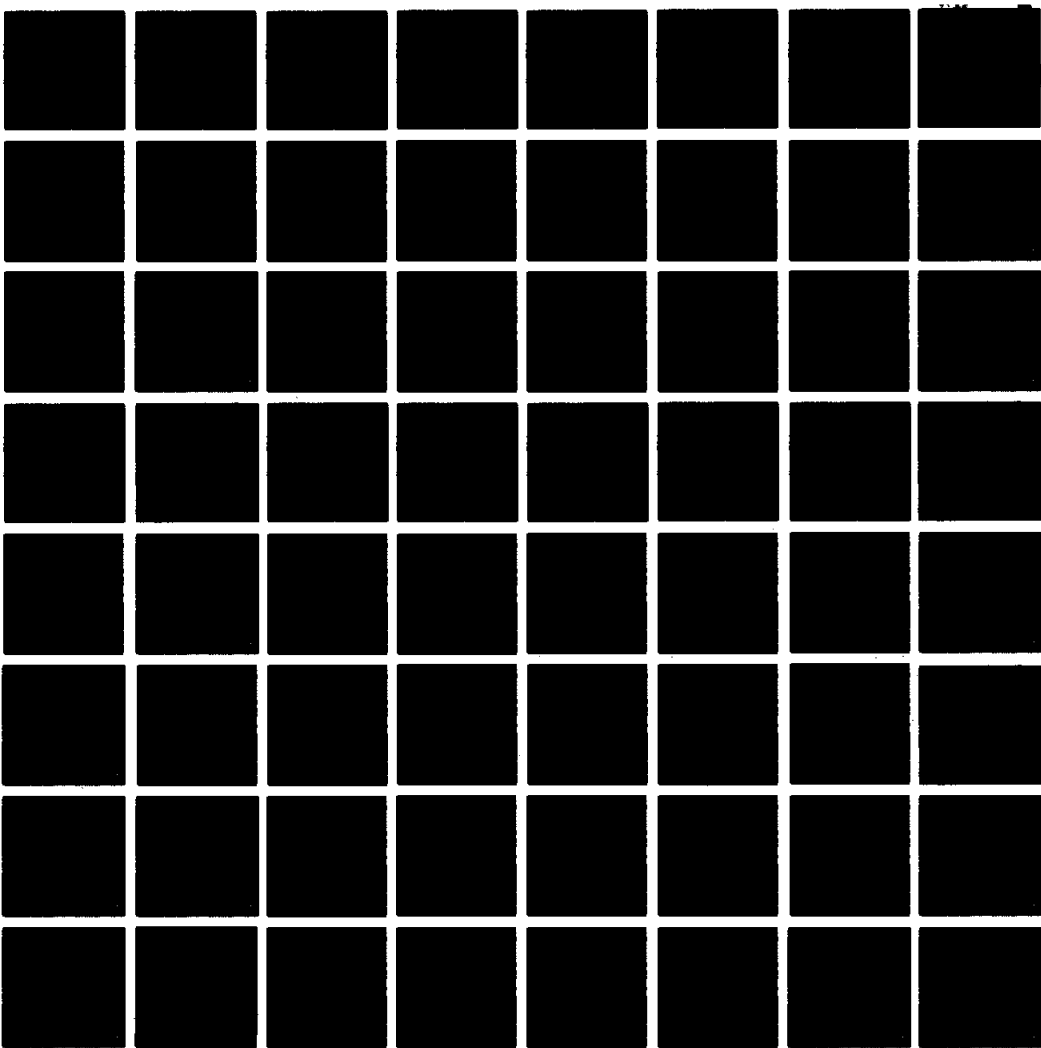


# The customs Union



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# The customs Union

The customs union between the six original and the three new members of the European Community came into effect on 1 July 1977, and the Commission feels this is a suitable occasion for a booklet setting out the main features of this union.

## Introduction

It was not by chance that European militants of the fifties chose to publicize their actions by organizing huge processions to border posts and overturning customs barriers, which they felt to be the most obvious symbols of frontiers that had too long separated—and even created opposition between—neighbours who had so many reasons to unite. The frontiers we know today, with all their economic consequences—customs and various duties—and political ones—passports—have not always existed. They are the result of nationalism. There were no political frontiers in the Middle Ages or those which existed were easy to cross, since there were students from all parts of the Christian world in the major universities of Europe. Oxford, Paris, Bologna, Salamanca. Florentine, Genoese, Flemish, Germanic and English merchants traded in all the big fair towns and in the markets of Bruges, Lyons, Paris, London and Hamburg.

But customs frontiers are more subtle and go back further than mere political frontiers. Under various names, they can be traced back to the very beginnings of recorded history. Troy's levies on corn from north of the Black Sea were, perhaps more than the abduction of the fair Helen, the cause of the Homeric Wars. When trade in the West resumed after the long period of decline following the fall of Rome, the first feudal lords levied charges on merchants who crossed their land or used their roads and bridges. It also became customary to pay entry dues to towns—tolls which completely disappeared only at the beginning of this century. At the time, this was an easy way of taking a share of traders' profits and those in power did not hesitate to do so. This compartmentalization was long one of the major weaknesses of the economic life of Europe. Gradually, as regal and national authorities grew, these simple tolls became more varied. Ordinary taxes, aimed at filling the coffers of the feudal lord, the town, the king or the State, became, in some cases, economic measures. Customs duties at this stage became a way of protecting industry against foreign competition as well as of contributing to public finances, small amounts being charged on raw materials and large amounts on finished products. Then there were export levies on some products and even export bans on certain products in particular circumstances. In some countries of 17th- and 18th-century Europe, there was famine and revolt in provinces where the corn harvest was bad but neighbouring regions which had more than enough were not allowed to export it for fear of running short—which led to scandalous price speculation.

