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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

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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 unanimously 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.

C O N T E N T S

	<u>Page</u>
A. Motion for a resolution	5
B. Explanatory statement	10
1. Introduction	10
2. The Commission's assessment at 1 July 1977	13
3. General comments	15
4. Assessment by the Committee on Economic and Monetary Affairs	19
5. Conclusions	37
Annex I Summary of the Commission's February 1977 progress report on the General Programme for the approx- imation of customs legislation of 28.4.1971	39
Annex II Summary of the Commission's progress report of 1.4.1977 on the Simplification Programme of 25.2.1975	41
Annex III (a) Frontier formalities and checks	43
Annex III (b) The Commission's covering letter dated 3 August 1977	45
Annex IV Removal of VAT frontiers for goods in free circulation within the Benelux Union	46
Annex V Report on the free movement of goods, dated 15 June 1977, from the Commission to the European Parlia- ment's Committee on Economic and Monetary Affairs.	51
Annex VI Customs and veterinary control arrangements, etc. .	56
Annex VII Some specific examples of difficulties in con- nection with trade in goods as communicated to the rapporteur by certain firms	60
Annex VIII Motion for a resolution tabled by Mr Schwörer and Mr Mitterdorfer on simplification of customs pro- cedures, customs legislation and institutional methods for dealing with customs matters	63

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 1975¹, 19 April 1977² and 16 June 1977³,
- 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 Community⁴,
- 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;

¹ OJ No. C 179, 6.8.1975, p.7

² OJ No. C 118, 16.5.1977, p.30

³ OJ No. C 163, 11.7.1977, p.44

⁴ 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;

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- (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 products¹. 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.

¹ 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^{1, 2}.

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 created³.

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?

¹ 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.'

² 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

³ 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 repeats¹ 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 Union² 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.

¹ See Doc. 132/77, p.9

² 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 Programme¹ 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.²

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

¹ See Annexes II and IV to the Commission's communication

² 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 1977¹ 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.

¹ 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 trade¹. Nor has there been any real progress towards basing customs controls on companies' accounts rather than on physical controls¹. The study of the structure of the Customs and of customs officials' tasks and powers announced in 1971² does not seem to have given any tangible result nor has the desire³ to harmonize matters such as the opening and closing times of customs posts and the role of agents been fulfilled⁴.

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 section⁵ 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 safety⁶. 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.

¹ See Section F of Annex IV to the Commission's communication

² See the General Programme, paragraphs 41-42

³ See the General Programme, paragraph 36

⁴ 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

⁵ See section IV~~B~~ of the communication

⁶ See point 4.3 below

3.3.2 Clearly, the question is how to attain this objective. The primary concern is surely to increase the national customs authorities' understanding of each other's problems. The surveillance service referred to below in point 4.9.2 would very likely be able to help in this respect, and thought could be given to national customs authorities exchanging observers. At all events, attainment of this objective will require a major educational exercise on the part of the Commission.

3.3.3 The attempts to harmonize the widely differing customs procedures of the Member States will all too easily lead to a compromise being sought between national viewpoints and traditions. Traditional thinking favours piecemeal modification of the existing system and this entails a clear risk of the customs procedures, etc., to be drawn up by the Community becoming unnecessarily complicated.

The best point of departure would be to act as if there had never been any system of customs administration in the Member States and, on this basis, propose an ideal model of how the Customs Union should function. Through negotiation with the national customs authorities the effort would then have to be made to get as close to this ideal model as possible.

The committee is naturally aware of the difficulties confronting the Commission in its dealings with the national authorities when endeavouring to implement at Community level the simplest possible scheme, certain parts of which may be inspired by the procedure in one or other of the Member States. The committee would however warn against national authorities seeking, partly for reasons of prestige, to complicate an otherwise straightforward system by endeavouring to incorporate the various national traditions.

3.3.4 Obviously, it will not be possible to achieve the complete internal implementation of the Customs Union from one year to the next. It is therefore very important that the Community and the Member States should take appropriate action in the matter, and that the Community should keep a constant watch on national legislation to ensure that no provisions are introduced that may stand in the way of the long-term objectives.

3.4.1 One of the shortcomings mentioned by the Commission in its communication is the slowness of the Council's decision-making procedure¹. The Commission's progress reports², on the programmes indicate, however, that the Commission's preparatory work is also being complicated and delayed by the fact that national experts cannot agree on specific simplification measures.

¹ See point 2.1.3 above

² See point 3.1 above

3.4.2 By way of historical background, the Commission states in its communication that approximation of Member States' customs legislation was greatly hampered by Article 27 of the EEC Treaty, the only provision dealing with the approximation of national customs legislation, which merely lays down that approximation should be accomplished during the first stage on the basis of Commission recommendations. The Commission and Member States realized that recommendations alone would lead nowhere and that genuine Community legislation, binding on the Member States, was necessary¹. It has, however, been difficult to translate this agreement into specific Community legislation.

Since customs union is the basis of the Community and the continuing existence of different national customs legislation distorts conditions of competition in the common market, the Commission should make greater use of Article 235 of the EEC Treaty to force through the necessary Community legislation in the foreseeable future.

3.4.3 The Commission is also requested to inform the committee of any legal possibilities for introducing a new procedure for completing the customs union along more or less the same lines as those laid down by the European Parliament for abolishing technical barriers to trade. In brief, this would mean that

- the three Community institutions would define the characteristics of the customs union (see paragraph 3.3.1 above);
- the three Community institutions would lay down guidelines for Community provisions in the individual areas;
- the Commission would be empowered, pursuant to Article 155 of the EEC Treaty, to issue the necessary implementing provisions.

This would increase the Commission's possibility of putting pressure on national authorities with a view to achieving agreement on the formulation of specific provisions and would be in keeping with the statement made by the Heads of State and Government in Paris in December 1974² that they agreed on 'the advantage of making use of the provisions of the Treaty of Rome whereby the powers of implementation and management arising out of Community rules may be conferred on the Commission.'

4. Assessment by the Committee on Economic and Monetary Affairs

4.1 The Commission's assessment of the customs union is a realistic account of the progress made, the shortcomings still apparent after twenty years and the measures that ought to be taken. The Committee on Economic and Monetary Affairs would, however, like to amplify some of the comments made by the Commission.

¹ See Section II B of the communication

² See paragraph 8 of the Communiqué

4.2 It is only reasonable to point out that much progress has been made also in recent years. There is every indication that the Community transit procedure which now incorporates the various provisions¹, could - with the necessary improvements - develop into a relatively simple and effective system for the free movement of goods in the customs union.

The committee notes with regret, however, that the minimum information and control necessary is determined by the difference in Member States' taxes and duties. The Committee on Economic and Monetary Affairs will discuss this in greater detail below but would like to make two points now:

- the Commission should intensify its efforts to base customs control on companies' accounts rather than on physical checks; the introduction of a uniform VAT assessment basis should facilitate this;
- the Commission should ensure that the public is made aware that it is because of opposition by national governments to approximation of duties² that the procedures and controls connected with internal trade and traffic have not been simplified or abolished on the scale originally planned.

Customs and veterinary control arrangements

4.3.1 The rapporteur is of the opinion that twenty years of customs union have not led to any particular reduction in the control functions of the customs authorities at the Community's internal frontiers. On the contrary, a whole range of new duties unrelated to customs work have been imposed on customs authorities. In an effort to obtain more information on this subject, the rapporteur asked the Commission to prepare a list of the specific tasks carried out by police and customs authorities in individual Member States when persons and goods cross the Community's internal and external frontiers.

The Commission's list is attached as Annex III, and although it is not exhaustive, the Committee on Economic and Monetary Affairs agrees with the Commission's conclusion in the covering letter that ostensibly there is no major difference between the formalities for crossing a border between Member States and those for crossing the Community's external frontiers. Obviously, the situation is in practice more flexible at internal frontiers and control is generally less systematic than at external frontiers.

¹ OJ No L 38, 9.2.1977, amended by OJ No L 182, 22.7.1977

² Some Member States even make the differences greater.

The Committee on Economic and Monetary Affairs notes with regret that it is only in very specific areas such as systematic control of motorists' green cards that the creation of a customs union has appreciably reduced the customs authorities' formal control functions at the Community's internal frontier crossing points.

4.3.2 Of the tasks listed in Annex III the committee regards the following as the most labour-intensive:

- (a) monitoring of movements of goods for the purposes of :
 - calculating and collecting value added tax and other duties,
 - calculating, compensatory amounts for agricultural products,
 - collecting statistical data,
 - veterinary and health inspection.
- (b) checks on travellers and goods in their possession, particularly articles subject to high rates of duty.

4.3.3 To put into practice the spirit and letter of the EEC Treaty would mean the disappearance of the majority of the above tasks and, in the rapporteur's view, controls at the Community's internal frontiers could then be confined to duties more akin to policing activities: searches for weapons, drugs, missing and wanted persons, etc.,

More selective controls of this nature would not as a general rule need to be applied on a systematic basis and could be carried out most effectively with the aid of specialist resources. Moreover, the need for checks of this nature to be carried out at the internal frontiers is far from apparent.

4.3.4. The rapporteur's attention has been drawn to a whole series of problems connected with the movement of goods within the Common Market. The complaints centre chiefly on the considerable and costly delays which can befall consignments sent by road as a result of the existing system of frontier and veterinary controls. A number of examples are given in Annex VI.

