matière d'origine depuis de très nombreuses années. Fruit de 5 ans de discussions il prévoit, en parallèle à l'harmonisation (en plusieurs années) des règles d'origine non-préférentielles, un certain nombre de "disciplines" en matière de règles d'origine. Au nombre de ces disciplines, figure l'obligation pour les parties contractantes (dont la Communauté et ses Etats membres) de délivrer, à la demande d'un importateur, exportateur ou de toute personne "ayant des motifs valables", des "appréciations" sur l'origine des marchandises. Ces appréciations devront être délivrées dans un délai de 150 jours, sauf pendant la période transitoire d'un an (1995), pendant laquelle cette limite ne s'applique pas.

En conséquence, la Commission et les Etats membres préparent (en particulier au sein du comité du code des douanes) un dispositif qui, sur les plans administratif et technique, s'inspire du système existant pour les RTC (Renseignements Tarifaires Contraignants); c'est ainsi que, par simple analogie, les renseignements dont il est ici question sont usuellement appellés "ROC" (Renseignements pour l'Origine Contraignants). Nous verrons dans un premier temps que les ROC s'inscrivent dans une certaine conception libérale et plus économique que politique des relations commerciales internationales; puis que leur utilité sera probablement maximalisée dans le domaine de l'origine non-préferentielle où, sauf exception, le caractère originaire des marchandises ne fait pas l'objet d'une appréciation systématique avant le dédouanement par le biais de la délivrance d'un certificat d'origine; enfin, nous verrons que dans l'optique de la mise en place des dispositifs ROC par les parties contractantes de l'OMC, les problèmes juridiques à régler sont importants, en particulier pour la Communauté.

Facilitation du commerce international et transparence

Ainsi, les nouvelles disciplines mentionnées en tête de cet article, et qui tendent à promouvoir la facilitation, mais aussi la transparence dans les échanges économiques internationaux, ont conduit à estimer que, plus qu'une simple amélioration, un instrument tel que les ROC (parmi



d'autres) contribue à façonner un environnement juridique plus sécurisé et plus en phase avec les nécessités industrielles et commerciales modernes. En effet, malgré l'explosion du nombre de régimes commerciaux plus ou moins préférentiels, une très grande partie du commerce interna-

tional s'effectue dans un cadre d'origine non-préférentielle. Or jusqu'à ce jour, l'origine non-préférentielle ne fait pas l'objet d'une appréciation systématique, avant le dédouanement, par une quelconque autorité douanière; dans le domaine de l'origine préférentielle, les choses sont tout à fait différentes, dans la mesure où la question de l'origine de la marchandise est posée très en amont du processus de dédouanement, à travers la demande et la délivrance du certificat d'origine; ainsi, lorsqu'une marchandise quitte un pays dans ce contexte préférentiel, une première appréciation de l'origine est matérialisée par le certificat d'origine, qui garanti à l'opérateur une sécurité juridique certes non-absolue, mais tout au moins réelle. Rien de cela ne vaut dans le cadre non-préférentiel (sauf exception lorsque la réglementation exige un certificat d'origine): l'appréciation de l'origine est brutale, et s'effectue à l'exact moment du dédouanement, c'est à dire quand il est trop tard pour réexaminer l'opportunité économique d'une opération d'importation ou d'exportation. Et comme nous venons de le voir, c'est justement dans le cadre non-préférentiel que l'opérateur risque d'être confronté à des obstacles d'une nature autrement plus rédibitoire qu'un seul droit de douane à acquitter: un droit anti-dumping, par exemple, constitue de fait une prohibition à l'importation, interdisant le commerce du produit en question pour le pays considéré. La philosophie des ROC est toute entière dans ce constat: dans un contexte de principe de la liberté du commerce, les quelques obstacles lourds qui affectent ce principe (comme par exemple une restriction quantitative établie sur la base d'une origine) doivent être identifiés à l'avance. Ils doivent pouvoir être gérés dans une situation de plus grande certitude juridique, ce qui implique que les autorités douanières puissent être sollicitées pour se prononcer officiellement à un autre moment que celui, critique, du dédouanement.

Aspects pratiques

Bien que la réglementation en matière de ROC ne soit pas encore adoptée par le législateur communautaire, il est néanmoins possible d'évoquer certains aspects pratiques du système qui va être mis en place. Ainsi, un ROC émis par les autorités compétentes d'un Etat membre sera immédiatement valable dans l'ensemble de la Communauté. En effet, outre que le champ d'application retenu est celui constitué par le territoire douanier des quinze, l'utilisation du langage informatique et de codes sur le document lui-même permettront de s'affranchir en partie des contraintes provenant de l'usage de 11 langues communautaires.

De même, la proposition de règlement de la Commission concernant la modification du Code des douanes prévoit un dispositif qui attribue la compétence de la délivrance des ROC aux Etats membres; cependant, un tel dispositif ne sera viable que si le niveau communautaire (en pratique, la DG XXI de la Commission) a la possibilité de réviser les ROC délivrés lorsque, par exemple, deux d'entre eux sont divergents.

Enfin, selon des modalités à déterminer et dans le respect des critères de confidentialité en vigueur tant au niveau communautaire qu'aux niveaux nationaux, la Commission entend ouvrir de la façon la plus large possible la base de données centrale constituée à partir des copies des ROC délivrés par les Etats membres. Concrètement, l'accès à ces informations pourrait s'opérer à partir de supports tels que des CD-Rom, et pourrait permettre à des opérateurs de connaitre l'existence de ROC pour des marchandises et des circonstances d'acquisition de l'origine similaires.

En guise de conclusion, peut-être devons nous noter qu'il est prématuré de conclure sur les ROC. La seule certitude est que, instruments nouveaux inscrits dans l'Accord de l'OMC comme les autres disciplines applicables dans le domaine de l'origine (règles neutres, basées sur des critères positifs, non-rétroactives...), les ROC vont probablement contribuer à profondément modifier la perception que les opérateurs du commerce international ont des règles d'origine, de tous temps réputées difficiles à manier. Mais il est évident que, parmi les plus de cent signataires de l'accord la Communauté, qui est à la fois le premier importateur et exportateur du monde (même hors commerce entre ses membres) et qui est en même temps une zone organisée à partir de différents acteurs que sont les Etats membres et la Commission, se trouve face à un défi plus difficile à relever que pour d'autres: instaurer un instrument de facilitation qui puisse, à la fois, faire face à des milliers de demandes et qui, en même temps, ne porte pas atteinte au caractère communautaire de la législation douanière en matière d'origine.