The 19th century saw an interesting liberal experiment, the Zollverein (customs union), which, between 1834 and 1888, enabled the German states to achieve first economic and then political unity. This is considered to be the origin of the success of German industry. The Zollverein, which led to the abolition of internal customs duties and the setting up of a homogeneous economic territory within the space of two generations, was a precedent and has certainly influenced certain schools of economists. It was mainly as an instrument of economic policy that customs duties developed between the two world wars, when the danger of each country using them for its own ends in a disorderly and uncoordinated manner also emerged. The phenomenon was a simple one. Any State which had problems of employment, balance of payments or over-aggressive foreign competition tended to protect itself with high tariffs and this meant that the neighbouring countries did likewise, to the detriment of international trade as a whole—i.e. to the detriment of all the partners in international trade. These were short-term measures and the consequences they had on the economic and political balance in the world were not realized until it was too late.

### *I. Establishment of the Customs Union*

It is precisely because they realized that the integration of national economies depended on the expansion of the internal market that the authors of the 1957 Treaty of Rome which established the European Economic Community made the customs union the keystone of the unification of Europe. The abolition of customs frontiers was also intended to be of symbolic value as far as public opinion was concerned. The aim of the founders of Europe was to create a vast, homogeneous economic-political territory, where goods, capital, ideas and men could move as freely as they do within the boundaries of a modern State. The post-war period was a time of reconstruction and economic expansion and the restrictions of international trade during the inter-war period had left bad memories.

The tendency was towards the liberalization of trade and the free movement of wealth.

The expression 'common market' appears right at the beginning of the Treaty of Rome, as early as Article 2. It was felt to be so apt a description of the whole European venture that it has become a popular name for the Community. At the time, it was felt that the establishment of economic solidarity would create the right conditions for greater political solidarity and that economic integration would be the best way of doing away with the conflicting interests that were behind pre-war political antagonisms. This is why Article 9, one of the first Articles of the Treaty of Rome—which is the contract by which the six original member countries undertook to build a united Europe—specifies that the 'Community shall be based upon a customs union'. It is worth remembering what Europe was like before the Treaty of Rome. All six countries were protected by what were sometimes very high customs tariffs, which often meant that firms did not have to modernize and gave them a false sense of security. This also held back trade between the countries of Europe and the creation of a customs union was intended to provide a stimulus by decompartmentalizing their economies.

#### **What is a customs union?**

A customs union is an arrangement whereby two or more countries agree to do away with customs barriers between themselves and apply a common tariff to countries outside the

union so that the level of protection will be the same wherever a product enters the union. A customs union is often compared to a free-trade area. The difference between the two is that, although a free-trade area has no internal barriers either, members are free to follow an independent customs policy and apply their own tariffs *vis-à-vis* non-members. One important consequence is that, in a customs union, the principle of free movement applies even to goods from non-member countries once they have entered the territory of the union, i.e. once the duty chargeable under the common customs tariff has been paid. In a free-trade area however, the principle of free movement applies solely to goods originating in member countries.

More precisely, a customs union entails:

- the introduction of a common customs tariff applicable at the external frontiers of the union;
- the adoption and application of common customs legislation;
- the abolition of customs duties and charges having equivalent effect, together with all restrictions affecting trade between members of the union; in short, the substitution of a single customs area for the separate customs territories of the members;
- the pooling of customs revenue.

There are, therefore, two facets to a customs union: the external (i.e. the erection of a tariff wall around the area to create a new entity) and the internal (i.e. the dismantling of customs barriers between members).

The customs union is much more than a simple tariff union, since it aims at eliminating all customs-based causes of distortion of treatment or deflection of trade to the detriment of economic operators in any of the member countries. The Community has two instruments for this purpose—its common customs tariff, adopted in 1968, and its customs legislation, which amounts in fact to a set of instructions and ensures that the common tariff is uniformly applied.

## A — THE COMMON CUSTOMS TARIFF (CCT)

As we have seen, the customs union involved two main things—abolishing internal customs boundaries and introducing a common customs tariff for external trade. The latter is one of the union's two means of protection *vis-à-vis* third countries, the other being the common commercial policy.

In 1958, when the Treaty of Rome came into force, there were considerable differences between the customs tariffs of the Member States. Generally speaking, French and Italian customs duties were higher than the others. Article 19 of the Treaty specified that the duties of the common customs tariff would be fixed at the arithmetical average of national duties then applied. Amalgamation of the different national tariffs produced something in the region of 20 000 tariff headings and an arithmetical average had to be calculated for each. Determined streamlining led to the common customs tariff (CCT) adopted by the Council of Ministers in February 1960 being whittled down to some 3 000 headings. Initially, the average duty was about 11%, appreciably lower than that applied by other trading powers such as the US or Japan. Duties ranged between 12 and 20% for the bulk of industrial goods.

Special rules were laid down for the calculation of duty on certain products included in Annex I of the Treaty and negotiations between the Member States were needed to discuss products on the so-called list G, on which agreement was reached in Rome on 2 March, 1960.

With the sole exception of petroleum products, on which no decision was taken until 8 May 1964, the CCT was ready in 1960 and, on 1 January 1961, one year before the original date, the Member States began levying common duties instead of individual ones.

The CCT was applied in full by the six original Member States on 1 July 1968, replacing their separate national tariffs. For the three new Member States, this change-over took place on 1 July 1977. The CCT nomenclature, now swollen to 3 700 headings, also serves as a basis for the Nomenclature for External Trading Statistics (known as Nimexe), an expanded version with some 6 500 headings.

The point to note is that national administrations are no longer free to waive the CCT unilaterally. Any amendments to the CCT must pass through the Council and any customs negotiations with non-member countries must be conducted by the Commission on behalf of the Community in line with instructions given by the Council of Ministers.

## B — CUSTOMS LEGISLATION

As soon as tariff dismantling between the Member States began, the Commission clearly saw the need to harmonize national customs laws, if possible by establishing Community laws that could simply take the place of national laws as the CCT was to take the place of national tariffs. It should be remembered that the ultimate aim of the whole operation was to establish a homogeneous, uniform system of movement of goods within the Community, along the lines of the systems in the individual countries. Hence the need to harmonize both customs concepts and procedures so as to avoid differing interpretations.

