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## Report

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

on the ~~development~~ of the customs union and the internal market

(Doc. 356/76)

Rapporteur: Mr K. NYBORG

PE 49.695/fin.



On 14 October 1976 the European Parliament referred the motion for a resolution tabled by Mr Schwörer and Mr Mitterdorfer pursuant to Rule 25 of the Rules of Procedure on simplification of customs procedures, customs legislation and institutional methods for dealing with customs matters (Doc. 356/76) to the Committee on Economic and Monetary Affairs.

On 18 January 1977 the Committee on Economic and Monetary Affairs appointed Mr Nyborg rapporteur.

It considered the abovementioned motion for a resolution at its meetings of 14 February, 17 March, 23 June, 30 September, 3 November 1977, 2-3 February and 20 February 1978, delivering three interim reports (Doc. 14/77, Doc. 132/77 and Doc. 376/77) and adopting two written questions to the Commission (on the free movement of goods, April 1977, and on a new procedure for the elimination of technical barriers to trade, March 1978).

The committee's motion for a resolution was considered at its meetings of 2-3 and 20 February 1978. At its meeting of 3 February 1978 the committee adopted a written question with debate addressed to the Council on the abolition of frontier formalities, this being intended for joint debate with the committee's motion for a resolution which was un-animously adopted at its meeting of 20 February 1978.

Present: Lord Ardwick, oldest member; Mr Nyborg, rapporteur; Mrs Dahlerup, Mr Deschamps, Mr Haase, Mr Lange, Mr Noè, Mr Ripamonti, Mr Starke and Mr Stetter.

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

MOTION FOR A RESOLUTION

on the development of the customs union and of the internal market

The European Parliament,

- having regard to the political, economic and psychological importance of all measures aimed at improving the functioning of the customs union,
- having regard to its resolutions of 7 July 1975<sup>1</sup>, 19 April 1977<sup>2</sup> and 16 June 1977<sup>3</sup>,
- having regard to the motion for a resolution tabled pursuant to Rule 25 of the Rules of Procedure on simplification of customs procedures, customs legislation and institutional methods for dealing with customs matters (Doc. 356/76),
- having regard to the communication from the Commission to the Council and to the European Parliament on the State of the Customs Union of the European Economic Community<sup>4</sup>,
- having regard to the report by the Committee on Economic and Monetary Affairs (Doc. 557/77),

1. Considers that, in its final form, the customs union should be characterized by:

- (a) externally:
  - common rates of duty, common legislation and common documents;
  - common commercial policy, under which any trade and cooperation agreements, agreements on preferences, quantitative restrictions, etc., should apply to the customs union as a whole and not to the individual Member States;
  - a common authority to administer customs regulations at the external frontiers of the Community;

<sup>1</sup> OJ No. C 179, 6.8.1975, p.7

<sup>2</sup> OJ No. C 118, 16.5.1977, p.30

<sup>3</sup> OJ No. C 163, 11.7.1977, p.44

<sup>4</sup> COM(77) 210 final

- (b) internally:- abolition of trade and travel formalities;  
checks at the Community's internal frontiers only  
where policing activities are required;
2. Acknowledges the Commission's unremitting efforts to achieve simple but effective operation of the customs union and common market, and the progress that has been made; is forced to the conclusion that over twenty years after its establishment, the customs union still does not function in complete accordance with its objectives; and points out that the difficulties mainly relate to the internal operation of the customs union;
  3. Considers that this is due chiefly to
    - the national customs and excise authorities' reluctance to replace a familiar system of control by a new and unfamiliar one;
    - the Member States' more or less conscious desire to protect national markets by fiscal, technical, legislative and administrative measures;
    - the fact that the objectives of the EEC Treaty in other fields have only partially been achieved;
  4. Warns of the consequences of such encouragement by the Member States of forms of cooperation more appropriate to a free trade area than to a customs union;
  5. Stresses that the abolition of internal frontier formalities is not a question of all or nothing, there should be no reluctance to simplify one particular area because other areas have not already been simplified; only by gradual simplification and abolition of formalities will it be possible to turn freedom of movement into a reality;
  6. Notes that it has been particularly difficult to secure implementation of Community provisions which either require or should entail administrative reorganization in the Member States;
  7. Emphasizes that as long as the Member States are unwilling to coordinate their tax rates (VAT and selective purchase tax) and to abolish monetary compensatory amounts for agricultural products, certain minimum formalities and controls will be required in connection with internal trade, particularly in respect of agricultural products and goods which are subject to high selective purchase taxes;
  8. Considers that the technical and administrative barriers to trade have acquired added prominence and, to some extent, been accentuated since the disappearance of tariff and quantitative restrictions from internal trade;