Philippe CUISSON B-2

Extraits d'un article qui doit être publié dans la revue "Douanes 2000 - les Cahiers des douanes françaises et européennes". Mais son auteur ayant tenu a en réserver la primeur à "Info 21" (probablement la seule publication au monde à traiter avec un égal bonheur d'humour et de douane), il espère que prendre l'ensemble des lecteurs à témoin devrait au moins lui valoir, de la part de Tony, un coup à boire...

A question of Culture

Did you know that, in Italy, the famous British artist Turner drew his water-colours? "Absurd!" I can hear the cry go up from the English speakers, "He painted them in England". Well, irrespective of where he daubed the colours on to a particular piece of paper there is a fundamental difference in meaning disguised here. Are water colours drawings or paintings? And what about gouaches?

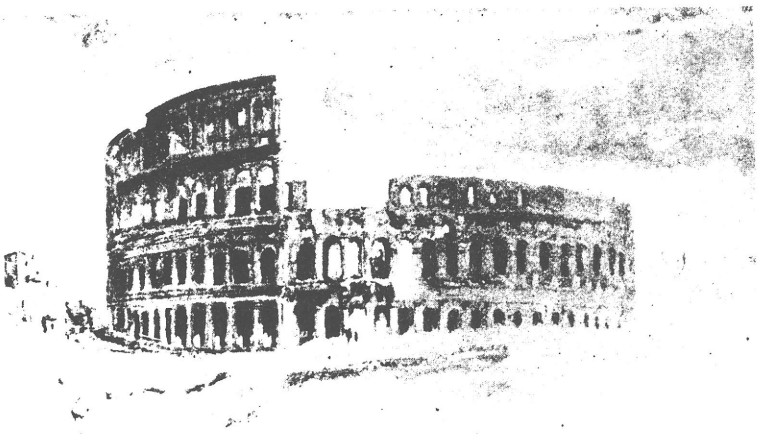
You will remember from Info No 12, on page 12 to be exact, that Marie-Claude explained that in order to meet the needs of a border-free area in which goods can circulate freely, the Community has developed two extra pieces of legislation covering cultural goods, as defined in a joint annex, so that identical protection is given everywhere in the Community.

However, it turns out that for historical cultural reasons the current wording of the Annex does not provide identical treatment for water colours, pastels and gouaches. This is because of discrepancies in the different language versions of the Annex arising from the differing artistic traditions of Member States.

- *Category 3 reads "Pictures and paintings executed entirely by hand, on any medium and in any material", while*
- *Category 4 reads "Mosaics ... and drawings executed entirely by hand on any medium and in any material".*

In some Member States they take the view that they are in Category 3 of the Annex as they are clearly paintings, or at least they are not drawings, while in other Member States of a slightly different artistic tradition they have always regarded them as drawings and feel they can only be in Category 4. Both views regard the other as heretical and the others as uncultured or barbarous! However the difference is important as the financial threshold for pictures and paintings of Category 3 is 150 000 ecu while for drawings of Category 4 the financial threshold is only 15 000 ecu. Thus there is a difference in the level of protection given to water-colours depending on where they are in the Communit, while it is clearly necessary that all the Member States treat the same art objects in the same way as otherwise serious distortions could arise.

Can we perhaps seek clarity and solace in the Combined Nomenclature? After all, one of the texts concerned is a piece of customs legislation. In the nomenclature, by definition, the items that fall into a heading have to



For his first watercolours J. M. Turner chose documentary subjects of Ancient Rome.

be the same whatever language is involved or whatever artistic tradition is invoked. However we find that the range of items in the heading concerned have rather different descriptions in the different language versions. For illustrative purposes only, the English, French and German versions are given below.

- *The English is "Paintings, drawings and pastels".*
- *The French is "Les tableaux (pictures), les peintures (paintings) ou les dessins (drawings)".*
- *The German is "Gemälde [paintings] (Z.B.[e.g.] Ölgemälde [oils], Aquarelle [water-colours], Pastelle [Pastels]) und Zeichnungen [drawings]".*

These are obviously not word for word equivalent! This is of no particular importance for tariff purposes as all these goods are treated the same way and the only need is to distinguish between these "executed entirely by hand" and "others".

On the one hand the German text would clearly not allow water-colours to be classed as drawings. Moreover both the English and the German texts would not allow pastels to be classed as drawings as they are regarded in France. For the English speakers they are a class apart and

for the German they are "paintings". Conclusion; as I have often suspected, the Combined Nomenclature serves to confuse rather than clarify!

However, actually, the Annex to this Regulation, in both English and German, does not correctly reflect the Combined Nomenclature, as they both actual say in the Annex "Pictures and Paintings" (Bilder und Gemälde) for Category 3 and "Drawings" (Zeichnungen) for Category 4[1].

As the term "Pictures/Tableaux/Bilder" covers both paintings and drawings the tendency must be to say everything that is not a "drawing/dessin/Zeichnung" of Category 4 is in Category 3. However what is a drawing? There seem to be at least two clear and mutually incompatible schools of thought.

Many regard works done using water colours, gouache (poster paints) and pastels (coloured chalks) as being drawings. In which case the 15 000 ecu limit applies. This view seems to be predominant in France, Belgium, Greece, and the Netherlands at least. Perhaps it is allied to the nature of the materials used rather than the technique of application. With all these pigments the binding or carrying material is no longer present when it evaporates leaving essentially a dry powder, similar to works made by ink, pencil, charcoal or chalk - the primary materials used for drawing proper. Indeed one dictionary is careful to observe that "by tradition water-colours and gouache are called drawing".

This careful phrasing is used because the other school of thought seems to approach the distinction in terms more of the technique of application. Drawing has as the basic element the use of line and "drawn" surfaces. Painting is distinguished as colouring (even if in black or white) the whole, or nearly the whole surface by sheets of colour. On the borderline between the two might be pastels (and coloured pencils?) where the result is a surface completely covered by the medium and which therefore in some ways resembles a painting. This is perhaps why the English nomenclature text specifies pastels separately as being neither drawings or paintings and why the German clearly says pastels are paintings. Thus, for this school of thought water co-

1) Note: This is presumably an error perhaps due to direct translation from a French original text, rather than checking the equivalent already used in the Combined Nomenclature. However this does not materially effect the situation

lours and gouache (and perhaps pastels) are paintings, and thus subject to the 150 000 ecu limit. This school of thought is prevalent in particular in the United Kingdom, Ireland and Germany.