The Commission undertook this extremely lengthy task with one obvious advantage—powers of administration conferred upon it by the Council of Ministers. Thus, the Commission, via a certain number of committees, ensures that joint provisions are applied and amended where necessary. It is, in fact, the Commission which administers the customs union and is responsible for seeing that it is successful.

In addition, the whole battery of customs regulations are no longer a matter for national laws alone and have been integrated into Community law. Member States can no longer waive the CCT unilaterally and the full range of instruments of customs policy are available to the Community authorities.

## C — THE OPENING OF INTRA-COMMUNITY FRONTIERS

The ultimate goal of the customs union is the abolition of all customs formalities within the Community to permit the fullest possible interpenetration of national markets and to ensure that people and goods can move as freely as they now do within the individual Member States.

Articles 13 and 14 of the Treaty therefore required customs duties and charges having equivalent effect to be abolished gradually during the transitional period, i.e. by the end of December 1969.

As it turned out, the economic climate at that time was so favourable that the transitional period was shortened to end on 1 July 1968. On that date, free movement of goods became a reality with the abolition of intra-Community tariff barriers.

The liberalization of intra-Community trade involves two kinds of measures:

- the abolition of customs duties, now complete, and the abolition of quantitative restrictions (on imports and exports), complete in respect of industrial products since 1 January 1962;
- the elimination of other barriers to trade—i.e. of taxes having equivalent effect to customs duties and measures having an equivalent effect to quantitative restrictions. These are usually called non-tariff barriers. The abolition of these barriers is a complex problem which will take time to solve, since it is linked to the lengthy process of the harmonization of national laws.

#### *a) The abolition of customs duties and quotas*

To smooth the transition, duties between Member States were to be abolished in several stages. Because things were going so well, the Council of Ministers decided on two occasions—in May 1960 and May 1962—to speed up the process, thereby, as we have seen, shortening the transitional period. The same process has been repeated to integrate the three new Member States into the Community system. Customs barriers between the 'old' and the 'new' members disappeared on 1 July 1977 for manufactured goods.

One instrument of customs policy available to national administrations prior to 1 January 1962 was the quota, a widely-used method of restricting imports. Imports of a given category of goods could be permitted up to a specified level, but were banned thereafter. Similar restrictions existed for exports. Both have now been done away with in trade between Member States.

However, problems arose where certain imports were likely to seriously disrupt a given sector of the economy and, in this case, the Member State concerned had to be able to introduce safeguard measures to enable the sector to adapt to the new situation if required. The Treaty therefore contains safeguard clauses—a type of non-permanent barrier to free movement. On more than one occasion, these clauses have enabled Member States to isolate their markets in certain products from one or several of the other Member States. The measure can only be a temporary one and must be authorized by the Commission.

#### *b) Non-tariff barriers*

The customs union between the Six was completed on 1 July 1968. It was extended to the three new members on 1 July 1977, when customs barriers between the Nine disappeared. They now form a single customs area, import quotas are a thing of the past and a tariff wall—the common customs tariff—affords protection from non-members.

But it soon became apparent that customs barriers were not the only barriers and that international trade—both within the Community and without—was littered with obstacles, certain authorities being exceedingly imaginative when it came to thinking up protectionist measures.

The Community citizen is right to ask questions when he crosses or sends goods across an intra-Community frontier. He sees that it is more complicated to receive certain goods from another country of the Community than from within his own and that he has to pay on them. Customs duties may have gone, but there are other charges that have to be paid and there are formalities that would not exist if only one country was involved in the transaction. This shows him that customs duties are only the tip of the iceberg and that the bulk of it beneath the surface is made up of countless non-tariff barriers to trade.

The current proliferation of restrictions to free trade is a problem for the Commission in that these new-style frontier barriers may well lead to less obvious, and therefore more dangerous, compartmentalization between the Member States. The great diversity of these restrictions and the political, economic and social context in which they operate make them much more difficult to detect and monitor. They are very different, in both content and kind, from the classic instruments of protectionism, such as customs duties, import bans, quotas and so on.

To the uninitiated observer, these measures, on account of their legal trappings, tend to seem legitimate, since, in the vast majority of cases, they apply to both national and imported products and apparently involve no discrimination or protection. And they always have the most laudable of motives—to protect life or health, to combat pollution, to protect the consumer or the environment, fight inflation, standardize, improve quality, etc—although, in reality, they prevent imports from other Member States of products which are often well-known, liked and traditionally marketed there. Most of these regulations have a quite legitimate aim. But the aim does not justify the trade restrictions since they are not strictly necessary to provide the protection required. These measures, and the restrictions which they involve, often unknown to the national authorities, form the bulk of the attempts to restrict the free movement of goods. They constitute what Mr Ortoli, former President of the Commission, called 'endemic protectionism which has not yet been suppressed'.

As we have seen, the classic instruments of economic protection, the quotas, customs duties and so on, have disappeared within the Community. They were far too obviously discriminatory and conspicuous for the Member States to go on using them in their trade. Most attacks on the free movement of goods are part of the battery of sophisticated measures, disguised in a wide variety of regulations, which the Treaty lumps together under the heading of 'measures having an equivalent effect to quantitative restrictions'. Such measures are often more restrictive than quotas or customs duties. The latter do not block imports altogether, but simply make them less competitive by pushing up their prices. But a measure having equivalent effect—take the most innocuous example of an automatic licence or a technical visa—may sometimes lead to the frontier being totally blocked.

The barriers we have just mentioned are counter to the Commission's principles. They are illicit and are a way of getting round the regulations establishing genuine free movement of goods. The Commission is intent on tracking them down.



However, there are other measures which restrict the free movement of goods and the genuine opening up of markets and which, although undesirable, are well known. Here are two examples, which the Commission has been, and is still trying to eliminate:

- public contracts;
- technical barriers in industry.

#### **Public contracts**

Most Member States and modern nations in general tend to keep most supply and works contracts offered by public or semi-public (national, local or other) authorities for national firms and this means that a certain number of transactions are removed from the 'normal' market. Competition is restricted and foreign firms are excluded as a result—a clear restriction on the free movement of goods.