9. Calls upon the Member States to demonstrate actively the political will needed to bring the customs union to fruition, internally and externally; in a situation where it has proved particularly difficult to reach agreement on Community policy in new areas, it is all the more important to make a determined effort to complete the foundations of the Community: the customs union and the common market;
10. Considers it necessary in this situation to strengthen the Commission's position, and therefore calls upon the Council - in accordance with the statement made by the Heads of State and Government in Paris in 1974 - to make greater use here of the provisions of the EEC Treaty whereby the powers of implementation and management arising out of Community regulations may be conferred on the Commission;
11. Calls upon the Commission and the Council, in this connection, to consider a new decision-making procedure, under which
  - (a) the three Community institutions would define the characteristics of the customs union;
  - (b) the three Community institutions would lay down guidelines for Community provisions in the individual areas;
  - (c) the Commission would be empowered, pursuant to Article 155 of the EEC Treaty, to issue the necessary implementing provisions;
12. Calls upon the Commission to update its work programme for the internal and external achievement of the customs union; the programme should show how far the various steps are so interdependent that delays in one area automatically produce delays in other areas; consideration should be given to drawing up multiannual programmes to be updated at regular intervals;
13. Considers that the following stages on the way to complete customs union would substantially ease the burden on industry and the customs authorities, and make people more aware that they are living in a community:
  - (a) measures to ensure that individuals do not pay duty on the same article in two Member States or avoid payment of duty altogether;
  - (b) greater opportunities for travellers to import goods purchased in other Member States and abolition of foreign currency restrictions applicable to travellers in some Member States;
  - (c) abolition of the charges imposed by certain Member States for clearance of small non-commercial consignments;
  - (d) common rules for the temporary import of motor vehicles, etc., into another Member State;

- (e) the recording and control of internal consignments to be based more on companies' accounts and checks at customs offices at the departure point:
- the customs authorities in the importing country and any transit country to confine themselves to checking that the goods are as specified in the accompanying documents;
  - goods subject only to VAT would not be subject to the Community transit procedure (abolition of import duty);
  - taxes to be assessed and collected for traders normally on the basis of a report from the outward customs office to the importing country, and the importer's normal accounts;
- (f) the simplification and standardization and, at a later date, abolition of documents for goods in internal Community transit; for traders the guarantee would be abolished;
- (g) reciprocal recognition of veterinary and health certificates and of technical certificates;
- (h) abolition of the certificates of origin required in certain cases in internal trade;
- (i) the conclusion of agreements with Austria and Switzerland, whereby these countries would recognize veterinary and sanitary certificates issued by Member States for consignments in transit and/or the validity of lead seals affixed to such consignments;
- (j) simplified collection of data for the production of statistics on internal trade;
- o o o
- (k) improved rules for customs valuation and common rules for the transition of goods to free circulation;
- (l) common import documents;
- (m) standardization and simplification of the rules on the origin of goods;
- (n) production of the integrated Customs Tariff;
- (o) common rules on the treatment and possibly punishment of infringement of Community customs rules;
- o o o
- (p) better organization of procedures at customs offices, which are known to cause substantial delays;



- (q) progressive delegation of powers by the Council to the Commission to direct national customs and excise authorities to carry out particular tasks;
  - (r) the establishment of a surveillance service under the Commission to ensure that Community provisions on transfrontier traffic, etc. are in fact observed;
14. Stresses that a great many of these improvements could be achieved relatively quickly and calls upon the Commission to submit proposals accordingly;
  15. Strongly urges the Council to adopt without further delay the proposals which have already been awaiting adoption for some considerable time;
  16. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities and to the national parliaments and customs authorities.