The conclusion of this very limited sketch of the situation is that we are unlikely ever to be able to come to a "logical" mutually acceptable definition of drawing among experts as including or excluding water-colours, pastels and gouaches, that will satisfy all the schools of thought.

However, in deciding to which category water-colours, gouaches and pastels should be allocated by changing the Annex, regard has to be given as to the practical effects this would have. It has been pointed out that it is rare for water-colours, gouaches and pastels to realise the same level of price at auction as oil and tempora paintings (we must not forget that we are dealing with paintings that are at least 50 year old). In general the prices fetched by them seem to be more of the same order as those that are achieved by drawings, but tend to be a little higher. If they were to be put into category 3 as paintings then the effect would be that virtually none of them would be subject to the need for a Community export licence. It would then, at first sight seem preferable to place them in category 4 and treat them as drawings, but this would be unacceptable to some Member States due to the administrative burden involved in issuing many more licences than they have to at present for items that could, in their view, never be of any major cultural significance in view of their watercolor tradition and the numbers which have been "produced" there.

The solution then must lie in creating a new separate Category just for water-colours, gouaches and pastels with an appropriate threshold. It is clear that the higher the threshold is set the more difficult it will be to obtain agreement between the Member States and the lower the threshold the more administrative work that will be generated in issuing licences for works that are not really of a major artistic significance. Taking this into account the Commission has proposed[2)] a threshold of 30 000 ecu for the new Category.

Tony GRIFFITHS B-3

2) **COM (95)479**

IN THE COURTS

Les Operateurs du Commerce n'ont pas à supporter les conséquences financières d'une "privatisation" d'activité du service public douanier

La Cour de Justice vient de rendre, le 11 août 1995, l'arrêt "Dubois" (affaire C-16/94) qui, s'il peut apparaître de portée historique en ce qui concerne la taxe sur laquelle il porte, n'en revêt pas moins une importance certaine quant à l'interprétation qu'il donne de la notion, pourtant désormais classique, de "taxe d'effet équivalant à un droit de douane".

En France, les gare routières mises en place dans les années '70 avaient eu l'idée de compenser, en le répercutant sur leurs clients (transporteurs, commissionnaires, transitaires) moyennant une "taxe de passage", le coût de la mise à disposition "gracieuse" à la Douane de certaines infrastructures (parking, bascule, locaux) ou facilités (cantine).

Cette taxe était perçue à l'entrée et à la sortie de chaque camion effectuant un transport international de marchandises dédouanées dans l'enceinte de la gare.

La Cour, à la suite de la Commission, a considéré qu'un Etat membre ne pouvait ainsi se décharger financièrement sur des opérateurs privés "des frais résultant de l'accomplissement par les douanes de leur mission de service public".

Une charge financière telle que la "taxe de passage", pourtant fixée contractuellement et sans intervention publique, constitue donc une taxe d'effet équivalant à un droit de douane dès lors qu'elle découle, ne serait-ce qu'indirectement, d'un manquement de l'Etat membre concerné "aux obligations financières lui incombant en vertu des articles 9 et 12 du Traité".

Dans cet arrêt, la Cour est donc allée au coeur même de l'interdiction des taxes d'effet équivalent en prohibant, sans égard à la nature fiscale ou non de la mesure en cause ou à la qualité de son auteur, toute entrave pécuniaire aux échanges intra-communautaires résultant d'un compor-

tement (action ou abstention) imputable aux autorités publiques.

Non seulement cet arrêt renforce la responsabilité de ces autorités à l'égard de la libre circulation des marchandises, mais il pourrait également être interprété comme limitant les possibilités pour un Etat membre de concéder - voire de privatiser - certaines activités jusque là assurées par le service public douanier, si cette concession ou privatisation devait conduire à percevoir directement sur les opérateurs la contrepartie du coût de ces activités.

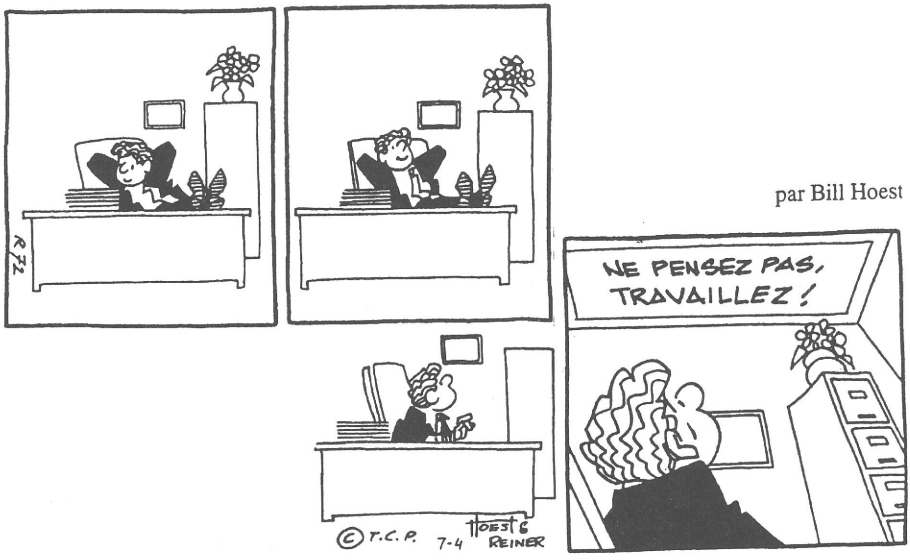
En raison de l'abolition des formalités et contrôles douaniers entre Etats membres, cette question ne pourrait toutefois se poser désormais que dans le cadre des relations avec les pays tiers à l'égard desquels peut jouer une clause d'interdiction des taxes d'effet équivalent comparable à celle qui s'applique à l'intérieur de la Communauté ou avec les territoires fiscalement tiers de la Communauté.