Considerable sums are usually involved. Total public contracts recorded, for example, amount to 7 to 11% of GDP.

The Commission was quick to realize the importance of this problem and the need to introduce into this sector the rules of free movement and free competition that are the keynotes of the Treaty. This was vital in that the contracts were often in the field of advanced technology and large ones were particularly beneficial both from the point of view of consumer prices and technological development.

Article 30 of the Treaty prohibits all preferences and reservations in favour of national products—although this in itself was not enough to bring about the full and effective liberalization of public contracts which were subject to a special and not very transparent system. The Community has made real progress here, since by issuing directives on works and supply contracts and attendant procedures, that last of which appeared in December, 1976, it has opened frontiers to contracts of this type.

The Community has not yet dealt with all the problems here. For various reasons, a number of sectors (transport, telecommunications, water and energy production and distribution) are still not covered by Community rules. However, an extremely significant step forward has been made with this type of protected market.

#### **A particular case of non-tariff barriers: technical barriers in industry**

Most countries have regulations on the quality, technical characteristics and safety of products put on the market. The aim here is for example, consumer protection and, more recently, environmental protection too. Measures such as this vary considerably from one country to the next, although the aim is always the same. Objectively speaking, these are obvious barriers to trade in that producers who have complied with national standards find there are other standards to be complied with if they wish to export their products.

In the motor vehicle sector, for example, rear fog-lamps are compulsory in some countries and only optional in neighbouring ones. Or again, one Member State of the Community will lay down an 80 m braking distance and others only 70 m for a given speed. So-called safety measures for electrical goods, for example, are one way of barring the national territory to

products that are as good and cheaper to the consumer but which constitute a threat to certain home producers.

The Commission actively combats this type of barrier, whenever the occasion arises by, for example, harmonizing laws. The idea is to adopt the sort of measures that best protect the interests and safety of the consumer, without imposing too heavy a burden on industry.

Generally speaking, each authority tends to think that it is right, that it has the only valid controls and regulations and that those of its neighbours fail to provide the same guarantees. In some cases, the Commission would like to reach the sort of situation where controls in one Member State are valid throughout the Community and where there are standard control procedures and technical requirements for any given product. This is what is currently being done in the motor vehicle sector and, over the last 12 or so years, a large number of obstacles to intra-Community trade have been removed. It is also interesting to see that the problem has arisen in international trade and that GATT (General Agreement on Tariffs and Trade) is concentrating on it.

Every year, individuals and national governments send the Commission a large number of complaints about measures having an equivalent effect to quantitative restrictions. In accordance with Article 155 of the Treaty, the Commission assesses these complaints and starts the barrier elimination procedure in some cases.

Many of the complaints received come from small and medium-sized firms—the very people who are in greatest need of protection. The rapid increase in complaints and appeals in this sector is clear proof of the fact that the people concerned are beginning to realize what the rules on free movement of goods entitle them to and what means they have to ensure they keep these rights.

## *II. Common commercial policy*

We have seen that the customs union has so far involved abolishing customs barriers between the Member States and providing joint, uniform customs protection at Community boundaries. Since entry into force of the CCT, the Member States have no longer been able to alter the customs duties unilaterally and, since such duties are an essential aspect of trade agreements, it is logical for trade policy, which aims at negotiating tariff concessions, to be the responsibility of the Community itself.

Such has been the case since 1 January 1970. The Community is now the only body with the power to negotiate tariffs and the Member States retain the right to deal with other types of agreement on such things as culture, technical, industrial and financial cooperation, defence, security, drug trafficking and so on.

### **1. Tariff negotiations under GATT**

Two important sets of negotiations—the Kennedy Round and the Dillon Round—were held. The Community took part as an autonomous body, negotiating tariff reductions with its partners. The aim was to liberalize international trade by lowering customs duties and abolishing the so-called non-tariff barriers.

### *a) The Dillon Round*

This began in May, 1961, when the Community had just presented its common tariff to GATT. From the outset, it proposed an across-the-board reduction in customs duties, rather than a product-by-product cut, and this involved lowering CCT rates by 20%.

But global negotiations turned out to be impossible and the products had to be dealt with one at a time.

Ultimately, the common customs tariff was reduced by an average 7 to 8%, less than half the figure originally suggested.

### *b) The Kennedy Round*

This ran from May, 1964 to May, 1967, and followed the US Senate's adoption of the Trade Expansion Act in 1962, which gave President Kennedy (i.e. the US Administration) the power to negotiate tariff reductions of up to 50% on all industrial products. The US aim was to create a huge pan-Atlantic free-trade area for industrial products. The negotiations covered tariff protection—a substantial, 50%, reduction being envisaged for the first time—special protective measures for agriculture and non-tariff and para-tariff measures which interfered with international trade. The result was various agreements on a substantial, unprecedented reduction in the customs tariffs of the main industrial countries, although less was achieved with agricultural products and non-tariff barriers.

Considerable progress was thus made in the industrial sector. After the Kennedy Round, the comparative level of the main partners' duties, calculated according to the arithmetic mean, were:

EEC	7 %
US	12.8%
Japan	9.8%
Sweden	5 %
Switzerland	5.2%
Canada	7 %

### *c) The current negotiations (The Tokyo Round)*

International trade has countless problems. The first two Rounds could obviously only deal with some of them, and discussions are still going on. This is why the Community is currently taking part in a third series of talks, known as the Tokyo Round (they began in Tokyo in mid-1975), to deal, like the previous Rounds, with tariff reductions, although particular attention is being paid to non-tariff barriers. Current Tokyo Round negotiations are being held in Geneva.

## **2. Trade negotiations with third countries**

The Community has been extremely energetic here and has set up a network of trade relations covering a large number of countries, like those of the Maghreb and EFTA.<sup>1</sup> It is important to realize that the Community is the world's greatest trading power. In 1975, the

<sup>1</sup> More detailed information is given in the European Documentation issue 1976/2: 'The European Community's External Trade'. EFTA members are Austria, Finland, Norway, Iceland, Portugal, Sweden and Switzerland.

