

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 210 final

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Communication of the Commission
to the Council and to the European Parliament on the state
of the Customs Union of the European Economic Community

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SUMMARY

The first of July 1977 marks the end of the transitional period for customs union provided for in the Treaty concerning the accession of the Kingdom of Denmark, Ireland and the United Kingdom to the European Economic Community. It seems an opportune moment to take stock of the state of this customs union, which is fundamental to the Community, and can be seen in essence as the replacement of the national customs territories by one Community customs territory.

The present report underlines the crucial part played by the customs union in the process of European integration, both through its own economic and political effects, and through the support it has given to the policies pursued by the Community. It notes, nonetheless, the deficiencies of the current state of affairs with respect not only to the achievement of a genuine internal market, but also to the establishment of common customs procedures for dealing with trade with third countries.

In consequence the report points to the initiatives which the Commission will be induced to adopt in the short or medium term in order to improve this situation and bring into being a genuine customs union.

It will be necessary :

A. in the short term

1. To encourage any initiative likely to bring about the free movement of goods within the Community, especially :
 - in the non-commercial field by adopting measures aimed at making public opinion more aware of the real nature of the common market ;
 - by seeking suitable ways of eliminating non-customs barriers which hinder the free movement of goods ;
 - by an increased effort on the part of customs services to reduce formalities at the Community's internal borders.
2. To complete the schemes for harmonising and simplifying customs legislation ;
3. To improve the institutional decision-making machinery in the sphere of the customs union.

B. in the longer term

- to conceive and develop a system of Community customs law;
- to seek to harmonise sanctions against infringements of Community customs law.

COMMUNICATION OF THE COMMISSION

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of the Customs Union of the European Economic Community

Introduction

The completion on 1 July 1977 of the major part of the transitional period laid down under the Treaty of Accession will mark a new page in the history of the European Economic Community's customs union. It will then have a Common Customs Tariff for its nine Member States and trade between these States will be carried out completely free of customs duties (with the exception of a small number of products for which duties will be abolished on 1 January 1978). The Member States will also apply the same customs legislation, in so far as it has been adopted at the Community level.

As this important date in the history of the Community draws closer, the Commission would like to recall the essential part played by the customs union in the process of European integration, describe the instruments which it uses towards this end, outline the major problems facing it today in its efforts to achieve this goal, and point to the initiatives which it expects to take in order to resolve these problems and the measures planned with a view to completing the work which the Treaty describes as one of the foundations of the Community (Article 9(1)).

I. The role of the customs union in the process of integration
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The customs union, on which work began in 1958, has proved up to now to be one of the most effective means of European integration, both because it is in effect an ideal instrument for such integration, and also because it provides a backing for most of the common policies.

A. The customs union, ideal instrument of European integration

Within the Community itself, the elimination of customs duties between the Member States has created an entirely new situation which has led

Community undertakings to modify their attitudes, often radically. The free movement of Community goods throughout the Community's customs territory has ensured a greater solidarity between the Member States in several sectors, often by means of a suitable division of labour. Community undertakings (whether of an industrial or commercial nature) nowadays assess their activities in terms of a single market covering more than 250 million inhabitants. As a result, consumers in the Community find that they have access to an increasingly wide range of products. Furthermore, even if people travelling from one Member State to another are still subjected to formalities at the Community's internal borders (formalities which arise mainly from the maintenance of boundaries for tax purposes), today they unquestionably enjoy facilities noticeably superior to those they could expect in 1958.

With regard to the outside world, the setting up of a Common Customs Tariff and the exercise of Community powers for the purposes of its management and negotiation with non-member countries have contributed decisively to the recognition of the European Economic Community as a reality by other nations as a whole. It was during the negotiations within GATT for its Common Customs Tariff, from 1960 onwards, that it spoke for the first time as an entity distinct from its component States. Today, no international convention affecting the application of the duties of the Common Customs Tariff, whatever the framework within which it is negotiated, can be implemented by the Community unless this convention contains the necessary provisions enabling the Community to accede to it as such. A situation of this kind has obviously played a powerful part in impressing the importance of the Community on non-member countries. At the same time it has made the Member States more aware of the common interest, since each international negotiation entails the determination of a common position.

What has been said above about the elimination of customs duties between Member States and the establishment of a Common Customs Tariff applicable to non-Member States is equally valid as regards general customs legislation. The introduction of Community customs provisions in a great number of fields other than those dealing specifically with tariffs has contributed to a great extent to the practical creation of the common market and has had an even greater impact at international level (GATT, Customs Cooperation Council) on the Community's competence in customs matters.

Thus it can be seen that the setting up of a European customs union has had a considerable political impact and even represents, in certain respects, a genuine "revolution", so great is the difference between the situation in 1958 and the present one in 1977, in spite of current worldwide economic difficulties.

Consequently, in this respect there is no doubt that customs union is an ideal instrument for European integration.

B. Customs union, a mainstay of the Community's policies

Apart from its prime importance for the process of European integration, the customs union has enabled a number of policies followed by the Community to be introduced and operated over the years, thus justifying the fundamental role assigned to it by the authors of the Treaty of Rome in the construction of this Community.

1. The customs union is one of the essential components of a genuine internal market. Although the abolition of customs duties between the Member States has not in fact brought about the absolutely free movement of Community goods throughout the customs territory, it has nonetheless highlighted the need for a harmonization of national laws in the different sectors of

industrial and agricultural production and in the field of transport, in order to give full rein to the principle of the free movement of goods.