Jean-Michel GRAVE 01

* * *

PETER RETORSE

par Bill Hoest



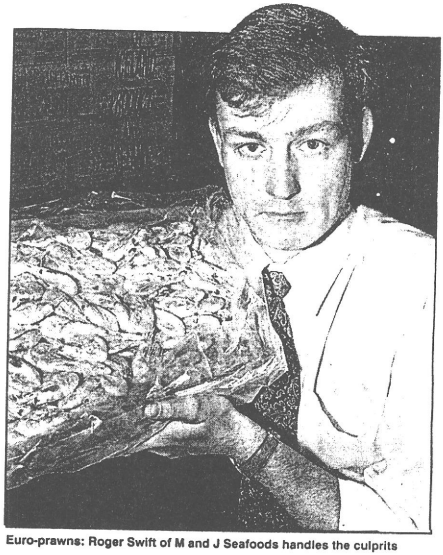
CLIPPINGS

RED TAPE ALERT

by Christopher Booker and Richard North

Prawns in a game of Brussels madness

Daily Mail
NEWSPAPER OF THE YEAR



Euro-prawns: Roger Swift of M and J Seafoods handles the culprits

AN EXAMPLE of Euro-madness so extraordinary that it must surely end up on the front pages of every newspaper in the land has come to light.

The story first emerged through an Aylesbury firm, M and J Seafoods, which imports millions of pounds worth of frozen prawns from Iceland every year.

Under a special deal, prawns can be imported into the EU from Iceland, Norway and the Faroe Islands free of duty. All that is required is a certificate, known as EUR 1, stamped by Customs in those countries to confirm that the prawns can enter duty-free.

But in 1991 teams of officials from DGXXI, the EU anti-fraud directorate, went out to the three countries and discovered certain 'irregularities'. It seemed some of the prawns covered by these certificates were, in fact, being caught by fishermen from Russia and Canada. Even though the prawns were being caught in Icelandic or Norwegian waters, the rules state that prawns from Russia or Canada should attract import duty at 20 per cent.

The trouble was, no one had any way of knowing which prawns had been caught by Russians and which by Icelanders.

So the officials of DGXXI came up with a brilliant bureaucratic solution. Firms which had imported prawns under an EUR certificate since 1989 would have to pay duty on the whole lot, regardless of who caught them.

It was an astonishing decision. It meant importers would have to pay sums totalling millions of pounds, simply because they had relied on officially approved certificates — and even on prawns which should never have been included anyway.

Several EU governments set about enforcing this extraordinary decision and, as usual, Britain led the way. Demands for duty went out from Customs and Excise to dozens of firms, on all the prawns they had innocently imported several years earlier.

ONE of these was M and J Seafoods, started 15 years ago from a chest-freezer in a lock-up garage and now the largest independent seafood importer in the country, employing 400 people and turning over £40 million a year. M and J's directors were stunned to receive a demand for £500,000.

But an even more astonishing case which has now come to light is that of a tiny firm of customs agents in Grimsby, run by the husband-and-wife team of John and Celia Smith.

In 1990 and 1991, Mr and Mrs Smith handled Customs paperwork for a Faroese firm, which was exporting prawns to Britain valued at up to £10 million. For forwarding details to British Customs, based on EUR 1 certificates, the Smiths earned about £1,000.

But, simply for passing these on, with a declaration that the prawns could be imported duty-free, Customs and Excise billed the Smiths for £1.28 million.

This came as such a bombshell to Mr and Mrs Smith that they have not wanted any personal publicity. Because they are a partnership, their liability is unlimited. They stand to lose everything they possess, including their house.

Naturally the Smiths took legal advice, with the result that their case is to be heard in the European Court of Justice in Luxembourg next week.

But not the least shocking thing about this case is that Customs and Excise admit the Smiths did nothing wrong. There was nothing they could have done to avoid liability to pay duty. However, it seems, this is legally quite irrelevant.

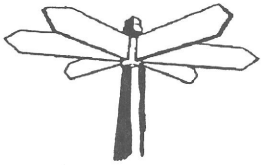
Under EU law, the fact that they acted in good faith and did not knowingly make a false declaration is no defence. Brussels regulations require agents to pay duty even if they had no way of knowing it was due — and even if, as in this case, the rules were re-interpreted long after the event.

Because hundreds of firms are caught up in this madness, other court cases are already under way in Germany, Denmark and the Faroes. The Danish government has protested to the European Commission that the rules are 'contrary to natural justice'.

But the fearful plight of Mr and Mrs Smith will be the first test case to be heard in the European Court. Judgment is expected just before Christmas.

Austin Mitchell, the Smiths' MP, has written to senior ministers, including John Major, asking why the British Government has not intervened to stop this Eurolunacy dead in its tracks. So far there has been no response. For Mr and Mrs Smith, as for many others, it looks like being a pretty bleak Christmas.

"ENTRE NOUS"



We welcome the colleagues who have joined DG XXI since our last edition:

Officials:

Linda BARRETT	*GB*	*A-3*
Mario DI PAOLA	*IT*	*Sec*
Caroline EDERY	*FR*	*B-2*
Mª José GARCIA ALMONACID	*ES*	*B-6*
David MAIR	*GB*	*C-3*
Ana PUMARES PITA	*ES*	*Sec*
Klaus THOSTRUP	*DK*	*02*
Ulrich TRAUTMANN	*DE*	*C-1*

Interims:

Wania DE OLIVEIRA	*BE*	*B-2*
Anne OUSSATOFF	*BE*	*C-1*
Claudia VISOCCHI	*IT*	*C*

National experts:

Graham AUSTIN	*GB*	*B-6*
Alain BOLARD	*FR*	*A-1*
Cynthia FONTENOVA	*IT*	*B-7*
August JACOBS	*NL*	*B-4*
Jouko LEMPIÄINEN	*FIN*	*B-1*
Ake NORDLANDER	*SW*	*C-2*
Riita PASSI	*FIN*	*B-5*
Philippe RICHARD	*FR*	*B-4*
Georgios XARLIS	*GR*	*B-5*

Auxiliaries

Silvia ALLEGRUCCI	*IT*	*B-1*
Baudouin BAUDRU	*BE*	*B-1*
Manuela CAPETA	*PT*	*B-5*
Rosemarie QUAYE	*GB*	*C-4*
Marjo RAPATTI	*FIN*	*B-6*
Johanna VIITANEN	*SW*	*B-3*