Nine's imports from third countries represented 23.6% of world trade<sup>1</sup> as against 15.7% for the US and 8.8% for Japan.

The Nine's exports over the same period represented 23.4% of world trade,<sup>1</sup> as against 16.6% for the US and 8.7% for Japan.

These figures explain the Community's attraction for third countries and its interest in maintaining close trade relations with the rest of the world.

### 3. Trade protection measures

The agreements negotiated by the Community could have upset the situation within the customs union and so protective measures were introduced for cases where certain imports were likely to create economic problems in one or more Member States. The Community may thus authorize its Member States to introduce safeguard measures for a limited period.

Anti-dumping measures were also introduced, as were measures against premiums and subsidies being paid by non-EEC countries. In principle, a product is considered as being dumped when its price on export to the Community is lower than the comparable price in ordinary trade for a similar product intended for consumption in the country of origin when the product was exported.

The Community thus applied a compensatory tax to bicycle chains for Taiwan and, more recently, to ball-bearings from Japan.

### *III. The policy towards developing countries*

Although the Community theme in tariff negotiations with industrialized countries was strict reciprocity of concessions, its attitude towards the developing countries is based on a completely different philosophy.

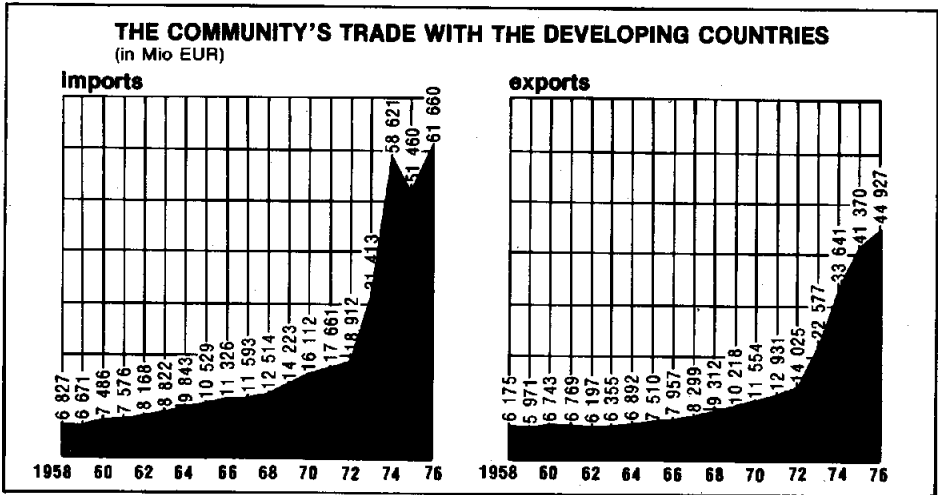
Here the idea is to boost the economic development of these countries by providing them with privileged tariff concessions, going as far as a genuine free-trade area and substantial financial and technical aid. We shall only deal with tariffs here.

The Community provides development aid for two sets of countries:

- (i) countries in respect of which it has special responsibilities and historical ties (the AASM—Associated African States and Madagascar—and the Commonwealth countries), with which it has concluded the Yaoundé and Lomé Conventions;
- (ii) other developing countries, for which it provides privileged customs arrangements—the generalized system of preferences.

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<sup>1</sup> State-trading countries not included.



### 1. The EEC-AASM Association: The Yaoundé Convention

In 1957, when the Treaty establishing the EEC was signed, certain States, Belgium and France in particular, had privileged relations with a number of overseas countries and part of the Treaty covers their association with the Community. After independence, these countries signed a Convention, in Yaoundé, the capital of Camerouns, in 1963, laying down rules for their association with the Community. This first Convention was the basis of the Euro-African Association. It was followed by a second convention, Yaoundé II, which came into force in July 1969 and expired on 31 January, 1975.

The association concerned three things:

- free-trade areas;
- financial and technical aid;
- joint institutions.

Only the first, which involves customs matters, will be dealt with here.

Free-trade areas were set up between the Community and each of the 18 (later 19<sup>1</sup>) Associated States and customs duties were abolished. However, there were one or two exceptions to the rule—the 19 Associated States could protect their economies against Community imports by introducing or maintaining quantitative restrictions or customs duties.

For their part, the countries of the Community protected their farmers by refraining from according duty-free entry to certain agricultural products from the AASM, although these products got more favourable treatment on entry into the Community than did similar products from elsewhere.

<sup>1</sup> In 1971, Mauritius joined the other 18 AASM: Burundi, Camerouns, Central African Republic, Chad, Congo, Dahomey, Gabon, Ivory Coast, Madagascar, Mali, Mauritania, Niger, Rwanda, Senegal, Somalia, Togo, Upper Volta and Zaire.

## **2. Extension and renewal of the association: Lomé**

The Treaty by which the UK acceded to the Community made formal provisions for negotiations between the countries of the Commonwealth and the Community, with a view to defining privileged relations. On this basis, the Nine and 46 countries of Africa, the Caribbean and the Pacific (the ACP) began talks in October 1973, with the aim of concluding a further agreement which would expand and renew the Yaoundé Convention. These negotiations came to a close in Lomé on 28 February 1975, when a five-year Convention was signed.

The ACP countries (now numbering 52) include the whole of independent Black Africa, representing almost 270 million people.<sup>1</sup>

The new Lomé Convention has taken over many of the basic features—zero tariff ratings, technical and financial cooperation—of the Yaoundé Conventions and has improved upon them. It also contains fundamental innovations, such as the stabilization of export earnings system (STABEX), which reflect the Community's new attitude to the developing countries.

## **3. Trade and trade cooperation**

Almost all products from the ACP have free access to the Community, but there needs be no reciprocity, the ACP only having to guarantee the Community most-favoured nation treatment—which bans discrimination as compared to other trade partners. Furthermore, although the customs franchise privileges cannot be misused by developed countries channelling their products through ACP countries so as to avoid paying Community duties, the Community has considerably relaxed the rules of origin, primarily by agreeing to consider the ACP countries as a single unit.

It should be noted that all products wishing to benefit from preferential treatment have to be accompanied by a special document certifying that the Lomé Convention rules of origin have been respected.