2. The common customs tariff, the definition of the origin of goods, the definition of value for customs purposes and the other customs legislative provisions resulting from the customs union obviously have an impact on international trade. Changes which the Community makes, either on an autonomous or on a conventional basis to one or the other of these provisions naturally entail considerations bearing on its common commercial policy.
3. The customs union is one of the basic elements in the policy of aid to developing countries. By means of a lowering of customs tariffs (or indeed complete exemption from them) combined with special rules of origin designed to encourage these countries to industrialise, the Community provides aid of an original and substantial character (Lomé Convention, scheme of generalised preferences, etc.....)
4. The customs union is one of the instruments on which the Community's agricultural and industrial policies hinge. Customs infrastructure, in particular at the level of regulations and procedures, is involved whatever the nature of the goods being traded internationally and it is always taken into account when drawing up agricultural or industrial policies.
5. Customs receipts, which have become the Communities' own resources, ensure to a considerable extent the Community's budgetary independence.

This it can be seen that the customs union, inextricably linked to these policies as a whole, has contributed to the spectacular development of trade between Member States and with non-member countries since the creation of the European Economic Community, at the same time enabling the objectives provided for in Article 2 of the Treaty of Rome to be achieved to a significant degree.

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When drawing up Community customs legislation, the constant aim of the Commission has been to introduce provisions keeping pace with the development of administrative methods and enabling the objectives defined in Article 110 of the Treaty of Rome to be achieved on the best terms. In other words, it has always sought to give the Community, as the greatest trading power in the world, the customs instruments best suited to its needs and to its responsibilities towards the rest of the world.

For their part, the national customs authorities and the professional associations concerned convinced of the importance of their activities in bringing about this common undertaking, have (by their dynamism and innovating spirit) enabled remarkable progress to be made in the construction of the customs union.

II. The instruments of the customs union
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The instruments of the customs union are the Common Customs Tariff, and customs legislation, the body of rules determining amongst other things the conditions under which the Common Customs Tariff must or must not be applied to goods depending on their circumstances. Customs legislation consists of a great number of provisions which are often complex precisely because of the variety of circumstances governing the nature of goods.

A. The Common Customs Tariff (CCT)

The CCT adopted by the Council in 1960, which was the result of the amalgamation of some 20,000 tariff headings contained in the national tariffs of the original Member States (Germany, the Benelux countries, France and Italy), contained only about 3,000 headings. This remarkable simplification had been carried out under difficult conditions, with the intention of providing both business operators and customs authorities with a practical and unambiguous instrument. Negotiated within GATT with a view to recognising the interests of non-member countries resulting from the consolidation of duties agreed to by the Member States before the date on which the Treaty of Rome came into effect, and renegotiated at a later stage (Dillon Round, Kennedy Round) within the framework of a worldwide lowering of customs duties, the CCT appeared at the outcome of these negotiations as a fairly simple instrument providing adequate protection for the Community economy, in spite of relatively low rates.

However, even before its overall implementation by the Member States (1 July 1968), there were signs of a tendency to diversify the CCT nomenclature further, in particular as a result of the introduction of the common agricultural policy and the conclusion of preferential agreements between the Community and certain non-member countries. The tariff nomenclature today contains approximately 3,700 tariff headings.

CCT duties are essentially ad valorem duties. The valuation for customs purposes used for determining the charges to be levied on goods imported from non-member countries is based on the definition contained in the 1950 Convention on the valuation of goods for customs purposes, drawn up under the auspices of the Customs Cooperation Council. This definition has however been adjusted in order to take account of the customs union's regulations and to avoid any discrepancies in treatment between Community importers according to the Member State in which they are operating.

The collection of CCT duties may be totally or partially suspended with regard to certain products for special economic reasons (for example, as a result of the lack of sufficient production within the Community, or in order to promote the Community's processing industries, or to foster the marketing of products obtained in developing countries). This suspension, decided on by the Council, is of a provisional nature. Sometimes the suspension covers only a limited quantity of products (tariff quota).

The fact that the tariff protection can be adjusted to suit the Community's needs makes the CCT a flexible instrument of common economic policy. This flexibility has even raised some problems for the national authorities responsible for applying it, in particular because of the short periods of time elapsing between Community decisions on tariff questions (nomenclature, rates, suspensions, tariff quotas) and the date of their actual implementation. Since this state of affairs is likely to discredit any joint action. The Commission submitted to the Council in 1974 in answer to a memorandum from the Heads of the Customs Authorities of the Member States, a series of measures intended to ensure the correct application of those Community provisions which are left to the customs authorities to carry out and at the same time to safeguard the interests of the business and commercial circles concerned. These measures were adopted by the Council in its Resolution of 27 June 1974 (See Annex I).

Although as we shall see further on the situation as regards the Common Customs Tariff is not yet perfect, the application of this Resolution has improved the terms under which it is applied.

B. Customs Legislation

The establishment of a customs union does not only involve abolishing the collection of all customs duties in trade between the constituent Member States and introducing a single customs tariff at the common border. A customs union limited to such an objective would not be very stable. The necessary consequence of substituting a single customs territory for the national territories - the basic feature of the customs union - is the elimination, at a customs level, of any cause of unequal treatment or deflection of trade that may work to the detriment of traders operating in any of the Member States.

Even when the first measures for dismantling tariffs between the Member States were being adopted, the Commission clearly saw that, to attain that end, it was necessary to undertake the approximation of national customs provisions, if possible by establishing a Community customs law which would quite simply replace those national provisions, just as the CCT was intended to replace the national customs tariffs.