Internal DG XXI movements

Sylvie BEAUCHET	*Aux*	→	*Official*
Desmond COYLE	*Aux*	→	*Expert*
Iris DAHLKE	*Aux*	→	*Official*
Aline DESOT	*Aux*	→	*Official*
António DOS REIS	*Temp*	→	*Aux*
Florence HAGE	*Aux*	→	*Official*
François PAROISSIN	*Expert*	→	*Aux*
Suzanne STAUFFER	*C*	→	*B Official*

and we say goodbye to those who have left us:

Officials:

Christiane BERNARD	*BE*	*To DG XII*
Charles DEPOORTERE	*BE*	*Retired*
Henri FANNES	*BE*	*Retired*
Epko HAITSMA	*NL*	*To DG I*
Claudio PAGNUTTI	*IT*	*To DG VI*
Mary PORICHI	*GR*	*Retired*
Ciancarlo ROMOLI-VENTURI	*IT*	*Retired*
Marie-Louise VERDOODT	*BE*	*Retired*

Auxiliaries:

Robert CUZON	*C-3*
Graham GIBBS	*B-4*
David KESBY	*B-1*
Frank RICKEBOER	*B-5*

Interims:

Anne-Sophie MORES	*Sec*	
Françoise ZINNEN	*A-3*	

National experts (detached):

Michèle COUDERT	*FR*	*B-5*

Welcome to all our stagaires of all kinds

Rossitza BOUZOVA	*BULGARIA*	*A3*
Joséphine CARDOSO	*UK*	*B2*
Jana CIBULKOVA	*CZECHK*	*B4*
Gi DE VERGOTTINI	*IT*	*01*
L. DIAS CARVALHO	*PT*	*B6*
Karl GRUBER	*AUS*	*B3*
Cecilia GYDAL	*SW*	*01*
Elisabeth KRAUS	*AUS*	*C3*
Fiona LONG	*IRL*	*C4*
Robert LÜSSI	*CH*	*B1/B7*
Tugrul OZBAKAN	*TURK*	*A3*
Zofia PIASECKA	*POLISH*	*B1*
Karine RICHARD	*CH*	*C1*
Karsten SCHÖDER	*DE*	*02*
Lubica SEBOVA	*SLOVAK*	*C1*
Demos SPATHARIS	*CYPRUS*	*C1*
Hale TUNABOYLU	*TURK*	*A3*
Irmel VIRTARANTA	*FIN*	*C2*
Frank WALTERSON	*SW*	*C3*

CONGRATULATIONS

to those colleagues recently promoted:

To A6 *Guy JENNES*
André PENING
Carla PICCINNI-LEOPARDI
Jan VANGHELUWE
Theodoros VASSILIADIS

To B2 *Loes GEERAERD*
Carlos PEIXOTO
Christa STIENS (BS2)

To B4 *Anne Marie DE WOLF*
Epko HAITSMA
Christiane LYTRIDIS
Claudio PAGNUTTI

To C2 *Liliane VAN OVERLOOP*

To C4 *Kristen BÜCHEL*
Anne BURKARD
Muriel FRANCHOMME
Lene KRISTENSEN
Chantal RONDAY
Martine VAN CUTSEM

Well done:

Your 20 Years are nearly up

Elfriede KRETZER
Robert VAN LOO
Anne Marie DE VOS

to:

Françoise (C-1) and Walter Vanden Bossche,
proud parents of Alicia, born on 21 July 1995,

Jérôme (C-4) and Anne Carriat (C-2),
proud parents of Leah, born on 20 September 1995,

Maria Lourdes and Manuel Catalan Rodriguez (B-1),
proud parents of Lorenzo Miguel, born on 28 September 1995

Training Revisited

It is almost a year since I reported to you on the state of training in DG XXI[1]. I should now like to bring you up to date with what has been happening on the training front, since my report.

Volume of Training

I am pleased to announce that we ultimately reached our amended target for 1993-1994 of 3% of working time. The actual figures were: 2.7% (1500 days) in 1993 and 3.2% (1791 days) in 1994.

We plan to hold our training effort at 3.2% equivalent to 6.8 days per person for 1995 and are on course to do so. Up to 30.6.95 we had spent 1092 days on training, equivalent to 1.8% of working time, 4 days per person and 58% of the total planned for the year.

In 1996 we shall aim for a slightly higher target of 3.4%, which translates into 7.3 days (i.e. another half day) per person and a total of 2000 days for the whole DG.

1995-1996 Training Plan

The new training plan was approved by the Board on 25 April 1995. It is now awaiting approval by the Local Training Committee, the Steering Committee and the Training Rapporteur. In the meantime you should organise your training on the basis of the Draft Training Plan, copies of which have been distributed to all Heads of Unit. You will receive your own personal copy as soon as full approval has been obtained.

FIDO

FIDO, the twenty-part series on customs and indirect taxation, has become a firm favourite[2]. The presentations have now been published in a

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1) See 21 Info N° 20, pp 18-21
2) See 21 Info N° 22, p. 39

single volume, FIDOFAX: your Head of Unit has a copy.

A second course, FIDO II, started on 25 September 1995. This time we have opened it to C grades and to certain external offices, viz. the three new Member States and some of the countries queuing up for membership.

General Assembly

On 4 May 1995, DG XXI held its first General Assembly at the nearby Renaissance Hotel. Nearly 300 members of staff were addressed by their Commissioner, their Director General and their three Directors[3]. Just as important were the questions put to the hierarchy and the frantic coffee break in creating a common identity and sense of purpose for the DG as a whole. We shall certainly seek to hold another and even better General Assembly next year. It is however a pity that so few of you chose to complete the questionnaire asking for your comments and suggestions.

Special representations

Under its internal training programme, DG XXI organised courses on:

- *the cultural dimension of our relations with CEEC officials: a series of three seminars which included contributions of outstanding quality;*
- *the new origin and GSP rules: this attracted 50 participants, including 13 colleagues from 4 other services.*

We are now exploring the possibility of holding a seminar on Excise Duties towards the end of October.

External courses

There is considerable activity in this sector :

- *Silke Wragge and Suzanne Stauffer spent six weeks in June/July training with the German customs administration: they found it a valuable experience;*
- *Peter Vis has been selected to take part in the US Short Visit Programme this October;*
- *Marie-Claude Blin is spending two weeks with Irish customs in*

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3) For a full report see 21 Info N° 23, pp 27-28

September/October;

- *and later this year, Alberto Oyarzabal will participate in the European Business Attachment scheme, which is likely to involve his assignment for three weeks to a company in the UK.*

Academic Courses

In his recent letter to the editor[4], Luigi Casella proposes that we should complement the practical in-house training e.g. FIDO, with more theoretical tuition devoted to the fundamentals of customs and indirect taxation.