The wish is widespread for example, that customs offices should stay open longer, particularly where there are traffic bottlenecks; the need for this is particularly acute at certain Alpine crossings but also, for instance, at the frontier between Denmark and West Germany. The Committee on Economic and Monetary Affairs is aware of the expense this entails for customs authorities but feels it is particularly important that the Commission help secure longer opening hours at frontier crossings, where the need is most acute, while at the same time taking steps to coordinate the opening hours of customs offices.

4.3.5 A no less serious problem is posed by veterinary and health controls which, according to information received by the rapporteur, can in extreme cases delay frontier crossings for up to as much as eight days.

The Committee on Economic and Monetary Affairs has also noted with regret that the Court of Justice's ruling that it is prohibited to levy fees for veterinary and health inspection within the Common Market has in several Member States resulted in local inspection points being closed down. This has in some cases had a devastating effect on local trade, e.g., in fruit and vegetables in the France - Saarland border region.

The Committee on Economic and Monetary Affairs strongly urges the Commission to speed up as far as possible its work on coordinating the various national provisions in this field so as to secure reciprocal recognition within the Common Market of the veterinary and health certificates issued by the appropriate authorities in the other Member States. In the committee's view, this problem should be given a high priority, particularly since one of the chief arguments for retaining the various national provisions and controls is that of safeguarding the economic interests of the veterinary profession¹.

The Commission is also urged to conclude an agreement with Austria and Switzerland exempting bonded consignments in transit between the northern and the southern part of the Common Market from veterinary inspection in Austria and Switzerland.

4.3.6 As indicated in Annex VI(i), the Italian Government had decided to limit the number of customs points authorized to clear goods coming under chapter 73 (iron and steel) and section XI (textiles, etc.) of the Common Customs Tariff, thereby subjecting consignments of this nature bound for Italy to lengthy detours and consequently considerable delays and increased costs. The Committee on Economic and Monetary Affairs has been advised that the Commission has been successful in securing a substantial increase in the number of such customs points.

¹ Before joining the Community Denmark had some of the most stringent provisions in Europe, e.g. those governing the import of dogs; it was essential even for a young, healthy, recently vaccinated dog accompanied by the necessary vaccination certificates to be revaccinated by a vet at the actual crossing-point on the frontier (between West Germany and Denmark). Now that the relevant provisions have been brought into line with those generally applicable in Europe, customs officials only ask to see vaccination certificates on a random basis without this having had any adverse effect as regards, for example, the spread of rabies in Denmark.

4.3.7 The Committee on Economic and Monetary Affairs is aware that, although this is not normally made public, the Commission is going to considerable lengths to persuade the Member States to organize customs controls as efficiently as possible. The committee appreciates this and would also recommend trade organizations and similar bodies which consider that they have legitimate grounds for dissatisfaction with the present organization of customs and veterinary control to refer the matter directly to the Commission or to the European Parliament's Committee on Economic and Monetary Affairs.

The Committee on Economic and Monetary Affairs would nevertheless also appreciate more official efforts on the part of the Commission to extend and coordinate the opening times of customs offices and to supervise the practical organization (also from the geographical point of view) of customs and veterinary control.

4.3.8 Another problem is local traffic and trade in frontier areas. The rapporteur has received many representations concerning time-consuming and costly formalities constituting real obstacles to freedom of movement for:

- farmers who have land on both sides of a frontier;
- workmen carrying tools and equipment in their vans;
- wage-earners or commercial travellers resident in one member country but working temporarily or permanently in another;
- self-employed traders staying in another member country in order to investigate the prospects for setting up in business there at a later date;
- bakers/greengrocers/florists purchasing bread/vegetables/plants/fruit/flowers from suppliers on the other side of the frontier;
- citizens who have to apply to the customs office to collect a small non-commercial consignment; even though customs duty and excise taxes are no longer levied on such consignments, a special fee is charged in six Member States;
- migrant workers who in some countries have to pay a special deposit to obtain electricity or a telephone;
- sleeping-car passengers who have to complete a detailed declaration, including particulars of any foodstuffs and headache tablets in their possession, so as to avoid being woken by customs officials during the night¹.

¹ No other passengers are asked to supply detailed information of this nature, either in writing or orally.

It was impossible for the rapporteur to consider all these cases in detail, although he has gained from them the disheartening impression that, in certain areas, considerable inventiveness is being made to eliminate the feeling among Community citizens that they are living in a common market. This inventiveness would be better employed on overcoming the administrative difficulties associated with turning the common market into a reality, thereby confirming the individual citizen's hope that establishment of the Common Market would mean abolition of what, to his mind, are unnecessary formalities.

4.3.9 Annex VI (j) reproduces a circular which the Luxembourg company ARBED was obliged to issue to its various departments. This circular shows the complicated procedure that has to be gone through by companies which need to import goods into Belgium on a temporary basis for the purpose of carrying out certain types of work there (tools for assembly and installation work, casting moulds, photographic equipment, etc.).

The Luxembourg Automobile Club has informed the committee that it is required to assist its members by issuing customs documents (Carnets de Passages en Douanes) etc. in connection with the temporary use in France of, for example, the cars of insurance agents, certain pleasure craft, go-karts, racing cars and racing motor cycles, agricultural machinery, etc.

4.3.10 As explained above, the rapporteur does not intend to examine these matters in detail but will confine himself to stating by way of conclusion that many of the representations he has received relate to the temporary import of motor vehicles and that difficulties are not only encountered with vehicles used for commercial purposes. For example, problems also arise for people with a residential attachment to more than one Member State.

The Commission is at present preparing a proposal concerning temporary import. The rapporteur has been confirmed in his belief that there is a need for uniform rules in this field but would emphasize that it is essential for the rules to be interpreted uniformly by the various national authorities, so that the individual citizen does not get caught between the authorities of two Member States¹, and for the rules in question to apply also to motor vehicles (both for private and for commercial use).

4.3.11 The rapporteur would also draw attention to the fact that various international organizations including the International Touring Alliance within the European Community, the International Chamber of Commerce, the

¹ Why cannot the authorities concerned make direct contact and solve any problems between themselves instead of using the citizen as a go-between?

Economic Commission for Europe and the Simplification of International Trade Procedures Board (SITPRO), have put forward a whole series of specific proposals designed to facilitate frontier controls and formalities both for travellers and for transported goods. The rapporteur did not feel it necessary to discuss all these proposals in this report but does appreciate the fact that so many different organizations are interested in these problems and sees in this confirmation of the belief that, outside the sphere of national customs authorities, there is widespread appreciation of the need to simplify or abolish completely these unnecessarily complicated formalities.

The Community transit procedure

4.4.1 In December 1976 the Council adopted a basic regulation on Community transit¹, followed in the same month by a Commission regulation on implementing provisions¹, the purpose of which was to consolidate the various provisions.

As early as 11 July 1977², however, the Commission had to adopt another regulation amending nine of the 84 articles and seven of the 15 annexes. Although the amendments are to be welcomed **because they** considerably simplify paperwork, they show how many technical problems there are with such regulations, and the Commission should issue an updated version of the regulation as soon as possible so that those concerned merely have to look at one document to find the relevant information.

It should also be noted that when the Committee on Economic and Monetary Affairs stated above³ that the Community transit procedure could become a simple and effective system, it meant by comparison with the situation prevailing before the procedure was introduced. However, the provisions are still very complicated⁴, especially for small and medium-sized undertakings and in most cases they prefer or are obliged to use forwarding agents.

4.4.2 Under the Community transit procedure the following formalities have to be completed at the Community's internal frontiers:

- presentation of a transit advice note;
- production of transit documents;
- production of documents identifying vehicles;
- examination of seals.

4.4.3 In its 1975 Simplification Programme the Commission pointed out that in a fully developed customs union there should be no need for documentation for goods in internal Community transit and that, even as matters stood then, the paperwork involved could be considerably simplified and standardized.

However, of all the simplification measures proposed in the programme, Community rules have been drawn up only for seals (and the simplification of paperwork mentioned in paragraph 4.4.1). The Commission has been unable to reach agreement on more extensive simplification measures.

¹ OJ No. L 38, 9.2.77

² OJ No. L 182, 22.7.77

³ See paragraph 4.2. above

⁴ The Council's basic regulation and the Commission's regulation on implementing provisions with their annexes cover about 75 pages of the OJ; the agreements with Austria and Switzerland at least another 90.

4.4.4 When preparing this report, the rapporteur contacted a variety of organizations in the Member States partly with a view to finding out what difficulties existed in intra-Community trade.

The information received by the rapporteur on this and other occasions corroborates the Commission's view that the Community transit procedure can be further simplified now¹ and that the individual Member States could themselves help to simplify the formalities by making use of the provisions of the EEC Treaty (e.g. abolishing guarantees for goods transported between the office of departure and the first transit office).

4.4.5 The committee also considers it appropriate for the Commission to let the European Parliament have an action programme listing the measures to be taken before documentation can be abolished for goods in free circulation. The Committee on Economic and Monetary Affairs is willing to help the Commission to attain the objectives laid down in sections 6 and 8 of the Simplification Programme.

One of the most important aims must be, and this is also stressed by the Commission, to promote the use of the Community transit procedure and to bring together all the formalities required in connection with this procedure (i.e. including the collection of data required by the importing country) at the outward customs point. It needs to be stated once again that the ultimate objective must be to abolish all the formalities connected with consignments in internal Community transit, but that it ought to be possible to implement fairly speedily an interim solution, i.e. centralization of all formalities at the outward customs point.

Calculation and collection of national duties

4.5.1 The existing procedure for collecting import duties at customs offices is very complicated. Once the directive on the uniform basis of VAT assessment has been adopted, it should be possible to introduce a payment system for goods that are subject only to VAT similar to the system applied in the Benelux countries where VAT on imports is paid at the same time as normal VAT².