The Community's action in this field was greatly hampered by the existence of Article 27 of the Treaty of Rome, the only provision dealing with the approximation of national customs legislation. The problem was that Article 27 envisaged this approximation being accomplished, during the first stage, solely on the basis of Commission recommendations.

The Commission embarked first of all on the preparation of recommendations to the Member States. It quickly became apparent that this would lead nowhere. Since the recommendations would not be binding on their recipients, the Member States could look upon the recommendations addressed to them by the Commission as a minimum which they were indeed ready to accept but beyond which they considered themselves free to do as they pleased. As a result, no real harmonization of customs provisions was possible by that means.

Given the profound and direct influence of customs legislation on the application of the customs tariff, it was absolutely essential that the establishment of Community customs legislation should be brought about as in the case of the CCT, on the basis of Community acts that were binding on the Member States.

After lengthy discussions, the Member States themselves became convinced of this necessity and it was on the basis of programmes established by mutual agreement between the States and the Commission (first of all in 1963 then in 1971) that the preparation of genuine Community legislation was undertaken. The progress achieved with regard to the 1971 General Programme for the approximation of customs legislation, which is currently in the process of being implemented, is shown in Annex II.

To date, numerous Community customs provisions have been adopted by the Council, either in the form of directives or in the form of regulations. These are mainly concerned with :

- definition of the common customs territory ;
- definition of the origin of goods ;
- definition of the value of goods for customs purposes ;
- Community transit arrangements ;
- inward and outward processing arrangements ;
- customs warehousing and free-zone arrangements ;
- the treatment applicable to Community returned goods ;
- customs treatment of goods ;
- deferred payment of customs duties ;
- the granting of duty free privileges (travellers, objects of a cultural nature, products intended for testing, etc).

The introduction of Community customs legislation has not been completed. A number of Commission proposals are still under examination at Council level. Others are being prepared by the Commission's departments.

The drafting of those proposals is made difficult as a result of the close links between the Member States' customs law and other areas of national law (civil law, commercial law, maritime law, administrative law, criminal law, etc.) and as a result of the historical circumstances under which the Member States' customs rules were evolved.

Nevertheless, even if, as will be seen later, the Community's rules contain imperfections, they already constitute a coherent whole and represent a considerable improvement compared with the situation in the sixties.

III. Unsatisfactory aspects of the present situation =====

Despite the considerable progress that has been achieved in the construction of the Customs Union, it is still far from perfect and a number of shortcomings are apparent in its operation. These shortcomings are due essentially to :

- the maintenance of barriers to the free movement of goods between the Member States ;
- the fragmentary and often excessively complex nature of existing Community provisions ;
- the excessively lax nature of certain Community provisions ;
- the cumbersome nature of the institutional decision-making machinery ;
- the absence of a harmonized system of sanctions against infringements of the Community's customs regulations, and of a Community scheme for settling legal disputes.

A. The maintenance of barriers to the free movement of goods between the Member States

The fact that many procedures and formalities are still almost exclusively national in character results in a proliferation of the administrative requirements to which the goods in intra-Community trade are

subject. In certain fields, eight distinct sets of regulations (Belgium and Luxembourg having the same regulations) are still applicable. The establishment of Community measures would reduce this number to one.

The abolition of customs duties between the Member States has not been accompanied by any appreciable change in the customs formalities to be complied with. To be sure, in a certain number of cases such formalities may be justified by the need to apply particular rules which are in force with respect to intra-Community trade. These formalities should not, however, be excessive when seen in the light of the requirements of applying these rules. The question arises, in certain instances whether such formalities are merely the survival of earlier practices overtaken by the establishment of the customs union and which have now become even incompatible with articles 30 et seq. of the Treaty. However that may be, the hindrance which results for trade in Community goods is all the more significant in that the complexity of these formalities often obliges those concerned to use professional customs clearance agents in virtually every case.

Despite an appreciable improvement over the years, the traveller moving from one Member State to another is still too often held up for long periods at the customs offices, where he is subjected to a control that is little different from that which he might have undergone before the Treaty of Rome came into force. And what of the amounts that the addressees of small non-commercial consignments still have to pay under the heading of "customs clearance expenses", even though no customs duty or fiscal charge of any sort is supposed to be collected on such consignments ?

Indeed, the obstacles still in the way of the free movement of Community goods between the Member States are in most cases not of a customs nature, and Article 36 of the Treaty of Rome does indeed permit the application between Member States of "prohibitions or restrictions on imports, exports or goods in transit, justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, etc". The Commission feels however that solutions should be sought, which, while guaranteeing compliance with such measures, would make it possible to reduce considerably, or even totally abolish, the controls exercised on intra-Community trade.

B. The fragmentary and often excessively complex nature of Community regulations

The progressive establishment of the Customs Union, which seems at first sight designed to lead eventually to a single set of regulations vis-à-vis non-member countries and a large-scale, or indeed total, elimination of the administrative formalities between the Member States, is, on the contrary, often viewed by trade circles and by public opinion as a factor adding to the complexity and number of controls. Many comments and complaints along those lines are made by Community nationals and those in the circles concerned.

There are a number of reasons for such a situation :

- (a) There is not yet an integrated collection of Community customs regulations but only a number of specific provisions, which are, however, very coherent taken together. This fragmentary nature of Community customs law necessarily complicates the task of the parties concerned, since they must constantly refer from one text to another, and, depending on the problems raised, base their action on purely national provisions or on Community provisions, or indeed, in some cases, on the two types of provisions at one and the same time.