I have no problem with this concept, only with its implementation. How much absence would such a course entail? How much disruption to the work of the unit? If a course were designed specifically for DG XXI staff and given on DG XXI premises, could we guarantee the minimum attendance on a regular basis that DG IX would require as a precondition of approval and finance?

For those of you who would like to follow a more academic syllabus, there are several evening courses on offer in Brussels, including ones given by our own colleagues, Hasso Prahl (customs and excise) and Mario Burgio (taxation). They would, I am sure, be pleased to hear from you.

Staff Reports

The DG will soon be preparing staff reports for 1993/1995. Please ensure that all the training you have undergone during the period 1 July 1993 to 30 June 1995 is entered

- *in para 9/b) of the report, or*

  if you have agreed to a carry-forward of the 1991/1993 report, on a separate accompanying document.

My office (☎ 56978) is ready to assist if you wish to verify your training record over this period.

Eight days

For some of you, our records show no training at all. I appeal to the persons concernd to take a more active interest in their training and career development.

All of you should set as your personal target a minimum of 8 days' training per annum. We for our part shall do our utmost to see that you achieve it.

Leon GORDON

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4) See 21 Info N° 23, pp 34-35

"Duty of vacancies"

Je voulais vous rappeler notre concours de cet été pour laquelle la pénurie de traducteurs nous a forcé à faire appel à un service extérieur pour assurer la traduction, du français vers l'anglais, du texte ci-dessous.

"a) While their husbands were making the men of the Alma bridge with their scratched completes, the ladies were pancaking their buns.

b) The blessed yes-yes was at the plugs with a Mary-sleep-here who has arrived without shouting station.

c) He had a tooth opposite her because she put down a rabbit to him.

d) She was cowly owl and he was drawn at four pins but had films, so she refused to pass at the pan.

e) The bite-gentleman was not bathing in the oil, so he asked for a little Swiss.

f) Name of a pipe! It is not pie to make the nice when one has fifty brooms.

g) He brought back a strawberry, half-fig half-grape, after having lost the first sleeve."

Le prix décerné à la meilleure révision de cette traduction dans un anglais correct a été gagné par Richard Condon qui était le seul à avoir assez de confiance dans ses connaissances des langues. Le résultat de ses efforts est reproduit sur une des pages qui suivent. Si on retro-traduit le texte en anglais vers le français, on arrive à un argot (i) qui peut être à son tour reproduit en français académique (ii). On traduit en "anglais de la reine" et on a (iii). Richard est allé plus loin et l'a mis dans un anglais incompréhensible pour les étrangers!

a) (i) Pendant que leurs maris faisaient les zouaves avec leurs complets rayés, les femmes se crépaient le chignon.

(ii) Pendent que leurs maris faisaient des idioties avec leurs costumes rayés, les femmes se disputaient.

(iii) While their husbands, dressed in their pin-striped suits, bragged, the ladies fought among themselves.

b) (i) Le béni oui-oui était aux prises avec une Marie-couche-toi-là qui était arrivée sans crier gare.

(ii) L'homme toujours d'accord sur tout avait des problèmes avec une femme de peu de vertu qui était arrivée sans prévenir.

(iii) The Yes man was cought with a prostitute who had come without warning.

c) (i) Il a une dent contre elle parce qu'elle lui a posé un lapin.

(ii) Il lui en veut car elle n'est pas venue au rendez-vous.

(iii) He has something against her because she stood him up.

d) (i) Elle était vachement chouette et il était tiré à quatre épingles mais avait des pellicules, alors elle refusa de passer à la casserole.

(ii) Elle était superbe et il était habillé très élégamment mais avait des pellicule, alors elle refusa de se donner à lui.

(iii) She was really fantastic and he was dressed up like a dogs dinner, but he had dandruff, so she refused to make love.

e) (i) Le croque-monsieur ne baignait pas dans l'huile, alors il a demandé un petit-suisse.

(ii) Le croque-monsieur ne le satisfaisait pas, alors il demanda un fromage blanc.

(iii) The toasted ham & cheese sandwich was not going smoothly, so he had asked for a soft cream cheese.

f) (i) Nom d'une pipe! Ce n'est pas de la tarte de faire le beau quand on a cinquante balais.

(ii) Mon Dieu! Il n'est pas facile de faire encore jeune quand on a 50 ans.

(iii) My God! It is not easy to beg when one is fifty.

g) (i) Il ramena sa fraise, mi-figue mi-raisin, après avoir perdu la première manche.

(ii) Il arriva, d'une humeur passable, après avoir perdu la première partie.

(iii) He was old and doddery, neither fish nor fowl, after having lost the first set.

* * *

Subject: "Duty of vacancies" (Devoir de vacances)

Although I am not certain that I have completely succeeded in deciphering all the idiomatic expressions used in the text of your latest competition, I have done my best to turn them into something like equivalent expressions in English. Wherever possible I have favoured the colourful and amusing over the more strictly accurate but dull, but I have tried to remain reasonably faithful to the sense of the original, so far as I understood the meaning. The nature of the prize on offer is not specified, but if I am successful I will gladly settle for a bottle of champagne.

a) While their husbands, in pinstriped suits, let the grass grow under their feet, the ladies fought tooth and nail.

b) The yes-man was at daggers drawn with a lady of easy virtue who turned up without warning.

c) He had a bone to pick with her because she stood him up on their date.

d) She was a terrific dish, and he was got up like a dog's dinner, but he had dandruff, so she refused to play chesterfield rugby[1].

e) The toasted cheese and ham sandwich was not the bee's knees, so he asked for a little cylindrical pot of triple-cream fresh cheese[2].

f) Ye gods and little fishes! It is not a piece of cake to cut a fine figure when you have clocked up half a century.

g) He bounced back like a bad penny that was neither really fish nor fowl, after being defeated in the first round.