¹ The Cologne Chamber of Industry and Commerce has, for example, drawn up a proposal for the abolition of all formalities connected with Community consignments.

² In the Benelux system the VAT levied on imported goods can be deducted as a tax already paid by the person who has paid or declared it if the goods are imported by that person or to his address. If the importer and the tradesman are one and the same person, it is not necessary under this system to pay VAT on imports at the frontier; instead it is declared in the previous declaration and immediately deducted as a tax already paid. A detailed description of the Benelux system is contained in Annex IV.

Attention is called to the fact that the Community rules on VAT do in actual fact permit departures from the rule requiring that import VAT charges be collected at the time of importation¹. The Committee on Economic and Monetary Affairs cannot urge the Commission strongly enough to draft a specific proposal for the abolition of import VAT charges as implementation of provisions to this effect would relieve the business community and, in the longer term, the customs authorities too of a heavy administrative burden.

4.5.2 The Committee on Economic and Monetary Affairs is also of the opinion that the introduction of a uniform basis of VAT assessment should in general increase the possibility of basing control of the movement of goods across the Community's internal frontiers and the calculation and collection of duties on companies' accounts.

A temporary solution would be to concentrate the registration of movements of goods either in the exporting or importing country; the authorities in the importing and exporting countries could then exchange the necessary information.

4.5.3 Consideration could be given here to changing the rules concerning VAT so that the exporting country levies duties on goods exported across Community frontiers, which can then be deducted by the importer as a tax already paid on his account with the importing country's tax-collection authority. Except in cases where there are extremely high selective purchase taxes² this system will have an in-built control mechanism, since the imported would have to pay VAT in both the exporting and the importing country if he failed to keep his records in order for the importing country's authorities. The consequent bias in Member States' VAT revenue could be corrected by adjustments between the national taxation authorities.

4.5.4 The Committee on Economic and Monetary Affairs points out that it would be unwise not to simplify the procedures that are solely necessary because of existing differences in Member States' VAT rates. Experience in the USA shows that there can even be quite different VAT rates³ in individual states without it being necessary to introduce customs formalities or the like when goods are traded between states.

¹ Sixth Council Directive on the harmonization of turnover taxes, Article 24.

² For instance, the Danish duty on spirits and tobacco and motor vehicle registration tax.

³ In the USA there is a difference of up to 8 percentage points in VAT rates. In the Community the standard rates of VAT vary from between 8% to 20%. Some goods are subject to VAT of up to 40%.

The transition to free circulation

4.6 If goods are to move freely within the common external customs frontier, intra-Community trade in goods imported from a third country to one of the Member States of the customs union (with duty paid under the Common Customs Tariff) must obviously be possible without restriction.

The Commission's proposal for a directive on the transition to the free circulation of goods, submitted in December 1973, has, however, not yet been adopted by the Council, and the Commission has still not put forward proposals for the administration of tariff quotas¹.

Customs tariff and customs code

4.7.1 In its communication, the Commission states that in the light of budgetary implications it has not yet taken a decision on whether an integrated common tariff should be drawn up^{2,3}, but a decision to do so has been taken since the communication was published. The Committee on Economic and Monetary Affairs can only welcome this decision and hopes that the integrated common tariff will be drawn up in such a way that the day-to-day administration can to a large extent be computerized.

4.7.2 The Committee on Economic and Monetary Affairs also approves the Commission's efforts to draw up a Common Customs Code.

The Commission feels that it will be necessary to envisage the planning and drafting of a Community Customs Code 'as soon as the essential points of the 1971 and 1975 programmes have been implemented'⁴. Others, however, feel that the work can begin already. On 1 June 1977, for instance, the West German Chamber of Industry and Commerce published a proposal for the drafting of a customs code.

¹ 'National' tariff quotas (with no Community reserve) should obviously be replaced by genuine Community tariff quotas so that importers in the different Member States receive equal treatment. The importer should be able to know in advance whether or not customs duty will be levied on the goods imported.

² See communication, Annex IV, paragraph A 2

³ The integrated customs tariff indicates not only the rate of duty applicable under the Common Customs Tariff but also any agreements with third countries (preferential agreements), market organizations and statistical requirements. The need for a comprehensive reference work of this kind is self-evident given that the bulk of Community imports now come from countries with which the Community has concluded preferential agreements; imports from these countries are not subject to the normal rates of duty applicable under the Common Customs Tariff.

⁴ See communication p.20

The Commission has explained its attitude to the rapporteur by saying that to draft an integrated customs law at the present time would commit such a large amount of resources both in the appropriate Commission departments and in the Council's working party that it would not then be possible to ensure implementation of the considerable number of **proposals** concerning simplifications in certain limited areas which the Commission has already drawn up or is in the process of drawing up.

The Committee on Economic and Monetary Affairs agrees with the Commission that it is important to ensure that the specific proposals (for example, the proposal on the transition of goods to free circulation) are implemented as soon as possible. At the same time, the committee does not see why it should not be possible for the Commission to start work simultaneously on an internal basis on drawing up a common customs law.

Rules of origin, preferential agreements, etc.

4.8.1 The Community pursues an active trade policy. This has for example resulted in the Community concluding a total of 24 various preferential agreements, i.e. agreements under which imports from the countries concerned to the Community are subject to a lower rate of duty than that laid down in the common customs tariff or are completely exempt from duty.

These agreements come into the following categories:

- free trade agreements (fully or partially reciprocal)¹;
- agreements geared to eventual membership of the customs union²;
- general customs preferences for developing countries.

The bulk of the Community's imports are governed by such agreements.

4.8.2 Preferential status for all or for certain goods originating in the countries concerned means that the goods in question must be accompanied by a certificate in order to be able to cross the Community's external frontiers on more favourable terms. The purpose of this arrangement is to ensure that goods from third countries do not evade the rates of duty specified in the Common Customs Tariff by passing through one of the countries with which the Community has concluded a preferential agreement.

¹ Concluded with: (a) EFTA countries (Finland, Iceland, Norway, Portugal, Sweden, Switzerland and Austria);
(b) Mediterranean countries (Malta, Cyprus, Spain, Israel, Morocco, Tunisia, Algeria, Lebanon, Egypt, Jordan and Syria);
(c) The ACP countries

² Concluded with Greece and Turkey

The majority of the free trade agreements entered into by the Community also contain provisions specifying that quantitative restrictions may not be applied to goods originating in the countries in question. Goods which are zero-rated under the Common Customs Tariff may therefore also require certificates of origin.

4.8.3 The administrative difficulties associated with preferential agreements do not only relate to the technical problem of defining whether a particular article originated in the country in question or not, but also to the fact that the provisions of the various preferential agreements vary as regards the types of goods to which these agreements apply, the amount of the reduction in the rate of duty, the extent of any quantitative restrictions and the definition of the term 'origin'. As a result, a particularly complex system has developed which is difficult to understand and administer both for the customs authorities and for importers and exporters.

4.8.4 To qualify for 'origin' in one of the countries with which the Community has concluded a preferential agreement, goods must either have been manufactured entirely or have undergone a substantial measure of processing in the country concerned. As regards processing, the general rule is that the product in question must change from one category in the Common Customs Tariff to another. There are, however, quite a large number of exceptions to this general rule specifying, for example, that certain products must undergo more extensive processing than is required for a change of tariff heading (list A)¹ or that a change of tariff heading is not sufficient (list B)².

Administrative problems also arise in connection with the various options available for 'accumulating' origin³. An exporter in the Community may choose a system which provides nine different possible ways of making up 'cumulative' origin when exporting to EFTA countries, depending on the country concerned.

This system has been criticized as being too complicated by both domestic and foreign manufacturers, EFTA has therefore proposed an extremely simple system under which the only condition for qualifying for origin would be that products from third countries should constitute no more than 50% of the value of the product.

¹ A ceiling is laid down specifying how great a part of the value of any given product may be made up of products imported from third countries.

² The products in question must undergo specific manufacturing processes.

³ i.e. to use components imported from another country within the free trade area in question and still qualify for 'origin'.

It is precisely in dealings with the EFTA countries that the problems connected with rules of origin are most acute. This is due to the fact that the rules are particularly complicated for processed products (particularly products of the electronics and engineering industries made up of numerous components) and it is precisely these products that predominate in trade with the EFTA countries. Trade under the other preferential agreements is dominated by goods that have undergone a less extensive processing.

4.8.5 Both the system specifying a change of tariff heading and the system specifying a given percentage have advantages and drawbacks. At first glance the system proposed by EFTA seems extremely simple but it does involve a clear risk of the Common Customs Tariff being evaded. For example, a Japanese company manufacturing radios could sell virtually completed radios to a subsidiary in the Community at a low internal accounting price (which would thus form the basis for the calculation of customs duty).

4.8.6 The Committee on Economic and Monetary Affairs has drawn attention to the problems associated with rules of origin, etc., because the form these rules take influences the flow of trade within the free trade area and between the free trade area and third countries. Hence these rules influence economic integration and international specialization. Furthermore there are of course the heavy administrative costs associated with this very complicated system, which have to be borne by the customs authorities and the business community.

It is evident that these complicated rules are in part the result of the wish of business circles to ensure that preferential agreements are drawn up in such a way as to provide maximum protection. Particularly in a difficult economic situation any attempt to simplify the system may therefore encounter considerable opposition. The Committee on Economic and Monetary Affairs would however like to stress here that the more complicated the system, the less likely it is that the customs authorities will be able to monitor it effectively¹. Illegal triangular deals are only one of the examples of protection presumably being less effective in practice than in theory.