EXPLANATORY STATEMENT1. Introduction

1.1 Article 9(1) of the EEC Treaty states that:

'The Community shall be based upon a customs union ...'

1.2.1 The Customs Union is one of the cornerstones of European integration not merely because of its direct internal and external economic and political effects but also because it is an instrument of Community policy in other areas covered by the Treaties.

1.2.2 Customs union does not merely involve the creation of a common external tariff barrier and the abolition of customs duties, import duties, quantitative restrictions, etc., in internal trade; the Common Customs Tariff must also be uniformly applied in the different Member States and national customs legislation and provisions brought into line with each other. Otherwise there will be unequal treatment of citizens and businessmen and artificial shifts in trade and production patterns inconsistent with the objectives of the EEC Treaty.

Furthermore, tariff and quantitative restrictions are only the tip of an iceberg consisting of innumerable fiscal, technical, legislative and administrative provisions which obstruct the movement of goods. Many of these barriers to trade are intentional and in reality constitute a new form of protectionism. Seemingly innocuous provisions for the protection of consumers, the environment or health are in actual fact designed to safeguard markets and curb imports of competing products<sup>1</sup>. Similarly, administrative procedures in the Member States - for example, those governing the award of public supply contracts - can render ineffective the attempts to establish a common market. Economic integration, technological development and prices are all affected, where sectors of the market are protected from competition.

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<sup>1</sup> In the view of the rapporteur, one such example is the French law of 31 December 1975 which lays down that descriptions, offers, presentations, advertisements and terms of guarantees for goods and services and for invoices and receipts must be in French (see the Commission's answer to Written Question No. 349/76, OJ No. C 270, 10.11.77).

At present only a few sectors of industry can plan production without having to take account of the widely varying requirements in the individual Member States. This means that major branches of industry benefit only in part from the technological and economic advantages implicit in the creation of the common market; Community industries are thus deprived of some of the competitive advantages, notably in relation to Japanese and American manufacturers, which were one of the main reasons for setting up the customs union.

The wish expressed in various quarters, to resolve the current problems of recession and structural policy in part through further integration of the economies of the Member States underlines the need for the customs union to function as was originally intended.

1.2.3 The customs union also has a special role to play in that the bulk of the Community's own resources derives from the customs duties levied at the Community's external frontiers. This aspect of the matter will not however be dealt with in the present report.

1.3.1 Neither the business world nor consumers or travellers distinguish in general between the terms 'customs union' and 'the common market'.

Yet these two terms differ in both form and fact. The Customs Union is a means but only one of the means towards the creation of a genuine common market. Extensive harmonization of taxes and duties, the implementation of a common transport policy and common technical and sanitary regulations, the free movement of capital, etc., are other important means towards full implementation of the principle of free movement of goods and persons.

1.3.2 On the other hand one should be careful not to adopt the view that until capital can move freely or until there is a common transport policy, no real progress can be made towards a situation where there is free movement of goods.

The fact that these problems are interrelated should not prevent the Community from making considerable progress in certain specific areas.

To give one example, even with the present disparities between fiscal systems and rates of tax and duty, it would be possible to reduce checks at the Community's internal frontiers either by liberalizing the rules on travel allowances or by improving cooperation between national authorities with regard to the collection of duty and the gathering of statistical data, etc. on goods in transit.