- (b) The Community customs regulations themselves are not always particularly simple. The provisions adopted at Council level are in most cases the result of difficult compromises in which the political and economic interests of the Member States, and also their conception of Customs law, play a role. To ensure the uniform application of regulations in countries with very different legal systems is obviously not an easy matter.
- (c) Lastly, since customs regulations basically reflect the various policies pursued by the countries in which they apply, the instruments of the Customs Union were bound to be greatly influenced by the provisions adopted by the Community, particularly in the fields of agricultural policy and commercial policy.

That is why, to comply with the objectives of the agricultural policy, the nomenclature of the Common Customs Tariff had to go into great detail in its first 24 Chapters. That is also why the rules of origin and the procedures needed for the application of the preferential agreements concluded by the Community with certain non-member countries (EFTA, Mediterranean countries, Lomé Convention countries) have had to take account of the distinct preferential areas thus created to allow for the correct application of those agreements.

Naturally, the international monetary crisis has unavoidably complicated even more a situation already causing some concern to the Commission.

C. The excessively lax nature of certain Community provisions

A large number of Community customs provisions have been adopted by the Council in the form of directives. In those particular cases, there was in practice no alternative to the directive because of the pragmatic approach to the approximation of the national customs laws. The Community rules, adopted as they were in the

light of the most urgent requirements, had to be able to dovetail without difficulty into the national customs legislation in force in each of the Member States. The directive, which is binding on any Member State to which it is addressed, with regard to the result to be achieved, while leaving the national authorities responsible for the choice of the form and means to be used, was the Community legal form most suited to the intended purpose.

In the light of eight years' experience, however, there is a clear realization of the difficulty of achieving via directives a really uniform application of Community rules throughout the Community, an objective that is essential however to the establishment of a genuine Customs Union. This difficulty is all the greater as the provisions in most of the directives are not sufficiently precise. As a result, the excessively loose drafting of certain directives has led to an approximation of the national customs provisions that is less thoroughgoing than might have been thought initially.

D. The cumbersome nature of the institutional decision-making machinery

1. The delays caused by the Council in the examination of the Commission's proposals

The preparation of the proposal for a regulation or directive in the customs field is not an easy matter. The Commission's departments hold numerous meetings with the experts of the Member States in each case. On average, at least two years' work at Commission level is needed before the Council can be presented with any important proposal in the field of customs legislation. In any event, however, the proposal is generally well-prepared and already represents to a very great extent a compromise position that can be adopted at Council level.

Despite the Commission's preparatory work, a new discussion is systematically initiated on the Commission proposal in the competent bodies of the Council among the Member States' representatives and it is only after several years (sometimes more than four) that the proposal, incorporating various amendments (often of a purely formal nature), is adopted by the Council.

The above procedure is slowing down considerably the completion of the Customs Union. Nine Commission proposals in the customs legislation field are currently before the Council, some since 1972.

2. The unsuitability for certain fields of the procedures followed for the establishment of the implementing provisions for basic regulations and directives

At the time of the approval of the first series of measures for the approximation of customs legislation (1968) and at the subsequent adoption of a number of regulations or directives, the Council transferred to the Commission the power of adopting, under precise conditions, the provisions required for the implementation of those measures. Before adopting these implementing provisions, the Commission is obliged to consult the competent committee established by the Council for each of the basic regulations in question (see Annex III). That committee, chaired by a Commission representative and composed of representatives of the Member States, delivers its opinion by a qualified majority.

The Commission can state that the system of institutionalized committees has, generally speaking, functioned well up to now. However, the cumbersome nature of the procedure to be followed is not always very compatible with the urgency of the decisions to be taken in certain fields affecting day to day administration. A change in the decision-making machinery for those particular fields might therefore prove necessary in order to meet certain requirements more satisfactorily.

3. The difficulties in the way of the expression of a joint position in international forums

Since it has its own powers in the customs field, the Community is called on to negotiate customs conventions of a bilateral or multilateral nature and also to speak as a Community in international forums dealing with customs matters (GATT, Customs Cooperation Council, Economic Commission for Europe, etc.). Although relations with GATT do not pose any problems - Article 113 of the Treaty having been recognized by the Council and the Commission as the legal basis for the decisions to be taken and the institutional procedure to be followed in dealings with that organization - there has been no similar agreement with regard to the legal basis to be adopted for the decisions to be taken and the procedure to be followed in relations with the other international organizations. However, in order to ensure the participation of the Community as a contracting party to new international instruments in the customs field, the Council and the Commission agreed, while reserving their respective legal positions, on an "ad hoc procedure" whereby the Community viewpoint, established previously at coordination meetings between the Member States and the Commission, is put forward at international meetings by a single spokesman, the Member States' representatives being able to make individual statements subject to their adherence to the common guideline established for basic and procedural matters. The single spokesman of the Community is normally the Commission representative.

Although this ad hoc procedure has functioned in a satisfactory way on a number of occasions (for example at the renegotiation of the TIR Convention in Geneva in 1975 and for the establishment of an additional protocol to the Florence Agreement negotiated in Nairobi in 1976), it has left something to be desired on other occasions where Community coherence has not been total. Moreover, this procedure is not applicable to customs

matters the discussion of which in international forums is not intended to lead to the establishment of a convention. The result of this is that important problems relating in particular to tariff nomenclature or customs valuation - fields for which the Community has unchallenged and exclusive responsibility - are not always dealt with in the spirit of Community discipline which should be de rigueur in such matters.