¹ The problems will be reduced but not fully solved when the integrated customs tariff has been drawn up (see 4.7.1 above)

4.8.7 The Committee on Economic and Monetary Affairs does not intend to consider in detail the question of revising the rules of origin partly because other committees of the European Parliament would have to take part in this work. For the same reasons the committee has omitted other topical problems arising in connection with the Community's free trade agreements such as state aid, dumping, etc. The Committee on Economic and Monetary Affairs would however like to emphasize that there is an acute need at the present time to simplify the rules of origin and that simplification should be based on the following principles:

- a balance must be achieved between a reasonable definition of 'processing' for individual products and over-complicated rules;
- greater opportunities for manufacturers to choose between a change of CCT category or the proportion of imported goods;
- generally speaking, the economic effect of the reform on manufacturers must be neutral;
- simplification of the rules could incorporate more stringent requirements: this should not necessarily entail greater protection for Community manufacturers;
- the work on simplifying documents and harmonizing the provisions for the various preferential agreements must be completed;
- the decision-making process for technical changes to preferential agreements must be simplified;
- verification of origin must be made easier either by introducing invoice declarations or by issuing certificates that have been stamped in advance.

4.8.8 The requirement that certificates of origin should also be used in internal trade gives rise furthermore to many unnecessary difficulties.

The rapporteur will confine himself to citing two specific examples:

- (a) a Belgian forwarding company (name supplied) has supplied the following information:
- since 14 September 1977 certificates of origin have been required to be produced in respect of some products on import into France. It so happens that some of our customers have consignments destined for France, i.e. various goods subject to various rates of duty and intended for various destinations in France. The French customs administration now requires that a certificate of origin be submitted for each product and for each destination instead of one overall certificate per consignment giving details of all the goods and their destinations: the result is that many of our exporting customers can spend days on end visiting chambers of commerce to obtain all the certificates necessary to verify the consignment.

- (b) the Italian Federation of Independent Shipowners¹ has drawn the rapporteur's attention to the problems arising in connection with the purchase by Italian shipowners of vessels in other Member States, this being subject to restrictions according to the information received: authorization is not given to build vessels abroad, authorization is not given to purchase second-hand vessels less than two years old and authorization is not normally given to purchase vessels more than 20 years old.

4.8.9 Regarding the problem raised under (a) it should be emphasized that the Member States are not in fact entitled to ask for certificates of origin in respect of internal trade. The Commission has therefore on several occasions been able to secure abolition of this requirement by establishing direct contact with the national authorities. The Commission's capacity for action in this field depends however on its being notified of such requirements and trade organizations and similar bodies ought therefore to call the Commission's attention to cases where certificates of origin are still required in respect of internal trade.

As regards the limitations on the rights of Italian shipowners to purchase vessels in other Member States as referred to above under (b), this is not in actual fact a problem concerning certificates of origin but a question whether rules of this nature can be interpreted as being in breach of the Treaty. The rapporteur has contacted the Commission on this matter and will return to it later.

Trade statistics

4.9.1 The rapporteur has been asked whether it is at all necessary to keep statistics of the internal movement of goods since collection of the necessary information helps to complicate the transit documents and is in general an administrative burden on firms.

The rapporteur does not think that it is possible at the stage now reached in the customs union to abolish internal trade statistics since in several respects it is still important to ascertain what effect different national measures have on intra-Community trade.

On the other hand, the collection of basic statistical information should not preclude the abolition of otherwise unnecessary forms or controls or complicate transit procedures out of all proportion. Nor does it seem necessary to work out both import and export statistics for internal trade.²

¹ Confederazione Italiana degli Armatori Liberi

² cf. the views of the International trade facilitation committees in the EEC (COMPRO).

4.9.2 The Committee on Economic and Monetary Affairs is not in a position to take a final stand on the need for statistical information or on how best to organize the collection of basic information. The Commission is asked to investigate the matter, and whether the basic information can be extracted from the reports sent by the customs office of departure or by firms direct to the statistical offices.

Some of the industries affected

4.10.1 The point was made in the introduction that economic integration has been hampered by the numerous technical and administrative provisions and the fact that the various objectives of the EEC Treaty have not been attained.

The rapporteur had many different examples to consider when drawing up his report but will confine himself here to mentioning just a few.

4.10.2 The building industry and trade in building materials has derived only limited benefits from the establishment of the common market. This is due not only to Member States' reluctance in connection with public supply contracts to place orders with manufacturers in other Member States, but especially to national variations on building regulations and requirements concerning the properties and form of the materials which vary from one country to another¹. Construction firms wishing to export to other Member States often have to go through a laborious authorization procedure², which normally lasts several years and which - often because of language difficulties and lack of knowledge of the procedures - is discouraging from the outset and prevents many manufacturers from trying to gain a footing in the other Member States.

The Committee on Economic and Monetary Affairs is aware that the Commission is currently drawing up a proposal for a directive on the abolition of technical barriers to trade in building materials. It urges the Commission to submit this proposal to the Council as soon as possible. It is important to stipulate that Member States should recognize the technical tests carried out by authorized test centres in the other Member States. The present approval procedure - in some cases national manufacturers are instrumental in deciding whether a foreign manufacturer or product should be approved³ - is a serious hindrance to free trade in goods.

¹ A Danish report on the building regulations in West Germany alone takes up 600 pages.

² In some cases first for the manufacturer and then for the product.

³ In such extreme cases the organizations concerned should refer the matter to the Commission or the European Parliament.

4.10.3 An inadequate common transport policy has led to a complicated system of permits for the transport of goods by road. The European Parliament, the Commission and the Member States are all aware of this but it is worth repeating that the present situation as regards road haulage is quite inadequate. Not only does it lead to a non-rational utilization of capacity and distortion of economic conditions and competition in the industry, it also affects intra-Community trade in general and results in an unnecessary waste of time and reloading of goods.

The rapporteur cannot over-emphasize his support of the Commission in its efforts to liberalize this sector and stresses the need to at least replace bilateral quotas with Community quotas.

Surveillance service

4.10.4 A proposal was made at the European Parliament sitting on 16.6.1977 to set up a 'Committee of Enquiry' to investigate the practical difficulties connected with the transport of goods and persons across the Communities' internal frontiers. The Committee on Economic and Monetary Affairs discussed the proposal at its meeting of 23 June 1977. The discussion was not concluded but the provisional conclusion was that there was a need for a control body that would ensure that Community provisions on trans-frontier traffic were complied with, that national provisions and administrative structures should not create unnecessary problems at the Community's internal frontiers and that it was not up to the European Parliament to set up such a body.

The Committee on Economic and Monetary Affairs is of the opinion that this control body should be set up by the Commission and should consist of high-ranking officials from the Commission and possibly also from the Member States. It should also function as a sort of 'complaints office' to which organizations and private individuals in the Member States can turn if they feel that, on any specific occasion, the principle of freedom of movement has not been properly applied to them. The committee is of course aware that every such complaint is already handled correctly by the Commission. The setting up of a 'complaints office' will however make the public aware of the fact that it can complain and therefore help to narrow the gap between the Community and the man in the street. It will also help to heighten the national customs authorities' awareness of the fact that the Community is seeing to it that free movement is becoming a reality.

5. Conclusions

5.1. The committee has found the preparation of this report both discouraging and encouraging.

Discouraging because it has gained the clear impression that only after a long and dogged struggle will the national authorities be prepared to surrender even the slightest of powers to the Community and that in some cases, in collaboration with business interests, they have been very inventive in their efforts to prevent free movement. They could have made more constructive use of their resourcefulness by trying to achieve customs union both externally and internally. The technical and administrative barriers to trade have proved to be an excellent means of promoting an incipient form of neoprotectionism - even within the Community.

Encouraging because the committee obtained a particularly positive and constructive response to the rapporteur's appeal to a wide range of organizations in the Member States (transport, trade, industry, automobile clubs etc.,). The replies received show that the Commission's attempts to make the customs union function simply but effectively both internally and externally has support in all the Member States of the Community and that the Commission may perhaps obtain more inspiration from contacts with some trade organizations than by cooperating with national customs authorities.

Encouraging too because it received confirmation that the objectives set by the Commission in its 1971 General Programme and its 1975 Simplification Programme were legitimate and realistic; because the Commission's specific proposals now being discussed by the Council cover a real and acute need; and because the Commission can nevertheless improve the functioning of the customs union through its contacts with the national authorities without putting forward formal proposals.

Encouraging too because it has been confirmed that there are many specific problems in this area that the Commission and the European Parliament can solve together.

5.2 The problem has not yet been solved, however. The Committee on Economic and Monetary Affairs will in the future do what it can - by initiating action in the European Parliament or through direct contact with the Commission - to ensure that the customs union and the common market become a non-bureaucratic reality to the man in the street.

The Committee on Economic and Monetary Affairs would therefore draw the attention of trade organizations and others to the fact that if they have complaints about the way in which the customs unions and common market function or if they have suggestions for simplifying or improving their operation, they can refer the matter in question directly to the Commission or the European Parliament.

5.3 The committee has not found it possible on this occasion to cover all aspects of 'the customs union and the common market'. It will therefore devote separate reports to other aspects such as travel, temporary residence and/or exercise of activities in another Member State, restrictions on capital movements¹, etc.