Richard CONDON B-7

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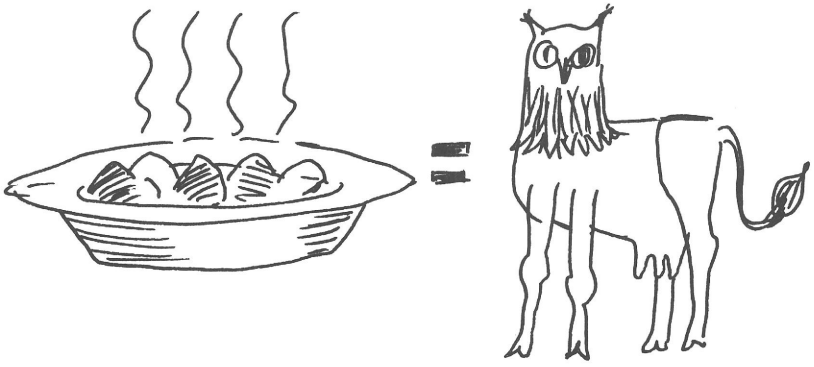
1) I thought it would be instructive for your readers to learn this colourful euphemism, which refers, as you will realize, to a contact sport played on a chesterfield, which is a kind of sofa, and which seems preferable to expressions of the more vulgar sort describing the same activity.

2) Serving suggestions are available on request.



Baggage tour

Monitoring sur les aéroports

Monitoring?

Le bon vieux Harrap's nous dit:

monitoring: *interception (des émissions), écoute, surveillance, contrôle...*

Mmmmh! La langue française présente-t-elle de telles déficiences que l'on doive utiliser ce mot pour décrire les opérations lancées par le comité de politique douanière (suppléants) afin d'évaluer les réalisations du marché intérieur?

Est-il possible qu'il n'y aie pas de contrepartie française satisfaisante à l'original anglais? Amère désillusion d'un francophone, suggestions bienvenues.

Bref! Après avoir pris la décision de se lancer dans l'aventure, encore fallait-il l'organiser à la satisfaction des participants! Quelle gageure! Car en fait, qu'en pensent-ils, ces participants, obligés, en trois jours, de voler, d'un aéroport à l'autre à un rythme échevelé?

Qu'on en juge: trois jours, trois aéroports, trois déjeuners de travail, trois réunions, trois transferts vers l'aéroport suivant, trois sorties en ville (facultatives), trois nuits trop courtes ... éreintant! A tel point que le réveil, le vendredi matin, avec la perspective d'un autre aéroport à visiter, avec toutes ses particularités à assimiler au galop, n'était pas toujours teinté d'un enthousiasme sans mélange. Sans compter les quelques occasions où il ne s'en est fallu que d'un cheveu pour que nous ne rations notre vol vers l'aéroport suivant. Enfin, souvenirs, souvenirs!!

Ce rythme, ainsi que la connivance engendrée par le partage de la même expérience au travers des frontières et des cultures ont, dans chacune des cinq séries de visites, résulté dans l'émergence d'une complicité et d'un esprit de collaboration qui faisait réellement chaud au coeur. Cette impression s'est encore accentuée au fil des missions lorsque les visiteurs sont devenus les visités et que d'hôtes, ils sont devenus hôtes (pour les non francophones, voyez un collègue dont la langue maternelle est le français! (I guess you'll say that French is even more disconcerting than you thought it was - Impossible n'est pas français!).

L'accueil qui nous fut réservé dans les quinze endroits visités fut sans reproche. A tel point qu'il nous est arrivé d'être quelque peu embarrassés par certains aspects d'un traitement

qui n'a pas manqué de nous laisser pantois à plus d'une occasion. Je me rappellerai longtemps ce membre du groupe originaire d'un pays du nord qui, démuni de monnaie locale, fut pris en charge par un collègue "visité" qui, sans autre cérémonie, lui fit passer une file d'une vingtaine de touristes japonais qui attendaient patiemment devant l'unique guichet du bureau de change. Nous dirons qu'il ne s'agit là que de solidarité douanière transfrontalière bien intentionnée.

Plus sérieusement, il s'est avéré nécessaire, au début de chaque visite, de rappeler de façon circonstanciée que le groupe n'était venu que pour apprécier les réalisations locales dans le domaine considéré et que nous n'étions pas animés de noirs desseins qui auraient aboutis à clouer au pilori tel ou tel prétendu mauvais élève. Dans un cas, les suspicions des "visités" étaient telles que les précautions oratoires visant à désamorcer leur craintes firent l'objet de deux séances de pacification. Et nos hôtes n'avaient toujours pas l'air très rassurés au terme de l'exercice!

Au chapitre des anecdotes, les dossiers fournis par les aéroports visités allaient parfois au-delà de nos attentes les plus folles et contenaient des informations qui avaient trait à certains aspects de la vie roportuaire pour lesquels nous n'étions pas préparés. Telle ne fut pas ma surprise lorsque un de ces dossiers annonçait sans ambage que les pistes d'atterrissages étaient constituées par un "Flexible type of pavement". Où s'arrêtera-t-on dans le souci d'assurer un confort maximal au passager? Ou s'agit-il de le distraire? On connaissait déjà les sièges couchette; on peut ajouter maintenant les pistes trampoline!

Et puis, il y eut la presse!

En général, quelques photos de famille à l'usage des publications internes des administrations visitées.

Sauf dans un cas où il s'est agi ni plus ni moins que d'une interview destinée au journal télévisé du soir, s'il vous plait! Emotions, émotions!

D'un point de vue strictement opérationnel, je crois pouvoir affirmer que, outre le fait que des contacts étroits ont pu être liés à l'occasion de cet exercice, les membres du groupe ont, sans exception, pu apprécier les points, forts ou faibles, des infrastructures visitées et que tous reconnaitront avoir appris énormément de l'expérience qu'ils ont pu partager.

Jean-Luc DELCOURT B-1

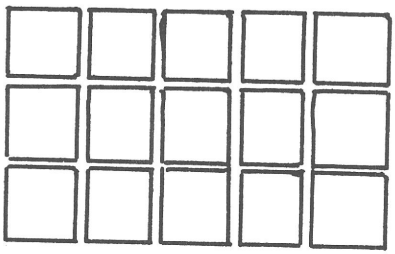
EN BREF

A "new caption" competition

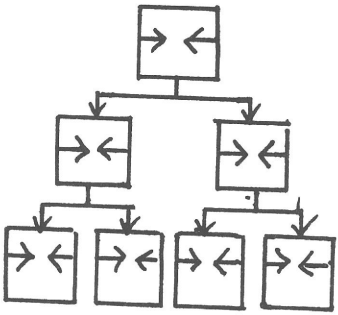
We couldn't resist this one, even if the present title is not even slightly amusing. Does it make you think of anyone who writes for Info? Any good suggestions for a new caption (provided they are funnier that the current one) will be published in the next Info.