E. The absence of a harmonized system of sanctions for breaches of Community customs regulations and a Community system for settlement of disputes

Although most customs law now falls within Community jurisdiction, infringements of that law continue to be dealt with according to the relevant provisions in force in each of the Member States. Such a situation is hardly compatible with the idea of the Customs Union. The infringements of Community customs law which are committed in one Member State have effects throughout the customs territory of the Community, and furthermore the wide range of sanctions resulting from a given infringement, depending on the Member State in which it is established and prosecuted, is such as to make for appreciable inequalities of treatment between Community nationals depending on the Member State in which they are based. At its utmost limit, this situation could even lead to deflection of trade.

At the same time, the uniform interpretation throughout the Member States of the tariff nomenclature and Community regulations relating to value for customs purposes or for origin of goods, at least necessitates that an administrative procedure appropriate to the settlement of disputes arising between the customs administration and trade should be defined at Community level.

IV. Action to be undertaken to improve the functioning of the Customs Union

The various problems outlined under Title III are of some concern to the Commission. In its Simplification Programme for 1975, it indicated (and followed up with specific proposals to the Council) a whole series of measures which would lead to improvement of the Customs Union. It must unfortunately be stated, however, that although many of these proposals have been approved and put into effect, others are still in the process of examination by the Council. The state of progress of the Simplification Programme for 1975 appears in Annex IV.

The European Parliament is likewise preoccupied with this situation. Emphasizing the political, economic or psychological importance of all measures leading to the good operation of the Customs Union, a Resolution (Annex V) was made requesting the Council and the Commission to work unstintingly to achieve the free movement of goods and to improve customs legislation. At the same time, it made an urgent appeal to the Member States to take positive action with regard to measures and proposals which were the subject of the Commission's Simplification Programme.

In another Resolution dated 10 February 1977 on the relationship between Community Law and Penal Law (Annex VI), it invited the Commission to seek the means to arrive at harmonization of national provisions on the basis of which penalties are currently given for infringement of Community law.

Taking these different approaches into consideration, and in order to thus arrive at improved operation of the Customs Union, the Commission intends undertaking certain actions, some of which are short term, and others with long term effect.

A. Action to be taken in the short term

1. To ensure that goods move more freely

The elimination of controls at intra-Community borders, the essential precondition for the free movement of goods and the establishment of a true internal market, is clearly the principal problem. This is also the most difficult problem to solve.

As far as the trade in goods is concerned, the Commission's action will have to be based essentially on the development and generalized use of the Community transit system which makes it possible to avoid, to a great extent, customs controls at internal borders. The ultimate objective of this system is to concentrate the formalities at the customs office of departure of the goods. Thanks to the conventions concluded with Austria and Switzerland, the north-south trade in Community products is now conducted without a break in procedure. If the Community transit system is suitably adjusted and correctly applied, it can both considerably simplify commercial transactions within the Customs Union and ensure the carriage of goods under conditions that are suited to the requirements of the internal market.

As far as non-commercial trade is concerned (travellers, small consignments not of a commercial nature addressed from one individual to another), new efforts must be undertaken to make the man in the street much more aware than he is at present of the reality of the Community. Such action is essential, even if it must result in some loss of revenue to the Member States (for example, as regards the collection of the "customs clearance charge" on postal consignments, which is authorized by the Universal Postal Convention but which, for psychological reasons, can no longer be justified in the Community).

As stressed above, many obstacles to the free movement of goods within the Community are the result of the existence of national provisions, the validity of which is recognized by the Treaty of Rome. The Commission feels, however, that the methods followed to ensure that those provisions are complied with could be modified in many cases so as to weigh less heavily on intra-Community trade.

Besides this, the Commission will carefully examine the whole of the formalities still required in trade between Member States in order to take out those which are no longer justified, including those where infringements are concerned.

2. To complete the process of establishing the Community's customs Legislation

The Commission stressed in this connection the importance of the recent Resolution of the European Parliament concerning the completion of the Programmes for the Approximation of Customs Legislation and the Simplification of existing provisions.

The Commission considers that the simplification of customs rules depends to a great extent on the progress that is made in the process of establishing Community customs legislation. One of the main reasons for the complexity of the present rules is the superimposition of Community provisions and national provisions in many fields.

The Commission will therefore soon be presenting to the Council new proposals for the completion of the existing Community Customs legislation in accordance with the programmes already established. The Commission looks to the Council to adopt a position on those proposals without delay and on those submitted in recent years on which a decision is still awaited.

3. To improve the institutional decision-making machinery

The functioning of the Customs Union, both internally and externally, depends to a great extent on the efficiency of the Community decision-making machinery. Here, it has to be stated that there are certain shortcomings which sometimes have a very appreciable prejudicial effect on the working of the Customs Union.

There are certain shortcomings in the day-to-day administration of the Community rules and also in the relations with the international organizations dealing with customs matters.

The Commission will be presenting proposals to improve the institutional decision-making machinery and considers that this action is of some urgency.

B. Action to be undertaken on a longer-term basis

The Commission had already stated in its programme for the approximation of customs legislation in 1971 that, because the programme had been implemented as a pragmatic process and had involved a large number of partial decisions, it would be necessary for those decisions to be codified so as to form a homogeneous whole governed by principles in conformity with customs and economic union.

This codification work has been undertaken initially on a sectoral basis and will subsequently provide a single codified body of all the Community legislation. In the light of the experience gained during the codification of the Community transit provisions(1), a rapid completion of this work seems out of the question. The Administration of the Customs Union has therefore prepared a collection of the customs regulations in force at Community level to give a better idea of the situation as regards the "legislation" instrument which, along with the CCT, is the basis for the operation of the Customs Union.

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(1) The recent codification of the numerous Community transit regulations has been published in the Official Journal of the Communities, no L 38 of 9 February 1977.