¹ According to information in the rapporteur's possession, there are in fact cases where Belgian shopkeepers have purchased goods personally in Paris and been heavily fined by the French customs because the goods were paid for in cash by means of Eurocheques.

Summary of the Commission's February 1977 progress report on the General Programme for the approximation of customs legislation of 28.4.1971
(SEC(71) 682 final)

Of the 22 proposals made in chapters I and II of the programme:

- 8 have been implemented,
- 6 have not yet been adopted by the Council, and
- 8 have not yet been adopted by the Commission.

The 8 proposals implemented concern:

- outward processing
- returned goods
- customs warehouses and free zones
- inward processing
- customs valuation
- Community transit
- explanatory notes to the CCT in respect of certain petroleum products
- Consultative Committee of Trade Associations

The 6 proposals adopted by the Commission but not yet adopted by the Council concern:

- processing prior to customs clearance: submitted in December 1972; Italian refusal to let it cover tobacco;
- customs debt: submitted in April 1976;
- repayment or remission of duties: submitted end 1975; not yet examined by the Council's Economic Questions Group;
- definition of the origin of petroleum products: submitted in July 1974;
- combating fraud: submitted in May 1973; not yet discussed in detail by the relevant Council working group;
- free movement of goods: submitted in December 1973.

The 8 proposals not yet worked out in final form by the Commission concern:

- temporary admission: in 1977;
- retroactive recovery of customs duties: being examined by the Customs Legislation Committee;
- duty free entry: proposals on general arrangements being studied by the Customs Legislation Committee;
- customs arrangements for the continental shelf (energy policy);
- the customs value of petroleum products;
- participation by the Community as an entity in organizations dealing with technical customs matters;
- settlement of disputes: in 1978;
- procedure for administering tariff quotas;

It should also be noted that:

- as regards the customs clearance procedure, the Commission has drawn up proposals on the free movement of goods, whereas no attempt has been made to harmonize the powers of customs offices or their opening and closing times (see point II h of the General Programme);
- the Commission has not announced the result of the study of the powers and duties of customs officials or the structure of the customs authorities mentioned in point 42 of the General Programme.

Summary of the Commission's progress report of 1.4.1977 on the Simplification Programme of 25.2.1975 (COM(75) 67 final)

A. Tariff

- A.1 Some simplification of the nomenclature for agricultural products. By 1.1.1978 some simplification in the chemicals sector.
- A.2 Single Community tariff; delayed, but draft prepared for certain chapters.
- A.3 Explanatory notes available in English for chapters 1-23 and the remainder will be available before the end of the year; because of financial difficulties the Danish translation will not be available until 1978.

B. Agriculture

Apart from some simplification of the CCT nomenclature (see A.1. above) the only progress seems to have been the adoption of a Council resolution in November 1976.

C. Computerization

The Council has just adopted the proposal for a detailed requirement study submitted by the Commission in March 1975.

D. Customs valuation

- D.1 Advertising costs; still under discussion in the Customs Valuation Committee;
- D.2 Apples and pears; in June 1975 the Commission adopted a resolution on 'average values';
- D.3 Standardized documents; in May 1975 the Commission adopted a resolution on documents and standardized control requirements in respect of customs valuation.

E. Origin

- E.1 Harmonization of the rules in the different preferential arrangements; from the comments it seems that the Commission is satisfied with things as they stand, although there are still a few exceptions;
- E.2 The EFTA agreements; particularly detailed rules have been simplified with effect from December 1976, but more general simplification measures are still being studied.

F. Community transit

- F.1 Abolition of transit documentation for goods in free circulation; the Community Transit Committee finds this impossible;
- F.2 Automatic exemption from the guarantee system for goods in free circulation which are subject only to VAT and review of the application of Article 41 of Regulation (EEC) No. 542/69; the

regulation submitted by the Commission in December 1975 has not been adopted by the Council 'because of the lack of provisions for recovering VAT and excise duties at Community level';

- F.3 Abolition of transit advice notes; the Commission has not yet drawn up proposals (see comment under paragraph F.2);
- F.4 Community rules on sealing; established by administrative action;
- F.5 Simplification of transit documentation; in December 1976 the Commission submitted proposals on the introduction of a common export document¹, no proposal has been made for reducing the data requirements for intra-Community trade; import documents are still not standardized;
- F.6 Basing customs controls on companies' accounts; the Commission does not think that this objective is a suitable subject for regulations since the attainment of the objective implies a far-going adjustment of administrative structures;
- G. Inward and outward processing and temporary admission; the Commission does not think there is any need to change the rules - as desired by some Member States - on the reporting procedure used by Member States when these arrangements are used;
- H. Codification of Community legislation; the numerous pragmatically implemented individual decisions should be improved and codified with a view to establishing a consolidated system; this has happened only in the case of the rules on Community transit.

¹ The Council adopted this proposal in September 1977

FRONTIER FORMALITIES AND CHECKSExternal frontierInternal frontierI. GOODSEntry into the customs territory

Customs treatment of goods (Council Directive of 30 July 1968) other than goods transported by TIR or by rail

Transit

For goods subject to the Community transit procedure:

- production of transit advice note
- production of transit documents and documents identifying the vehicle
- examination of seals (with the exception of the simplified rail transit procedure)

Customs clearance¹

1. Customs (and agricultural) formalities for the free circulation of goods and collection of taxes and duties

2. Other formalities:

(a) Public security and morality formalities:

- war equipment - weapons and ammunition
- literature

(b) Public health formalities:

- provisions concerning drugs
- pharmaceutical and medicinal products
- health and plant health controls

(c) Consumer protection formalities:

- quality control
- measuring instruments
- protection of industrial and artistic property

(d) Formalities connected with the protection of national treasures:

- control of works of art and collector's pieces

(e) Application of special provisions for trade in certain goods under international agreements:

- control of the final destination of certain 'strategic' products coming from or going to certain countries

(f) Statistical formalities (incorporated in the customs document)

Customs clearance¹

1. Formalities for collecting taxes and duties; agricultural formalities

2. Other formalities:

idem

idem

idem

idem

idem

idem

¹ Similar formalities apply to exports

II. PERSONS

- (a) Public security formalities:
 - control of passports and identity papers
 - interrogation of persons sought for various reasons (prevention of international crime, immorality, arms smuggling, etc.) idem
- (b) Public health formalities:
 - drug control
 - control of epidemics (control of vaccination cards of persons coming from certain areas) idem
- (c) Possible currency protection formalities:
 - exchange control
 - currency carried by the traveller
 - export of gold and currency idem

The Commission's covering letter dated 3 August 1977

With reference to your letter of 13 July, I regret that I was unable to send you the information requested earlier because it was difficult to obtain the translations required during the holiday period.

I attach a list of the most important tasks to be carried out by the various authorities at frontier crossing points. As you will see, there is in fact very little difference between the formalities carried out at the Community's internal and external frontiers. At internal frontiers the situation is obviously more flexible since control is generally less systematic than at external frontiers.

I can assure you that complaints received by the Commission from trade organizations and private persons are thoroughly investigated, most usually with the aid of the national authorities. If the Commission finds that a Member State has failed to fulfil its obligations under Community law, it takes steps to rectify the situation.

ANNEX IV

Removal of VAT frontiers for goods in free circulation within the Benelux Union¹

An efficient transit procedure largely free of formalities greatly facilitates the free movement of goods within the Benelux Union. It applies principally to goods which are not in free circulation in any Benelux country². When, on the other hand, goods which are in free circulation in a Benelux country are to be forwarded to another Benelux country, application of the transit procedure does not in all cases necessarily meet the real requirements of the transport industry.

The transit procedure is nevertheless important to trade between Luxembourg and the Netherlands which has to pass through Belgium since it allows Belgian import and export formalities to be dispensed with. It does not however abolish customs formalities for goods crossing just one of the Union's internal frontiers (e.g. from the Netherlands to Belgium or from Belgium to Luxembourg); these formalities are merely shifted from the geographical border to a more central point in the neighbouring country. The transport industry does not usually consider this sufficient to make the additional formalities which a transit procedure involves worthwhile. The transit procedure is, however, an attractive proposition when it takes on a radically simplified form such as the procedure laid down for goods carried by rail in Regulation (EEC) No. 304/71 of the Commission of 12.2.1971³ which is also applied within the Benelux Union. However, even in this form, the Benelux transit procedure is rivalled by the greatly simplified import facilities for goods subject only to Value Added Tax. This scheme differs fundamentally from the transit procedure inasmuch as it aims to remove customs frontiers rather than merely to shift formalities from frontiers to other points.

¹ Extract from the article by Dr Vaulont (Brussels) entitled 'Abbau der Zoll- und Steuergrenzen im Warenverkehr Innerhalb der Benelux-Union' in the periodical 'Recht der Internationalen Wirtschaft' (Heidelberg, November 1977)

² N.B. These are goods on which customs and/or excise duties are neither levied nor refunded.

³ OJ No. L 35, 12.2.1971, p. 31 - now replaced by a revised version: Regulation (EEC) No. 223/77 of the Commission of 22.12.1976, Article 36 et seq: OJ No. L 38, 9.2.1977, p. 20

1. Disregarding importation as a chargeable event for VAT purposes

One of the characteristics of the VAT system is that amounts not levied at the time a chargeable event occurs may under certain circumstances be collected by the taxation authorities at the time of the next chargeable event - e.g. the resale of imported goods. This is known as overtaking arrears. The only difference in this type of delayed levy is a certain loss of interest to the exchequer. This is however in line with the provisions of Community law¹. Thus the procedure for imposing VAT offers a remarkable opportunity under certain circumstances for disregarding importation as a chargeable event and hence taking an important step towards applying internal state provisions to the transport of goods.