## **4. Generalized preferences**

The Community has always been concerned with making economic relations between developed and developing countries fairer. In addition to its aid for the African states and Madagascar, it proposed, at Geneva in 1963, to provide the developing countries with preferential arrangements which excluded only basic agricultural products and industrial raw materials. The idea developed and progressed, primarily at the UNCTAD (United Nations Conference on Trade and Development) meeting in New Delhi in 1968. Finally, in

<sup>1</sup> In Africa, in addition to the AASM — Kenya, Uganda and Tanzania, (signatories of the Arusha Agreement). Botswana, Gambia, Ghana, Lesotho, Malawi, Nigeria, Sierra Leone, Swaziland, Zambia. In the Caribbean — Barbados, Guyana, Jamaica, Bahamas, Granada and Trinidad & Tobago. In the Pacific — Fiji, Western Samoa, Tonga. Ethiopia, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia and Sudan. Surinam, the Seychelles, the Comoros, Papua New Guinea, São Tomé and Príncipe, and Cape Verde Islands have since become signatories, bringing the total to 52.

1970, agreement was reached on the components of the *generalized system of preferences*, which was first applied by the Community on 1 July 1971. Japan followed suit on 1 August of the same year, but the US delayed application until 1 January, 1976.

The tariff preferences provided by the system are:

- *generalized*, in that all industrialized countries are supposed to apply them;
- *non-discriminatory*, in that they cover all developing countries;
- *autonomous*, in that they are granted without negotiation.
- Finally, they do not involve any reciprocal advantages.

Certain quantities (limited by ceilings or quotas) of manufactures and semi-manufactures, certain textile products and processed agricultural products are imported into the Community free of customs duty. CCT duties may be applied to any quantities in excess of these ceilings or quotas. The ceilings are worked out according to imports from the recipient countries during a reference year and they are raised by 5% every year. The first reference year was 1971, but, as from 1977, 1974 will be used.

*Sensitive products*, in respect of which the Community is in a difficult situation, are covered by a strict system of tariff quotas. In this case, the volume of preferential imports is divided among the developing countries and country ceilings or maximum amounts are laid down for the most competitive of them so as to avoid them monopolizing preferential opportunities.

The system has had extremely good results. The volume of industrial products for which duty-free entry was offered rose from 500 million u.a. in 1971 (six months) to 4 600 million in 1976 and an anticipated 6 500 million in 1977. This is in spite of an unfavourable economic climate and a considerable reduction in sensitive products.

#### *IV. Why do we still have customs posts?*

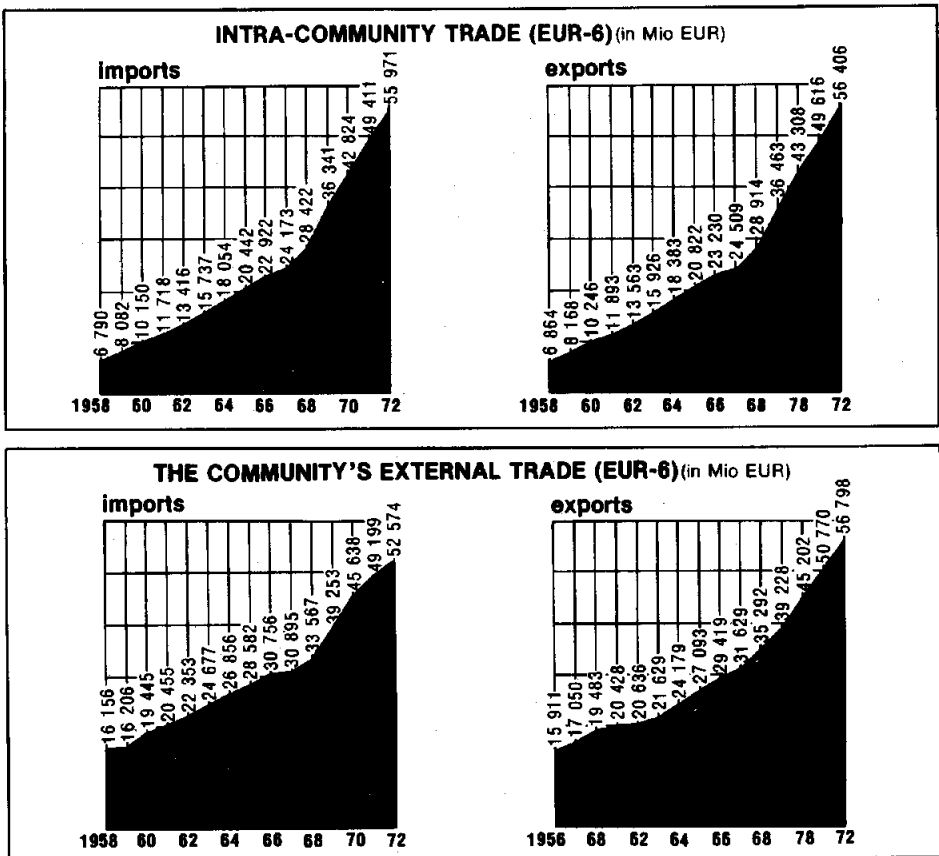
A Community citizen crossing the frontiers between one Community country and another often wonders why there are still customs officers. After all, there is supposed to be a common market and the citizen knows that the first thing the Community did was set up a customs union which was designed to remove customs barriers between the Member States. This is a good question. But the general public still tends not to realize that customs officers do more than just collect customs duties, that they have always done more than this since they have always been and still are the frontier representatives of various authorities. It is their job to collect indirect taxation on incoming goods (VAT and excise duty, for example) and the compensatory amounts paid under the common agricultural policy. It is their job to compile the statistics that are so important to the economic life of the modern state and to see that various public, and animal and plant health controls are carried out. All these controls will be necessary at intra-Community frontiers as long as national laws have not been fully harmonized.