The Commission feels however that a codification of this nature cannot be considered as the culmination of the work undertaken.

Although codification is without any doubt of appreciable value in that it will simplify the task of those who are called on to apply Community legislation or are subject to it, it cannot resolve the problem resulting from the fact that the acts adopted up to now have different legal consequences depending on whether they are in the form of a regulation or a directive. That problem will only be solved by the establishment of a new customs law at Community level. The Commission is of the opinion that such a legal act will be all the more appropriate since it will be necessary to profit by the long experience acquired with the present legislation over the years and adapt it to the extent necessary to the role of the Community as the world's number one commercial power and to the principles laid down in Article 110 of the Treaty establishing the EEC.

The Commission feels that it will be necessary to envisage the planning and drafting of a Community customs code of that kind as soon as the essential points of the 1971 and 1975 programmes have been implemented.

V. Conclusions

Twenty years after the signing of the Treaty of Rome, the progress made in the Customs Union must be looked at from two points of view : on the one hand, the Customs Union is a sector of integration whose achievements occupy a noteworthy place on the Community scene. On the other hand, the rules and instruments of the Customs Union need to be completed, improved and consolidated in a spirit of renewal and with a political will at all levels in order to complete the foundation of the Community.

ANNEX I

COUNCIL

COUNCIL RESOLUTION

of 27 June 1974

concerning measures to be taken with a view to simplifying the task of the customs administrations

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

the customs administrations to take the administrative measures necessary to ensure that they are properly applied. To that end:

Having regard to the draft from the Commission;

Conscious of the difficulties confronting national customs administrations in view of the wide range and complexity of the tasks which they are called upon to fulfil in connection with trade both within the Community and between the latter and third countries;

Desirous of improving this situation so as to ensure the correct application of Community provisions, the implementation of which is entrusted to customs administrations, and at the same time of safeguarding the interests of the economic and commercial circles concerned,

HEREBY ADOPTS THIS RESOLUTION:

I

The Council emphasizes the need for ensuring that provisions of Community law which the customs authorities are required to implement can be applied without excessive difficulties and recognizes the need to make the authorities concerned party to the drafting of such rules.

II

The Council attaches the greatest importance to the timely adoption of tariff provisions so as to enable

(a) Except in exceptional cases justified by compelling economic reasons it will ensure that all provisions on tariff matters, whether of an autonomous or conventional kind (in particular, changes in Common Customs Tariff duties, changes in tariff nomenclature and provisions governing their application and interpretation, duty suspensions and tariff quotas) are adopted, so that:

- they are published in the *Official Journal of the European Communities* at least six weeks before the date fixed for their implementation;
- they take effect every year on 1 January and, where appropriate, on 1 July;
- none of these provisions has retro-active effect.

If necessary, the President should determine priorities so that an examination of the relevant Commission drafts or proposals by the Permanent Representatives Committee and the other competent committees and working parties can be undertaken, on the basis of a programme which will ensure that the above principles are respected.

To enable it to attain the abovementioned objectives, the Council requests the Commission to submit in good time those proposals or drafts

on which it is required to act. It invites Member States to take the necessary steps to communicate to the Commission within the required period all information which the latter needs to prepare those proposals or drafts.

(b) In the case of tariff preferences resulting from agreements between the Community and one or more third countries, the principles in (a) shall apply and all steps must also be taken to ensure that the actual implementation of such tariff preferences does not take place before the first day of the second month following the exchange of the instruments notifying the completion of the procedures necessary for the entry into force of the agreement concerned.

(c) The principles in (a) shall, where appropriate, apply in respect of customs legislation.

(d) It is important that Community measures involving changes in tariff nomenclature be accompanied by corresponding changes in the field of NIMEXE statistical nomenclature, so that the two nomenclatures remain harmonized.

III

(a) The Council considers it necessary to simplify as far as possible the Common Customs Tariff nomenclature, which has undergone considerable development in recent years, particularly as a result of the implementation of the common agricultural policy and of the common commercial policy.

With a view to eliminating all sources of difficulty and delay in the customs clearance of goods and the increasing occurrence of situations particularly conducive to fraud, the Council considers it necessary to avoid, as far as possible, any further breakdown of the existing subheadings of the Common Customs Tariff and calls upon the Commission to submit as soon as possible proposals designed to reduce the present number of subheadings of the Common Customs Tariff.

(b) The Council also considers it desirable to avoid, as far as possible, the adoption of autonomous or conventional tariff measures which concern only some of the products falling within a heading or subheadings of the Common Customs Tariff or a heading of the (NIMEXE) statistical nomenclature.

ANNEX II

Progress Report as at February 1977 on the General Programme
for the Approximation of Customs Legislation adopted by the
the Commission in 1971

(Document SEC(71) 682 final of
28 April 1971)

I. National customs provisions having a direct incidence on the amount of
customs duties accruing as "own resources" and on conditions of competi-
tion

Customs procedures with economic impact

Outward processing

A directive on the harmonization of provisions laid down by law,
regulation or administrative action in respect of outward processing was
adopted by the Council on 18 December 1975.

Temporary admission

A draft regulation will be transmitted to the Council in 1977.

Processing prior to customs clearance ("Umwandlungsverkehr")

A draft regulation was transmitted to the Council on 11 December
1972. This proposal has not yet been adopted because of the refusal of
the Italian Delegation to agree that it should cover tobacco.

Determination of the conditions giving rise to liability for customs
duties and levies

A draft directive on the harmonization of provisions laid down by
law, regulation or administrative action relating to customs debt was
transmitted to the Council on 26 April 1976.