1.3.3 The political and administrative authorities must not overlook the fact that the public takes a different and less formal view; what matters to them is how complicated the system is, e.g. what forms and how many of them are to be filled in when goods are sent across the Community's internal and external frontiers. There have been numerous comments and complaints in various quarters about the fact that the gradual introduction of the Customs Union has complicated and increased control<sup>1, 2</sup>.

1.4.1 In general it is easier to travel from one Member State to another today than it was before the Customs Union was created. Nevertheless, legitimate complaints are still made about unnecessary, complicated and lengthy control procedures at internal frontier crossing points which are not much different from the control measures applied before the Customs Union was created<sup>3</sup>.

1.4.2 Many of the provisions, such as different speed limits, that complicate the traveller's life, are obviously not at variance with the spirit or letter of the EEC Treaty. Others must, however, be regarded as running counter to the spirit of the Treaty. When there is agreement in principle on the need to harmonize and simplify the forms used for intra-Community trade in goods (although implementation is slow), why do not the same arguments hold good when it comes to the harmonization of the requirements for the papers specifying the nationality of persons, cars, caravans and boats that are required in varying degree when crossing internal Community frontiers? Why cannot a tourist or commercial traveller who is involved in an accident of whose vehicle breaks down abroad return home in a vehicle rented abroad without special customs certificates?

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<sup>1</sup> The Simplification of International Trade Procedures Board (SITPRO) makes, for example, the following statement in a memorandum to the House of Lords (November 1977):

'From SITPRO's own contacts with UK exporters it is evident that entry into the EEC resulted in a complication rather than a simplification of the procedures which had to be observed, particularly when exporting goods to other Community countries. Although by the end of this year all customs duties and equivalent charges will have been abolished in intra-Community trade, in terms of the procedures and documentation applied to this trade, there will have been little improvement compared with the position as it was in 1975.'

<sup>2</sup> A Belgian firm (name supplied) has provided the rapporteur with the following information:

'the administrative formalities remain as cumbersome as ever, necessitating constant repetition of the same information on different documents so as to satisfy the requirements laid down in various regulations which, in our humble opinion, could be simplified and standardized. Consider, for example, the following documents, which all share similar features:

consignment note for Belgian railways:	7 copies
T2 despatch note:	4 copies
export declaration No. 61:	3 copies
export advice note, type B:	3 copies

<sup>3</sup> Cf., for example, Article 60 of the French Customs Code which authorizes French customs officials to inspect any documents in the possession of travellers.

The problem is not so much that such rules exist but that they vary from one Member State to another.

1.5.1 The committee repeats<sup>1</sup> that for the people and the business world to regard the Community as an everyday reality, it is vital that the domestic market should operate as intended. This is also one of the areas where Members of the European Parliament, by virtue of their contacts with national parliaments and government authorities, can make an active contribution to the abolition of regulations and administrative provisions stemming from the rigid separation between national markets which existed before the establishment of the Community. In fact, many of the difficulties at the frontier crossing points, both for goods and travellers, may be traced back to the fact that the administrative structure of the customs authorities and the rules under which they work have not been properly adapted to the establishment of the Customs Union and common market.

1.5.2 The Committee on Economic and Monetary Affairs would also draw attention to the fact that customs agents have a commercial interest in ensuring that importers and exporters entrust customs formalities to specialized firms; there is likely to be natural opposition from this sector to any too extensive simplification of the formalities required in respect of goods crossing the Community's internal and external frontiers.

## 2. The Commission's assessment at 1 July 1977

2.1 The Commission states in its communication on the state of the Customs Union<sup>2</sup> that despite the considerable progress achieved in the construction of the Customs Union, there are still a number of shortcomings.

2.1.1 As regards remaining barriers to the free movement of goods between Member States, the Commission does not merely mention technical barriers to trade. It claims that in general the abolition of customs duties between the Member States has not led to any appreciable change in the customs formalities to be complied with and it doubts whether such customs formalities are in all cases compatible with Articles 30 et seq. of the Treaty. Trading difficulties are further aggravated by the fact that the formalities are so complicated that those concerned are obliged to seek professional advice in virtually every case, not least because Community and national provisions often overlap. Moreover, the addressees of small non-commercial consignments have to pay 'customs clearance expenses' even though no customs duty or fiscal charge of any sort is supposed to be levied on such consignments.