And, as things stand, the Member States need to levy and control indirect taxes properly within their own frontiers. They cannot allow the current variations in rates of VAT to deflect trade to the benefit of countries with the lowest rates. In the motor-vehicle sector, for example, VAT is 33% in France, 25% in Belgium and 11% in Germany. In this situation, where there is no standard rate, the French and Belgian authorities will hardly agree to lose a large amount of tax revenue. On the contrary, they want the citizen to pay the taxes due

in the place where he is established and is considered as resident for tax purposes. Some sort of control is needed here, although there is no reason why it should be carried out at frontiers or by customs officials.

The US has a similar problem with its different states, although the control is more flexible and not carried out at internal frontiers (which do not, of course, exist). There has been a good deal of simplification in dealings between the Member States, but further improvements would be possible if there were greater cooperation between the national authorities, since this would reduce frontier formalities to a minimum.

Wider use of the Community transit arrangements would, if they were properly and genuinely applied, certainly help cut down on delay at intra-Community frontiers. And the flexible methods of control used in Benelux trade warrant close investigation to see whether they could be applied at Community level.



Figures in the tables are expressed in EUR.

1 EUR (1976) = DM 3.20684, FF 6.06, LIT 1054, HFL 3.35507, BFR/LFR 48.6572, UKL 0.437, DKR 7.57831.

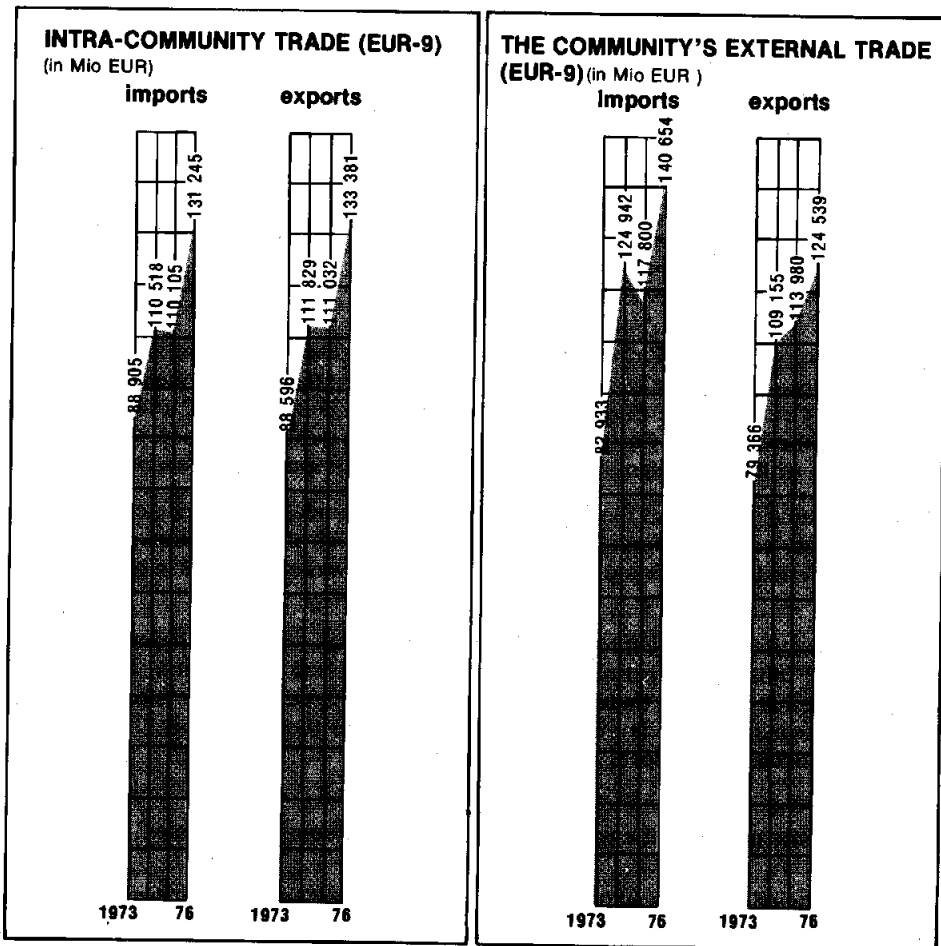


Generally speaking, it is not unreasonable to suggest that the problem of frontier controls could be solved by introducing measures, to be carried out by the public authorities, similar to those applied to national trade.

Despite these complications, the Community national is in a much better position than he was in 1958, whether he travels by car or by train, since customs formalities at intra-Community frontiers have been reduced to a minimum.

### V. The effects of customs union

As we have seen, the abolition of customs duties was only the visible tip of the iceberg and the part beneath the surface is made up of countless non-tariff barriers to trade of which the authorities are inordinately fond.



Nevertheless, although the customs union is still by no means complete, it has had considerable effects on intra-Community trade, if only by strongly influencing the behaviour of businessmen in certain countries. The opening-up of frontiers has given the consumer a far wider choice in many areas and has even brought substantial price reductions in some sectors. Furthermore, the customs union has, by making trade easier, boosted trade and made a major contribution to raising the standard of living in the Community.

Trade (imports and exports) between the Six between 1958 and 1972 increased almost ninefold and trade between the Community and the rest of the world threefold. Obviously, this growth was an essential contribution to the improvement in standard of living and to *per capita* income in the Community tending to catch up with that of the US, whereas it used to be very much lower. Integration of the old and new members of the Community is only in its infancy and comparisons are much more difficult, but we feel that one or two details on the trends of trade between the Six and the three new members will be useful.

### Imports

Year	Europe 6/Europe 3 (in Mio Eur)	Europe 3/Europe 6 (in Mio Eur)
1969	4 385	5 356
1972	5 956	8 137
1973	7 421	10 790
1976	12 785*	16 300*

\* estimates

Source: ECSC Monthly bulletin on External trade, special issue 1958-75.

It is difficult to say how far European integration has contributed to raising the standard of living in Europe—although it has clearly contributed a great deal. As the then Commission President Mr Ortolí told the European Parliament in Strasbourg in 1976, it is vital for the prosperity of the Community as a whole, particularly as a weapon against a resurgence of protectionism within the Community and in the world in response to economic crisis.