Repayment or remission of duties

A draft regulation was transmitted to the Council at end 1975.
This proposal has still not been examined by the Council's Economic
Questions Group.

Retrospective levy / Recovery of customs duties

A draft regulation on this subject is still being examined in the
Customs Legislation Committee.

Duty-free entry

General arrangements for duty-free entry

A preliminary draft regulation is being studied in the Customs Legislation Committee.

Arrangements for returned goods

A regulation on the customs treatment applicable to goods returned to the customs territory of the Community was adopted on 25 March 1976.

II. Measures to improve the functioning of the customs union

Usual forms of handling permitted in customs warehouses and free zones

A directive on this subject was adopted by the Council on 21 June 1971.

Inward processing

The Council has already adopted implementing measures in the form of directives as regards articles 5 and 18 of the basic Directive 69/73/EEC of 4 March 1969.

Customs valuation

The Council has already adopted a number of provisions necessary for the application of Regulation (EEC) No 103/68 on the valuation of goods for customs purposes. Other implementing measures have been adopted by the Commission.

Community transit

Amendments have already been made to the basic regulation (No 542/69) as regards the discharge of transit documents. These and other amendments made over a period of years to the provisions relating to transit are the subject of two consolidated regulations adopted in December 1976.

Customs rules concerning the common energy policy

Definition of the origin of petroleum products

A proposal was transmitted to the Council in July 1974.

Customs arrangements for the continental shelf

Determination of the value for customs purposes of certain petroleum products

The Commission has not yet transmitted any proposals to the Council in respect of these two questions.

ANNEX II

Preparation of explanatory notes to the CCT in respect of certain petroleum products

These explanatory notes were published on 1 November 1975.

Combating fraud

On 10 May 1973, the Commission transmitted to the Council a draft regulation on mutual assistance between the relevant national authorities and between those authorities and the Commission with the aim of ensuring the proper application of Community rules on customs and agricultural matters. Despite representations made by the Commission, this proposal has not yet been examined in detail by the relevant Council Working Group.

Establishment of rules permitting the Community to participate as an entity in the international organizations dealing with technical customs matters

Although a provisional and partial solution to this problem has been found, the Commission must now propose the necessary definitive measures. A communication will be forwarded to the Council as soon as possible.

Customs clearance procedure

A considerable step forward was taken in this sphere with the transmission to the Council on 21 December 1973 of a draft Directive on the harmonization of procedures for release of goods for free circulation. This proposal is currently being examined in the Council's Economic Questions Group.

Settlement of disputes

Certain aspects of this question were the subject of a study carried out at the Commission's request by Professor Berr of the University of Grenoble. The next step will be for the Commission to carry out the detailed exchanges of views with all the parties concerned with a view to the preparation in 1978 of a preliminary draft Community instrument.

Administration of tariff quotas

The Commission has not yet transmitted a proposal on this subject.

Consultative Committee of trade associations

An Advisory Committee on Customs Matters has been set up by a Commission decision of November 1973.

Training of customs personnel

The Commission has already organized a number of seminars for national officials responsible for implementing Community provisions, particularly in agricultural matters. It will continue to make this type of contribution to professional training.

For their part the heads of customs administrations have taken substantial steps to establish close cooperation in regard to training. To this end officials are being exchanged, bilateral and multilateral contacts are being established and any other suitable means are being utilized, with the participation of Commission officials where appropriate. In May 1976 a resolution was adopted in regard to the strengthening of existing cooperation, particularly by means of determining an outline programme of education and training at Community level angled towards application by the Customs of the common agricultural regulations.

III. Work in connection with the accession negotiations

This work has been completed as regards the accession of Denmark, Ireland and the United Kingdom.

IV. Codification of Community Law

The codification of Community Law should logically be preceded by the adoption of the various approximation proposals which are at present being examined by the relevant Community bodies.

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ANNEX III

Committees on Customs matters
administered by the Commission of the
European Communities

I. Committees concerned with regulations

- Committee on CCT-Nomenclature
- Origin Committee
- Customs valuation Committee
- Community transit Committee
- Committee for Customs Processing Arrangements
- Committee on Duty free Arrangements
- Committee on Recovery

II. Advisory Committees

1. Within the Community

- Customs Questions Committee (Heads of Customs Administrations)
- Customs Legislation Committee (Preparation of proposals to the Council)
- Advisory Committee on Customs Matters
- Joint Panel of Government Experts on the CCT
- Economic Problems Group (suspensions, quotas)
- Group of Government Experts on the standardization of import/export data requirements and related problems

2. With third Countries

- Customs Cooperation Committee EEC-Greece
- Customs Cooperation Committee EEC-Turkey
- Customs Cooperation Committees with the other Mediterranean countries (Egypt, Israel, Lebanon, Malta, Morocco, Spain, Tunisia, Cyprus, Algeria, Syria, Jordan)
- Customs Cooperation Committees with the EFTA countries (Austria, Portugal, Sweden, Switzerland, Iceland, Finland, Norway)

III. Joint Committees with third countries

- Joint Committee EEC-Austria
- Joint Committee EEC-Switzerland

Total : 36 committees and working groups

ANNEX IV

Progress Report on the Simplification Programme
adopted by the Commission in 1975
(Document COM(75) 67 final of 25 February 1975)
State of play 1 April 1977)

I. Simplification programme

In the months which have elapsed since adoption of the simplification programme, substantial progress has been made in implementing the programme. A good number of the proposed simplification measures have already been the subject of practical proposals. In certain areas, however, the work undertaken is proving difficult and a substantial effort will no doubt be required to complete it within acceptable time limits.