Pyramids

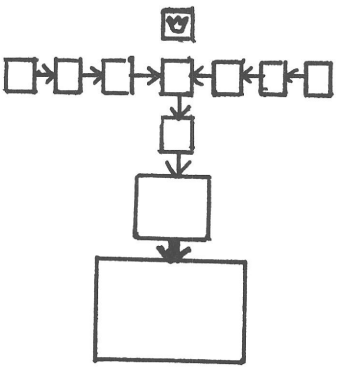
Obviously DG XXI is perfectly organised as no suggestions were forthcoming for alternative pyramids. Below are a few more ideas that we are familiar with from our regular contacts with the Member States.



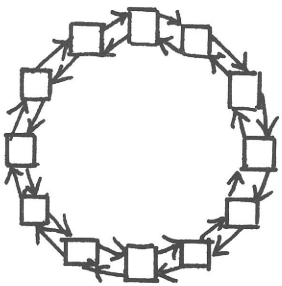
Germany



Austria



Great Britian



Ireland

DÉCISION DE LA COMMISSION

du 7 juin 1995

portant approbation du programme d'éradication de la maladie d'Aujensky dans certaines parties de l'Allemagne

(Texte présentant de l'intérêt pour l'EEE)

(95/210/CE)

LA COMMISSION DES COMMUNAUTÉS EUROPÉENNES,

vu le traité instituant la Communauté européenne,

considérant qu'un programme d'éradication de la maladie d'Aujensky bovine a été instauré dans certaines parties de l'Allemagne en 1989;

considérant que, par lettre du 30 décembre 1994, l'Allemagne a présenté un programme pour l'éradication de la maladie d'Aujensky;

considérant que le programme pourra permettre l'éradication de la maladie d'Aujensky dans les régions énumérées à l'annexe, dans le futur;

A ARRÊTÉ LA PRÉSENTE DÉCISION:

Article premier

Le programme pour l'éradication de la maladie d'Aujensky dans les régions d'Allemagne énumérées à l'annexe est approuvé pour une période de trois ans.

Article 2

L'Allemagne met en vigueur le 15 juin 1995 les dispositions législatives, réglementaires et administratives pour mettre en œuvre le programme visé à l'article 1er.

Fait à Bruxelles, le 7 juin 1995.

Par la Commission

Franz FISCHLER

Membre de la Commission

We didn't even know he was ill!

HM CUSTOMS AND EXCISE
COMPLIANCE DIRECTORATE-OCD4A
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Tel: 01702 361872
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Date: 19th July 1995

M Vaulont
DIR XXI B3
Commission of the European Communities
200 Rue de la LOI
1049 Brussels
BELGIUM

A freudian slip?

POST CLEARANCE RECOVERY OF IMPORT DUTIES
COMMISSION DEREGULATION (EEC) NO 2164/91

I enclose the United Kingdoms return required by Article 3 of the above-mentioned Regulation for the cases which have come to notice in the period 1st January 1995 - 30th June 1995.

The details of the cases in question have been presented on the basis agreed during discussion of SUD 1262/84 in the February 1985 meeting of the DFAC.

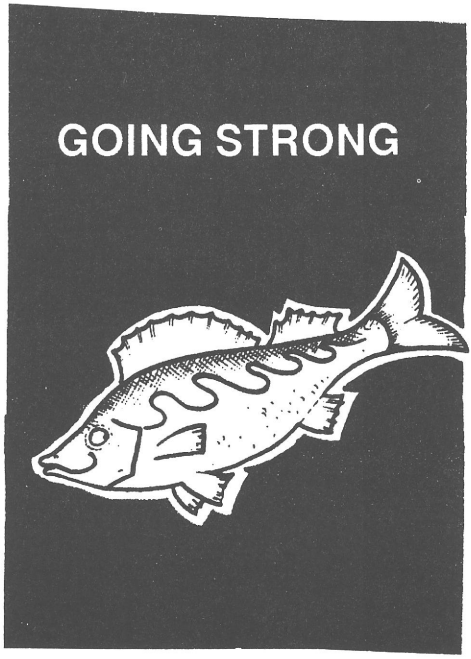
Yours faithfully

Andrew Pearce

A
Principal

"Fins"

This finned "logo" has been chosen for the Finnish Customs T-shirt. The background stripe is the house colour of Info. We are proud to have influenced this wise choice! Also appearing on the stripe in deep black is the word "customs" in all Community languages. I am sure that if you want one then one of our colleagues on the second floor will be happy to go into business.



The Boat Race

Once upon a time the Europeans and the Japanese decided to have a competitive boat race on the River Rhine. Both teams practiced long and hard to reach their peak performance. On the big day, they were as ready as they could be. The Japanese won by a Kilometre. Afterwards, the European team became very discouraged by the loss and morale sagged. The European Council decided that the reason for the crushing defeat had to be found, and a project team was set up to investigate the problem and recommended appropriate action.

Their conclusion: the problem was that the Japanese team had eight people rowing and one person steering. The European team had one person rowing and fifteen people steering in a boat designed for 6+1.

The Council of Ministers immediately hired a consultancy company to do a study on the team's structure. Millions of ECU's and several months later they concluded that too many people were steering and not enough people were rowing.

To prevent losing to the Japanese team the following year the European team structure was changed to 2 Steering Managers (with between 1 & 2 votes), 4 Senior Steering Managers (10 votes), and one Executive Steering Manager (with the right of initiative). A performance pay and appraisal system was set up to give the person rowing the boat a greater incentive to work harder and become a key performer. "We must give him empowerment end enrichment. That ought to do it". The next year the Japanese won by two Kilometres.

The Europeans laid off the rower for poor performance, sold off all the paddles, cancelled all capital investment for new equipment and halted development of a new canoe to replace the racing shell. The consultants were awarded a high performance bonus.

(Courtesy of Customs & Excise
Group Journal - slightly amended in Brussels))

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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 ***10 November 1995****, if possible in electronic form by Insem mail to M472 perezid.*

For more information phone 61639 or 55729

España
1995