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<sup>1</sup> See Doc. 132/77, p.9

<sup>2</sup> COM(77) 210 final

2.1.2 The Commission also regrets the incomplete and often far too complicated or slack nature of existing Community provisions. They are slack partly because the Commission has often opted for a directive: a directive is only binding with regard to the result to be achieved; it is left to the Member States to determine the exact form of the provisions. In some cases this procedure has meant that the approximation of national customs provisions has been less far-reaching than was expected when the directive was adopted.

2.1.3 The Commission also criticizes the slowness of the Community institutions' decision-making procedure. Despite the fact that the Commission does not draw up its proposals without having numerous discussions with experts from the Member States, technical discussions are often systematically repeated by the competent bodies of the Council. In general it is only after several years that the Council adopts a proposal, incorporating various purely formal amendments.

The system whereby the Commission is entitled to adopt implementing measures after consulting the committee set up by the Council has in general functioned well, but the decision-making procedure needs to be changed where the day-to-day administration requires the taking of quick decisions.

The Member States' reluctance to give the Community full powers in international negotiations means that it is often difficult for the Community to present a united front.

2.1.4 Lastly, the Commission points out that infringements of customs law continue to be dealt with according to Member States' own provisions although most customs law now falls within Community jurisdiction. This means that there are appreciable inequalities of treatment as between Community nationals, and the Commission considers it essential for an administrative procedure to be established at Community level for the settlement of disputes arising between the customs administrations and companies.

2.2 The Commission distinguishes between short and long-term measures to be taken with a view to improving the functioning of the Customs Union.

2.3 The Commission's short-term proposals are :

Free movement of goods

- to develop the use of the Community transit procedure; the objective is to concentrate the formalities at the customs office of departure;

- to increase awareness of the everyday reality of the Community as regards the rules on non-commercial trade even though the result is some loss of revenue to the Member States (e.g. 'customs clearance charges');
- to examine carefully internal trade formalities with a view to abolishing those that are no longer fully justified; if necessary, the Commission will apply the rules governing infringement of the Treaty;
- to make easier control at the Community's internal frontiers;

#### Community customs legislation

- to submit proposals to the Council supplementing existing Community customs regulations in accordance with the programmes already established;

#### The institutions' decision-making procedure

- to submit proposals to the Council on the day-to-day administration of the regulations and the work of the international organization dealing with customs matters;

#### 2.4 The Commission's longer term proposals are

- a Community customs code;
- uniform sanctions for infringing Community customs provisions.

### 3. General comments

3.1.1 In general it has to be said that, despite the very significant measure of progress achieved over the years, the introduction of a uniform system of customs administration in dealings with third countries and the free movement of goods in the Community are proceeding too slowly.

The Commission's progress reports on the 1971 General Programme and the 1975 Simplification Programme<sup>1</sup> indicate that it is particularly difficult for the Commission to get the Council and/or national authorities to lend their active cooperation in working towards full Customs Union. As shown in Annex I, only 8 of the 22 proposals made in the General Programme have been implemented. This is a meagre result - witness the fact that, even though the Commission was very cautious in 1971 in setting the deadlines for implementation of the General Programme, it nevertheless felt that 1 January 1975 was a reasonable date to aim for.<sup>2</sup>

Annex II shows that only limited parts of the 1975 Simplification Programme have been implemented too.

<sup>1</sup> See Annexes II and IV to the Commission's communication

<sup>2</sup> See SEC(71) 682 final, paragraph 15.

3.1.2 The Committee on Economic and Monetary Affairs does not blame the Commission for this. Customs regulations are by nature very technical and therefore difficult to harmonize unless the political resolve exists in the Member States. Other difficulties stem from the historical reasons for Member States' customs regulations and the interrelationship between customs law and other areas of national law.