It should be remembered that the economic situation has undergone fundamental changes since the Treaty came into force in 1958. The establishment of the common market coincided with a period of growth and material prosperity that was exceptional in both intensity and duration.

Today the situation is different and Europe is going through a period of recession, unemployment and inflation. A period of worry follows a period of euphoria. Protectionist measures aimed at impeding trade will obviously only ever accelerate recession and, therefore, unemployment and it is vital to retain what we in the Community have already achieved, particularly in respect of customs union.

## 1. The customs union as the mainstay and mirror of common policies

The customs union is not the whole common market, although without it there would be no European Community. It is the *sine qua non* and the framework for everything else.

The customs union is to the European venture what the foundations and the structural work are to a building. The whole edifice depends on it.

## **2. Mainstay of European policies**

In the first place, the customs union is vital to the Community's identity. It allows the Community to speak with one voice in international trade relations and to act as a single negotiator.

It is worth noting that the customs union is a vital part of the common commercial policy. The common tariff, the definition of the value for customs purposes and of the origin of goods have a direct effect on international trade. When the Community alters (autonomously or by a convention) the scope of one or other of these customs instruments, it is inevitably influencing the volume of this trade and adapting it to the policy it is pursuing. Similarly, the development aid policy is affected by the customs union.

The common agricultural policy, based as it is on a system of export refunds and import levies, is in essence nothing more than the customs union applied to agriculture with the variations needed to regulate a complicated sector. It is, in fact, a system within a system, since it adds a certain number of other principles—like the organization of markets, for example—to the traditional system of market protection.

In these sectors, the Community has its own powers of management and negotiation and this emphasizes the major political interest of the customs union for the unification of Europe.

Moreover, since a vital Council of Ministers decision of 21 April, 1970 phasing out national contributions and substituting 'own resources', the customs union has had a central role in the process of European integration. Customs duties and agricultural levies form the backbone of 'own resources'; they are due to be supplemented in 1978 by a fixed proportion (1% maximum) of Member States' VAT revenue.

The collection of these resources will, to a very large extent, depend, where VAT is not involved, on fair and uniform application of customs regulations.

## **3. Mirror of European policies**

As we have seen, the creation of a customs union settled only a small proportion of the problems inherent in the free movement of goods—'the tip of the iceberg'. In doing so, however, it has performed the useful function of revealing the existence of the mass below the surface, spotlighting the difficulties arising from disparate tax and monetary policies (we are thinking here of the difficult problem of compensatory amounts under the common agricultural policy) or discrepancies in company law or export aid systems. And it has also revealed the need for common policies—in the industrial or economic fields—which are not mentioned as such in the Treaty.

The customs union, then, has proved its worth not only by dismantling customs barriers but also by highlighting the shortcomings of the present system, forcing the Community to

remedy the situation by moving into areas where the spirit rather than the letter of the Treaty must be its guide.

## Glossary

Various customs terms have been used in the text. Some definitions are given below to help the reader.

### *Customs duties:*

These are duties levied under a customs tariff on imported goods. In most cases, they are calculated on an *ad valorem* basis, i.e. according to the value for customs purposes (see below). The term therefore has a narrower meaning than it has in everyday usage, since it excludes both VAT, indirect charges and agricultural levies and other import dues.

### *Free circulation:*

Products are considered to be in free circulation in the Member States when import formalities have been completed and any customs duties or charges having equivalent effect have been levied in the Member States in question and where there has been neither total nor partial refund of these duties (Article 10 of the Treaty). Goods of this kind can circulate within the Community in the same way as goods originating in the Member States.

### *Value for customs purposes:*

The value of imported goods is considered to be the potential price in sales in fully competitive conditions between a buyer and a seller who are independent of each other. Such goods are assumed to be delivered to the purchaser at the point where they enter the Community and the seller is assumed to pay all costs up until they reach this point. This price excludes any duties and charges.

### *Nomenclature:*

There are two main parts to a customs tariff:

- (a) a list, describing the products and goods, grouped into numbered headings and sub-headings;
- (b) customs duties applicable to these products.

The nomenclature only refers to the descriptive part of the tariff. The CCT nomenclature is based on an international convention signed in Brussels on 15 December, 1950, which is behind what is called the Brussels Nomenclature. This contains 1 098 headings, divided into 99 chapters and 21 sections. Each contracting party to the convention on nomenclature is free to create tariff subheadings within each of the 1 098 headings.

*Origin :*

The origin of goods or products can be attributed in two ways. They may be deemed to be wholly obtained in a country (see Council regulation no 802/68) or they may contain imported materials or articles, in which case they must have undergone processing or substantial treatment that is economically justified.

Special provisions apply to different trade agreements which the Community has concluded with various third countries.

*Community transit :*

The aim of this procedure is to enable goods to be moved across one or more Member States without a new transit dossier being required at every frontier. This enables customs authorities to check whether or not goods are in free circulation. The system is covered by Council regulation no 542/69. This was adapted to take account of the development of transport and had been extended to Austria and Switzerland.

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# Contents

	page
Introduction	3
I. <i>Establishment of the Customs Union</i>	4
What is a customs union?	4
A – The common customs tariff	5
B – Customs legislation	6
C – The opening of intra-Community frontiers	6
a) The abolition of customs duties and quotas	7
b) Non-tariff barriers	7
II. <i>Common commercial policy</i>	10
1. Tariff negotiations under GATT	10
a) The Dillon Round	11
b) The Kennedy Round	11
c) The current negotiations (The Tokyo Round)	11
2. Trade negotiations with third countries	11
3. Trade protection measures	12
III. <i>The policy towards developing countries</i>	12
1. The EEC-AASM Association: The Yaoundé Convention	13
2. Extension and renewal of the association: Lomé	14
3. Trade and trade cooperation	14
4. Generalized preferences	14
IV. <i>Why do we still have customs posts?</i>	15
V. <i>The effects of customs union</i>	17
1. The customs union as the mainstay and mirror of common policies	18
2. Mainstay of European policies	19
3. Mirror of European policies	19
Glossary	20
Bibliography	22

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