This has been the foundation for a series of political decisions taken and implemented within the framework of the Benelux institutions for the removal of formalities in goods transport between the partner states. The first decisions were taken at the conference of Benelux governments held in The Hague on 28/29 April 1969. These provide that payments and formalities at frontiers regarding VAT on sales to traders should be abolished as from 1 July 1971 with the exception of special rules for farmers and small undertakings. This date was brought forward to 1 January 1971 by a decision of 6 July 1970, taken by the Ministerial Committee at the level of Heads of Government.

These decisions have to a large extent been transformed into legal acts. For example, in Belgium Article 6(2) of Royal Decree No. 7 of 18.3.1970² provides that in the case of importation of goods in free circulation in a partner state across the internal frontiers to a taxable person making regular returns, the latter must include the tax in the amount shown in the returns for the period in which these imports occur. This does not of course mean that this tax has to be paid in this period; the abovementioned principle of immediate deduction means that importation no longer constitutes a chargeable event inasmuch as the first payment to the exchequer is made when the goods are first sold on the domestic market.

¹ This may be deduced from the provisions of the Second Council Directive of 11 April 1967 on the harmonization of legislation of Member States concerning turnover taxes - 67/228/EEC - OJ no. 71, 14.4.1967, p. 1303 - Article 11(3). The current provisions may be found under Article 18(2) of the Sixth Council Directive of 17 May 1977 - OJ No. L 145, 13.6.1977, p. 1

² Moniteur belge, 18.3.1977, p. 2624

This arrangement does not apply to final consumers, farmers and other small undertakings. Imports arranged by them are still subject to an import turnover tax. The decisions of the Ministerial Committee at the level of Heads of Government of 6.7.1970 in any case require each Benelux Government to examine whether the levying of taxes with respect to the said categories of importers could be transferred to the interior of the given country. So far only Luxembourg has taken steps in this direction, undoubtedly because the size of the country makes such a move easier.

2. Remaining formalities applicable to trade in goods subject to Value Added Tax

2.1 Present arrangements

The scope of the decision taken by the Conference of Benelux Governments in The Hague on 28/29 April 1969 is not limited to measures amounting to the removal of importation from the list of chargeable events. Formalities at the internal frontiers are also to be reduced. The decision states that for the time being a carbon copy of the invoice may still be required with a view to checks in the interior of the country.

In Belgium the implementing provisions are laid down in Article 2(2) of the Royal Decree of 18 March 1970. This legislation also requires that an oral declaration be made when the carbon copy of the invoice is handed over. Too much importance should not be attached to this declaration since it can be replaced by the simple action of handing over the document. The purpose of the duplicate invoice still for the time being required under the decision is to ensure that imported goods are reported to the tax offices responsible. For this purpose the duplicate invoice is sent on to a clearing centre which breaks down and processes the data obtained.¹ At regular intervals print-outs arranged according to taxable persons are forwarded to the tax offices for checking.

More important than the statement of the formalities still 'for the time being' required is the implicit statement contained in the decision of 28/29 April 1969 of the formalities no longer required. These include the certificate establishing the Community nature of goods (Document T2L). The Benelux system also puts into practice the principle of negative proof for goods crossing an internal frontier which is only theoretically enshrined in the Community transit procedure².

¹ In Belgium the Centre du Traitement de l'Information of the customs administration.

² See Articles 1(4) and 47 of Council Regulation (EEC) No. 222/77 on Community transit.

There is also the declaration required by the provisions of the Community transit procedure¹. According to these provisions for the importation across an internal frontier of goods in free circulation in one Member State and which is destined for a taxable person having the right to deduct tax, the only formality to be completed by the importer is the submission of the carbon copy of the invoice.

It should also be mentioned that the decisions of the Conference of Benelux Governments took another step in offering certain companies exemption from the obligation to supply a duplicate invoice. The principle behind this was that the opportunity for checking the accounts and supporting documents makes the submission of a duplicate invoice at the frontier unnecessary. For Belgium authorization for such exemption is incorporated in the Royal Decree (Article 2(2)). It has not however been used to date.

2.2 Arrangements in course of preparation

Consideration was given to the further development of the existing monitoring system some years ago when it was recognized that export and import opportunities concerning one and the same movement of goods form a single process and that it was difficult to seek improvements on the import side without taking export checks into consideration. The purpose of checks on exports is to make sure that goods are in fact exported and that the exporters is entitled to VAT exemption.

The procedure used in the Benelux countries has not as yet been standardized. The Netherlands does not conduct a frontier check on exports to Belgium, the tax authorities relying on exporters' supporting documents, which are submitted periodically for inspection.

In contrast, Belgium has not abolished its frontier checks on goods crossing the Benelux internal frontier. These checks are carried out in the same way as those on imported goods, namely by collecting at the frontier post a duplicate of the invoice which the exporter is required to provide. Thus no more than two carbon copies of the invoice are needed to satisfy the customs formalities when moving goods across the internal frontier, one for the office of entry and one, if necessary, for the office of departure.

Since with such procedures the same information has to be given in the importing state and the exporting state - and a declaration for statistical purposes on a standard form is required in addition to the information needed for tax purposes - the obvious next step is to

¹ For an explanation of this panoply of formalities in intra-Community trade see Christiansen, ZfZ 1977, p. 34

collect this information for both countries at only one point and to check merely the movement of goods. This change was contemplated in the decisions of the third Benelux Government Conference held in Brussels on 20/21 October 1975, but has not yet been put into practice.

These decisions provide for a total abolition of documentation on entry. All the information connected with the movement of goods which the relevant authorities (VAT administration, statistical offices and currency control departments) would be given in a single document to be filled out by the exporter for the office of departure. This information would be processed by a Benelux data centre, a joint authority within the meaning of Article 40 of the Union Treaty, and placed at the disposal of the authorities concerned.

It would undoubtedly be going too far to set a timetable for the implementation of these plans. Whilst the decisions of the Benelux Government Conference may in some cases be implemented behind schedule, the surprising thing from the Community point of view is the fact that, with some small exceptions, they are being implemented at all. As regards the aim of the 1975 decisions, it may be said that the problems still to be solved have already been sufficiently reduced. The decision contains a clause under which this system based on the single document must be such as to satisfy the requirements of the tax authorities.

By all accounts the main point in this connection is to ensure that the single document is submitted by the exporter as required. Normally it is to his advantage to produce proof of export in order to obtain exemption from VAT. This is true at least in the case of exports from a country with a high rate of VAT to another with a low one. It is not necessarily the case if the goods move in the opposite direction. The exporter might consider declaring to the administration that the goods were remaining in the original country, although in fact they were exported to a neighbouring country with a higher rate of tax without the 'single document' being submitted; it would then be possible for the goods to reach the final consumer without being taxed. Discussions on ways and means of preventing this type of fictional domestic movement have not yet been concluded¹.

¹ The ways and means at present under discussion include a checking system used in Belgium whereby each supplier has to submit an annual statement detailing his entire turnover divided according to customers. These listings enable fictional domestic deliveries to be traced, but constitute an administrative burden for companies that do not have data-processing facilities.

ANNEX V

Report on the free movement of goods, dated 15 June 1977, from the Commission to the European Parliament's Committee on Economic and Monetary Affairs

At the meeting of the European Parliament's Committee on Economic and Monetary Affairs on 23 and 24 May 1977, the Commission of the European Communities promised to provide Parliament at an early date with information on certain specific problems connected with the free movement of goods within the Community.

It does so in this interim report on various aspects of the general problem of barriers to the free movement of goods in intra-Community trade which, although far from exhaustive, is nevertheless undoubtedly of topical interest.

The report covers two more specific problems:

- the hindrance caused by the existence of bilateral quotas for transport permits;
- the result of contacts with the governments concerned to clarify various problems connected with the passage of goods at frontier crossings.

I. The bilateral quota system for transport permits

The Commission has always been of the opinion that the bilateral quota system for transport permits based on the principle of reciprocity is a very inadequate method of ensuring a satisfactory balance between the supply of and demand for transport in the Community, since the rigidity of the system prevents a continuous and selective adjustment of transport capacity to fluctuations in demand. This negative aspect is aggravated by the lack of valid estimates of demand for various forms of transport and of market developments. As a result there is a risk of barriers to trade (because of too few permits) the effects of which can be equivalent to the quantitative restrictions prohibited under Article 30 of the Treaty. Moreover, because of their disparate nature, bilateral quotas can distort trade patterns and thus trade between Member States.

In addition, not only are these bilateral quotas at variance with any integration process, they can also lead to discrimination based on nationality.

The Commission is doing everything in its power to replace bilateral agreements with a Community system.

In 1972 for instance, it submitted a proposal for converting bilateral quotas into a licensing system that could be used throughout the Community. The Council has never acted on this proposal. It has, however, on a proposal from the Commission, introduced a Community quota for a small proportion of road haulage between Member States and has also liberalized some types of road transport. These measures have only partly resolved the problem of adapting capacity to trade requirements.

The Commission is continuing its efforts to provide the Community with an effective transport system that will meet the requirements of integration. It plans to submit proposals to facilitate the attainment of these objectives soon.

II. Result of contacts with the governments concerned on certain problems connected with the passage of goods at frontier crossings

The visit to some frontier-crossing points on the Austro-Italian border and the talks in Rome with Italian government experts mentioned in Mr Burke's answer to the oral question of 19 April 1977 on the free movement of goods (Doc. 27/77) were organized following discussions at the seventh meeting of the Joint Committee set up under the EEC/Austria agreement on 11 June 1976 on the problems of trans-frontier traffic between Austria and Italy. The question was brought up by the Austrian delegation as a result of complaints by Austrian road hauliers.