The Committee is also able, however, to detect a systematic resistance to change on the part of national authorities; this clearly reflects a fear of replacing a well-established and well-tried system of control procedures with a new and unknown quantity; understandable as it may be, this fear is to be regretted. A major task for the Commission and for the European Parliament will be to help create the conditions which will ensure that the achievement of overriding political objectives is not unduly obstructed by administrative traditions.

Another reason is that the transitional period following the enlargement of the Community and its free trade agreement with EFTA caused a great deal of work for the national customs authorities and the relevant Commission departments.

The Committee on Economic and Monetary Affairs would point out here that any future enlargement of the Community will impose a heavy extra workload on the Commission departments responsible for the administration of the Customs Union. Unless the wish is to delay full implementation of the Customs Union between the existing Nine, any increase in the number of member countries will therefore require an increased allocation of resources to the departments concerned.

3.1.3 A look at the proposals which have been implemented and those which have not shows that the Commission had special difficulty in getting procedures simplified in cases where Member States' administrative structures had to be adapted. The Commission therefore seems to need the European Parliament's support here; discussions should be held on how the political will to make progress in the Council can best be strengthened.

3.2 While the Committee on Economic and Monetary Affairs appreciates the fact that the Commission is continuing its efforts to achieve progress in limited areas, see e.g. its decision at the end of June 1977<sup>1</sup> to begin the preparatory work for an integrated Common Customs Tariff and its recommendation to six Member States to stop collecting 'customs clearance charges' on small non-commercial consignments, certain comments in the Commission's communication indicate that in some areas, it is cutting back on the objectives it set itself in its 1971 and 1975 programmes.

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<sup>1</sup> See Commission's press release IP(77) 160



The Commission cites, for example, the conclusions of the Community Transit Committee that it was not yet possible to abolish Community transit documentation and that it has not proved possible to limit the amount of information required for completing documents used in intra-Community trade<sup>1</sup>. Nor has there been any real progress towards basing customs controls on companies' accounts rather than on physical controls<sup>1</sup>. The study of the structure of the Customs and of customs officials' tasks and powers announced in 1971<sup>2</sup> does not seem to have given any tangible result nor has the desire<sup>3</sup> to harmonize matters such as the opening and closing times of customs posts and the role of agents been fulfilled<sup>4</sup>.

3.3.1 The Commission's communication is in the nature of a progress report and is not meant to replace the 1971 General Programme or the 1975 Simplification Programme. Nevertheless, the section<sup>5</sup> on the action to be undertaken on a longer-term basis seems rather weak; in fact it deals only with a common customs code. Because of the many difficulties that continue to stand in the way of complete customs union, it would be advisable to again stress and even revise the long-term objectives in the hope of strengthening the Member States' resolve to make progress.

In the committee's view it should be stressed that the final form of the Customs Union must allow trade within the external frontiers of the Community to be freed from all formalities, and the controls at the Community's internal frontiers therefore to be limited to activities more akin to policing duties, such as safeguarding public safety<sup>6</sup>. This of course presupposes that there is effective control on the movement of goods at the Community's external frontiers.

It would therefore be desirable for a Community body to be set up to administer the common customs legislation, thus including controls at the external frontiers of the Community (Community customs officials), so that no doubts can be raised about the uniform application of the Customs Union in the Member States or about the existence of favouritism on a national basis.

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<sup>1</sup> See Section F of Annex IV to the Commission's communication

<sup>2</sup> See the General Programme, paragraphs 41-42

<sup>3</sup> See the General Programme, paragraph 36

<sup>4</sup> The Commission has informed the rapporteur that a list has been drawn up of the business hours of all customs offices, on the basis of which it is endeavouring to make gradual progress

<sup>5</sup> See section IV~~B~~ of the communication

<sup>6</sup> See point 4.3 below