1. Visit to frontier-crossing points

From 4 to 6 October 1976, a representative from the Commission's Directorate-General for Transport, accompanied by an official from the Italian Ministry of Transport, visited the customs offices where, according to the Austrian authorities' information, road vehicles were often held up for long periods because of the various administrative formalities to be completed when crossing the frontier. Visits were made to the Brenner Pass, Vipiteno, Coccau and San Candido.

The following is a summary of the most important findings of the visits:

- 1.1 Some of the difficulties previously encountered at the crossing point were due to exceptional circumstances such as
 - strikes by the administrative staff,
 - natural disasters, such as the Friuli earthquake, which made some sections of the railway impassable, and led to a considerable increase in road transport, and climatological conditions - most of the frontier crossing points are at an altitude where snow (avalanches) and landslides may block the roads.

- 1.2 Road traffic to and from Italy has increased considerably in recent years. The number of lorries crossing the Brenner Pass for instance increased on average by 31% a year in the period 1970-1973; because of the energy crisis, and the economic recession, the percentage was 14 in 1974. At present, more than 1,500 lorries cross the Brenner Pass alone each day.
- 1.3 Crossing of the Brenner Pass under the Community transit procedure stopped being a problem once the Italian customs administration agreed that customs formalities (control of loads, production of transit advice notes) could be completed at the 'tourist' offices on the Brenner motorway.
- 1.4 The formation of queues of lorries, especially lorries coming from Austria with loads of wood, that arrive at the frontier without customs documents is a particular problem. They have to drive from the frontier to Vipiteno in convoy, accompanied by Italian customs officials. This happens five times a day and further increases delays at the Brenner Pass.
- 1.5 Customs clearance formalities are carried out at the SADOBRE centre in Vipiteno, some 20 kilometres from the frontier. The customs clearance centre has been set up by private initiative and is fitted out with very modern equipment.
- 1.6 As regards the functioning of the customs administration services, attention was drawn to the following points:
- the customs offices are open from 8 a.m. to 2 p.m. and 4 p.m. to 8 p.m.; the break between 2 p.m. and 4 p.m. is a major problem for carriers;
 - the staff has not been increased to cope with the increase in traffic.
- 1.7 The fact that the lorries cannot in general resume their journey once they have been cleared by customs leads to unnecessary delays. It was found that at Vipiteno the customs returned the documents to the hauliers only between 1.30 and 2.00 p.m. and 7.30 and 8.00 p.m.
- 1.8 A relatively large number of lorries (through the Brenner Pass alone about 350 lorries a day), transport milk and meat, which are subject to health controls - and these must be completed before customs formalities can be started. This obviously causes additional delays.

2. Talks with Italian government experts

The above findings were discussed at a meeting in Rome on 18 April 1977 between Commission officials and representatives from the Ministries of Finance, Transport and Health.

The customs administration representatives gave an assurance that the procedure introduced in March 1976 which virtually did away with the need to stop at the frontier would be maintained for lorries travelling under the Community transit system.

The special problem of lorries loaded with wood could be resolved soon, since the Italian administration was willing to seek a bilateral solution with Austria as expressly provided for in Community regulations on Community transit.

In order to reduce the volume of goods that now have to be cleared through customs at Campo Trens, a thorough study has been made of the possibility of encouraging use of the Community transit system and of clearing the goods through customs at an office inside Italy. It has to be admitted, unfortunately, that efforts to alleviate the situation at Italian frontier offices have not so far had much success. Only a few importing firms have opted for this system despite the fact that most of the requests for authorization to deliver the goods to consignees' warehouses without going through the customs office of destination have been approved, which would normally have been a considerable incentive to clear the goods through the home customs office. A large number of the Community transit documents accompanying the goods on their arrival at the Brenner Pass continue to give Campo Trens as their destination.

Customs clearance of milk and meat cannot be transferred to an office in Italy because the veterinary controls can only be carried out at the frontier offices. It should be noted that a ministerial order issued at the beginning of 1976 authorizing the Verona office to clear the products in question has not yet entered into force.

The advisability of not closing the Campo Trens office between 2 and 4 p.m. was also discussed. The Italian customs representatives doubted whether it would be possible to improve the situation in this respect with the staff available.

They did, however, promise to collaborate with the local authorities and to adjust working methods, especially for the return of documents, in order to avoid delays other than those strictly necessary for checking goods and documents.

3. Conclusions

Customs clearance at the Italian frontier presents the Italian administration with considerable problems.

The very fact that customs clearance centres such as Campo Trens were created by local initiative explains the obvious pressure to concentrate all import (and export) activities there. It is also to be feared that efforts to encourage customs clearance inside the country will be thwarted by the attractiveness of the infrastructure of those customs clearance centres. It is also obvious that the middlemen, particularly the customs agents, actively support such concentration.

On the other hand, the impression could not be escaped that the Italian customs administration has to contend with awkward budgetary problems - witness, in the first place, the creation of customs clearance centres such as those at Vipiteno and San Candido and, in the second place, the staffing problem. It is worth noting that, following a new regulation adopted in 1973, the number of hours of overtime worked by customs officials dropped considerably, so that, with the constant increase in the volume of goods to be handled, the staffing problem became even more acute. The budget problem could doubtless be solved by allocating to the customs administration the whole of the 10% of income arising from customs duties and agricultural levies that the Community repays to Member States as collection costs under Article 3 of the Council decision of 21 April 1970 on the replacement of Member States' financial contributions by the Community's own resources.

It should be noted for the record that the Italian rules obliging importers to use customs agents are currently being dealt with by the procedure laid down in Article 169 of the Treaty. Moreover, the rules on the conditions under which veterinary and health controls are to be carried out were referred to the Court of Justice for a preliminary ruling (case No. 35/75, judgment of 15.12.1976).

Customs and veterinary control arrangements etc.

In drawing up the report the rapporteur has made many enquiries concerning the difficulties and delays caused by veterinary and other health controls and the lack of facilities for carrying them out at frontier crossing points. Some examples are given below:

- a. In the Brenner Pass (the frontier between Austria and Italy) the customs offices are open between 8 a.m. and 2 p.m. and 4 p.m. and 8 p.m.; clearance papers are issued to carriers only between 1.30 p.m. and 2 p.m. and 7.30 p.m. and 8 p.m.¹. Customs formalities are only begun once the veterinary control (of approx. 350 lorries per day) has been concluded¹.
- b. Shipments of milk and meat into Italy from or via West Germany are also formally subjected to a veterinary control at the border between West Germany and Austria (also with limited opening times: waiting time up to 12 hours: average charges Dkr 150) even if the load is in transit to Italy in sealed refrigerator vans and even if it is accompanied by the exporting country's veterinary certificates^{2,3}.
- c. Veterinary controls at the Franco-Italian border cause delays of 48 hours and there is no facility for clearance on Italian territory. The check on powdered milk required an analysis of the nitrate content and the results of this are available only after eight days. Since customs clearance can only be given when this analysis has been done and since the results cannot be forwarded to a customs station in the interior of the country, the lorry and its driver have to stand idle.⁴
- d. The transport of liquid foodstuffs to the United Kingdom was halted temporarily in August 1977 when French drivers were asked to show proof of union membership⁴.
- e. Until membership of the European Community, Danish poultry products could be exported to West Germany on submission of a general Danish certificate of origin. Since membership, the goods have had to be inspected by the West German veterinary authorities; this cannot take place at the border but only at a few specific public slaughter-houses and only at certain times.³

¹ Information supplied by the Commission of the European Communities

² Information supplied by 'Foreningen af danske Eksportvognmaend'

³ Information supplied by the 'Dansk Speditørforening'

⁴ Information supplied by the 'Fédération Nationale des Transports Routiers'

- f. A lorry registered in Belgium specially adapted for the transport of live sea trout and fry took on as a return load in Italy a load of sea trout which had been ordered by the French authorities from the firm owning the lorry. The lorry was held at the Franco-Italian border because the firm had not requested permission from the Italian and French authorities before the journey. Most of the trout died during the long delay¹.
- g. We have received a first report from a customs agent concerning unnecessary charges and delays at the Italian border in respect of shipments of wool, wool waste products and all types of furs.

These products, which are deemed to originate in Belgium or in the Community according to whether they are made up in Belgium or another Community country, are accompanied by a health certificate.

Crossing the Italian frontier, these products have to undergo an Italian health control which costs Lit 4,500 and these formalities regularly lead to the loss of a day while waiting for the veterinary inspector to arrive.

In our opinion this is a flagrant violation of, and an attempt to thwart, the free movement of goods which are after all covered by a Belgian health certificate, and at the same time demonstrates the disgracefully arrogant attitude of the Italian veterinary authorities concerned.

If one tried to calculate the forwarding agent's loss, wages and social contributions together with the depreciation of the lorry, the figure would run to thousands of francs³.

- h. On Sundays, West German customs posts do not open before 10 p.m. and close again at midnight².
- i. The Italian Ministry of Finance has recently made an order based on an amendment to 'Dpr No. 960' of 16.12.1977 (see Gazzetta Ufficiale No. 8 of 9.1.1978) restricting customs clearance for goods under Chapter 73 (iron and steel) and section 9 (textiles and textile articles) of the common customs tariff to a small number of customs offices. In future iron and steel may only be cleared at the customs offices in Bari, Brescia, Genoa and Trieste whilst textiles and textile articles may only be cleared at the customs offices at Bergamo, Biella, Prato, Venice, Varese and Civitavecchia.

¹ Information supplied by the 'Fédération Nationale des Transports Routiers'

² Information supplied by the 'Dansk Speditørforening'

³ Information supplied by the 'Chambre de Commerce et d'Industrie', Verviers

While appreciating Italy's present economic and political difficulties, transport companies have made strong protests against these measures. Consolidated consignment agents are particularly affected. These firms forward goods of all kinds on behalf of several customers (sender) to a large number of recipients usually at several delivery points throughout Italy. If a part of these goods cannot be cleared at frontier customs offices, the whole consignment has to be sent to a customs office which is authorized to clear it. This means making a considerable detour on account of the peripheral position of these customs posts. In addition lorries can only travel under bond. Delays in deliveries, additional documents (e.g. special transit certificates for these goods) and not inconsiderable costs owing to detours, delays etc. ensue.

Finally, it should be pointed out that the iron and steel goods covered by chapter 73 are often for the Turin and Milan areas. Clearance however can only take place in Brescia or Genoa where the Italian forwarding agents should have branches.

The Italian measures not only cause intolerable difficulties for the German forwarding and transport trade, and particularly for consolidated consignments between Germany and Italy, but also for the export and import trade of the German iron and textiles industries. Italian importers may well look to other iron, steel and textile markets, particularly overseas. The measures taken by Italy would then virtually amount to economic discrimination against these two sectors of German industry and perhaps even against the Community itself.

All in all the unilateral limitations imposed by Italy on the free movement of goods within the Community, without any prior consultation with the German industries concerned, are incompatible with the letter and spirit of the EEC treaty. They ought therefore to be withdrawn¹.

j. The Luxembourg company 'ARBED' has sent out the following circular:

The Belgian Ministry of Finance has recently amended, for a second time, the conditions applicable to VAT-free temporary imports of materials.

The provisions concern materials of all kinds which are used directly or indirectly to carry out work (apparatus, tools, instruments of every type, handling equipment etc.).

In future exemption will only be granted if a deposit is paid and the following documents are filled out and submitted to the customs office at the point of entry:

¹ Information supplied by the 'Bundesverband Spedition und Lagerei e.V.'

1. Guarantee certificate 133 (white)

The goods have to be described in detail on the guarantee certificate. If a consignment consists of more than two categories of goods, a list of the goods has to be attached, in triplicate, to the guarantee certificate.

Under the heading 'specification of goods' in Form 133, the description of the material must include:

- the owner of the material
- the name and address of our permanent branch in Belgium, i.e. ARBED, Gentbrugge, together with the branch's VAT registration number (405.704.280)
- Certificate A/77

VAT exemption has to be justified in the section 'administrative or legal provisions under which VAT-free temporary importation is authorized, by entering the words 'provisions concerning VAT 1976, para. 274'.

2. Certificate A/77, in triplicate

On this certificate the name, address and VAT registration number of ARBED, Gentbrugge, as our responsible representative must be given (under 3b and 4b).

The material can be re-exported from Belgium on one or more occasions. In such cases, a pink export declaration form 68B has to be presented to the customs. If all the material mentioned on the guarantee certificate is exported on one occasion, the guarantee certificate itself can be used as the covering document. In this case the receipt for the 133 form issued when the material is imported should be retained for presentation to the customs.

If the same goods have been imported into Belgium several times and if the total length of temporary exemption from VAT exceeds one year, tax becomes payable.

The fees charged by the Bernard BRION Agency, Rosenberg, for completing these formalities are at present Bfrs 1,500 per temporary importation (Bfrs 1,000 on entry and Bfrs 500 on exit).

Some specific examples of difficulties in connection with trade in goods as communicated to the rapporteur by certain firms¹

1. In August 1977 one of our workers travelled by air to Aberdeen to visit a customer and give him a packet of O rings that he needed urgently.

When he arrived in Aberdeen he declared the packet of O rings to the customs and handed over the necessary documents. But he was not allowed to take the packet with him. It had to be cleared through a clearing agent which meant that our customer did not receive the O rings until a week later. You will understand that we cannot accept this quite unnecessary delay².

2. We use 25 cu.m. interchangeable containers (we currently have 11) to transport goods.

They are used mainly for the Federal Republic of Germany, Belgium, France and the Grand Duchy of Luxembourg.

For about eight months our drivers have had difficulties with the French customs which demand an identity document for each container.

We have contacted the French customs administration which says there were two possibilities for the free movement of containers:

- (a) production of a certificate for the sealing of each container issued by the Belgian office responsible for implementing the recommendations of the International Organization for Standardization (ISO) which we have contacted and which has said it can do nothing for us,
- (b) or production of a TIR certificate for each container, issued by the Belgian customs authorities. It is impossible for us to make the containers conform to the technical requirements for TIR approval without considerable expense and without increasing the weight of the containers which will in turn reduce the pay load of our vehicles.

We finally obtained customs passes from the Touring Club de Belgique which, although surprised at our request, nevertheless issued them at a price of Bfrs 1,500 per container, i.e., a total of Bfrs 16,500.

¹ See also Annex VI

² Information given by the Dutch firm concerned.

As these documents have to be renewed annually, we have to pay this amount every year although we are not completely convinced of the need for it since the customs authorities in the Federal Republic of Germany, for instance, have never asked for it.

As France and the Federal Republic of Germany share a common policy towards us in the EEC, we would like to have an official opinion on this slight discrepancy.¹

3. One of our member firms has been working for more than a year now with a French firm in the Lyon area which weaves material for direct sale to customers in France. It would consequently have been simple to clear the goods on the spot and then forward them direct to the customers. But the French authorities unfortunately did not think so and the firm has had to:

- (a) ship the raw material to France on a temporary permit;
- (b) return the woven fabric to Belgium;
- (c) return the goods to the French customers who often lived in areas much nearer to Lyon than to the dispatch centre in Belgium.

This procedure has obviously entailed extra expenditure that the firm could otherwise have avoided.

In this particular case it is difficult to accept that the French government can maintain such strict rules when the firm in question is employing local labour.

It is difficult to see the value of setting up a sister company in France to act as an intermediary since it is never possible to determine in advance the duration of the work involved, since the work inevitably stops when the firm's own production capacity can meet market requirements².

4. Correspondence between the Trades Association in the Grand Duchy of Luxembourg and the Luxembourg customs directorate:

- (a) Letter from the Trades Association to the customs directorate:

'We are confronted with the following problem:

Some of our members that transport goods for Luxembourg customers, including Goodyear, to the port of Antwerp or who have to cross the Belgian-Dutch border on their way to the Netherlands, are faced with considerable difficulties at the respective borders as regards the forwarding and registering of documents by the customs authorities.

¹ Information provided by a Belgian firm via 'Chambre de Commerce de Verviers'

² Information provided by the 'Chambre de Commerce et d'Industrie Mouscron-Comines'.

With a view to saving our members some time (departure on Sunday instead of Friday) and to save them from paying taxes to foreign customs, we would be grateful if you would allow the Luxembourg customs to handle the forwarding and registering of the T1 and T2 transit documents in its offices in the Grand Duchy.

We hope you will be able to give this request favourable consideration.'

(b) Reply from the customs directorate to the Trades Association:

'in reply to your letter ref. V.D./Ha of 21 June 1977, in which you request that the customs formalities for goods leaving factories in Luxembourg be eased, I would draw your attention to the following provisions:

Commission Regulation (EEC) 1226/71 of 11 June 1971 provides for simplification of these formalities to be carried out at offices of departure and destination in respect of goods transported under the Community transit procedure.

The circular from the Belgian customs administration dated 5 September 1975 No CD 533.50; DL 1/44.000 lays down the provisions for implementing this EEC regulation in the Belgian-Luxembourg economic union. Paragraph 5 states that carriers, customs clearance agents and forwarding agents are not covered by the regulation. Only manufacturers and tradesmen with a turnover in excess of a certain amount may be granted such authorization.

It therefore follows that the problem you mention, i.e., providing carriers with T1 and T2 documents authorized in advance by the Luxembourg customs authorities, would be at variance with the rules in force in the Belgian-Luxembourg economic union. I would therefore advise you to contact the firms for which the carriers are transporting goods as they are at liberty to apply to the customs authorities for authorization.

As regards the problems confronting these carriers at the Belgian-Dutch border, I would suggest that you inform the customs authorities in those countries of your difficulties.'

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)

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 the statements made on 13 October 1976 by the President-in-Office of the Council and the member of the Commission during the discussion of Oral Questions Nos. O-45 and O-46 (Doc. 317/76);
1. Takes the view that the achievement of free movement of goods is proceeding too slowly;
 2. Calls on the Council and the Commission to work incessantly for the improvement of Community customs legislation;
 3. Makes an urgent appeal to the Member States to approve the measures aimed at simplifying customs legislation proposed by the Commission in its programme and approved by the Council, and to do their utmost to support the efforts of the European authorities towards harmonization;
 4. Bases its appeal on the conviction that, contrary to the objectives of the EEC Treaty, outdated customs regulations place an increased cost burden on the economy and dislocate transport and economic activity;
 5. Regards this situation as a luxury which the Community can ill afford at a time of growing economic difficulties for its Member States, having regard to the need to maintain the competitive position of its industries and especially in view of its efforts to maintain the highest possible living standards for its citizens;
 6. Calls on its President to forward this resolution to the Council and Commission of the European Communities.