The state of play at the situation at April 1977 for each item on the programme is as follows :

A. TARIFF

1. Simplification of Common Customs Tariff nomenclature

(Item 1.1. of the Programme)

In 1976 the Council adopted a regulation providing for the deletion of approximately thirty CCT subheadings (agricultural sector : Chapters 1, 11, 17 and 23) and the nomenclature covering bovine animals and meat of bovine animals has also been simplified recently.

Arising from the work of the Customs Cooperations Council (CCC), moreover, in which work the Community has played an active part, the deletion of some 35 headings from the CCC Nomenclature is planned for 1 January 1978. The effect of the amendments to the CCCN will not be that an equivalent number of tariff positions in the CCT will be deleted. These amendments will however provide the opportunity for simplifying and restructuring certain headings, especially in the chemicals chapters. The GATT multilateral trade negotiations will inevitably influence this work.

2. Development of a single Community tariff/statistical instrument incorporating preferential and suspended duties and tariff quotas (integrated Community tariff)

(Item 1.2. of the Programme)

This is a highly complex technical task. A detailed draft integrated tariff for certain chapters of the CCT has been drawn up with the help of national experts.

The Commission will soon need to take a decision on the establishment of such a tariff, in the light of budgetary implications.

3. Explanatory Notes to the CCT

(Item 1.3. of the Programme)

The English version of the explanatory notes to the CCT is currently being published as regards Chapters 1-23 of the CCT. The complete work will be available by the end of the year.

The translation of the notes into Danish, had run into problems of means, but these have now been overcome. The Danish version will probably be published in 1973.

The Commission is also publishing, in all Community languages, the "Tariff classifications" manual; it will contain the judgments of the Court of Justice on tariff matters, the classification regulations and the "classification slips" and thus constitute a substantial addition to the explanatory notes.

4. Conditions for admission of certain goods at reduced or zero duty (end-use)

(Annex D item (i) of the Programme)

Work in this area has reached the point where several regulations, including a "standard" regulation covering sixty products or groups of products, will be adopted by the Commission in the first half of 1977. It should be noted that Regulation 97/69 has been amended (OJ No L 40 of 11 February 1977) to permit its application, without legal ambiguity, to goods covered by duty suspensions or tariff quotas, by the common agricultural policy or by trade agreements with third countries.

B. AGRICULTURE (Section 2 of the Programme)

The Commission has presented a note to the Council and the European Parliament on action taken to simplify agricultural legislation (COM(75)532 of 27 October 1975). The Council consequently adopted a resolution (OJ no C 287 of 4 December 1976, on 23 November 1976), including the following points :

- it stressed the need to ensure that agricultural regulations can be applied without excessive difficulties ;
- it invited the Commission and Member States to improve coordination between all services which are concerned with the drafting and application of agricultural regulations ;
- it observed that the six week limit laid down in the Resolution of 27 June 1974 for the publication of regulations cannot always be respected in regard to agricultural regulations, on account of the urgency with which some of these have to be implemented ; but that, in any event, a reasonable time-limit (in principle, not less than a week), should be provided in each case to allow for the practical requirements for administrative implementation.

C. COMPUTERISATION (Item 3.1 of the Programme)

The proposal for a detailed requirements study, referred to in the Simplification Programme, was presented to the Council in March 1975. This proposal is still being examined by the Council.

D. VALUATION

1. Simplification of the rules relating to advertising costs borne by sole concessionaires in respect of trade-marked goods

(Item 4.1. of the Programme)

The Customs Valuation Committee has for some time been examining the complex question of the advertising costs to be included in the value for customs purposes of imported goods. The difficulties encountered in preparing a common text are bound up with the fact that national laws and practices in this matter are often widely divergent. Furthermore, work has slowed down on account of the importance of the subject of customs valuation in the GATT multilateral trade negotiations.

2. Establishment of a standard average values system for apples and pears

(Item 4.2. of the Programme)

In accordance with the objective laid down by the Programme, the Commission adopted on 27 June 1975 a regulation establishing a system of standard average values for the determination of the value for customs purposes of apples and pears (1) imported from third countries. In future the Commission will fix the standard average values applicable to the products in question, by means of regulations issued every fourteen days.

3. Documents required for customs valuation purposes

(Item 4.3. of the Programme)

In accordance with the objective laid down by the Programme, the Commission adopted on 26 May 1975 a regulation on the submission of documents for the determination of value for customs purposes (2). The regulation specifies which documents are to be submitted, thus standardizing the control requirements in respect of value for customs purposes.

E. ORIGIN

1. Harmonization of the rules of origin provided for in the different agreements embodying preferential arrangements and of the methods of administrative cooperation laid down in order to ensure the application of such rules

(Item 5.1-5.4. of the Programme)

As regards the rules of origin and in particular the Lists of exceptions - Lists A and B - supplementing the general criteria, the objective sought, (viz. the removal of disparities between the various arrangements which were not justified by technical or economic considerations specific to a particular agreement) can be considered to have been attained.

(1) OJ No L 165, 28.6.1975, p. 45

(2) OJ No L 137, 28.5.1975, p. 18

The standardization of documents certifying the "originating" nature of products has also been completed, with a few exceptions. In future the EUR 1 certificate and form EUR 2 will be used within the framework of most of the agreements.

2. Special study on possible improvements to the rules of origin applicable under the agreements with the EFTA countries

(Item 5.5. of the Programme)

As regards item 5.5.1, it should be noted that a number of amendments were made to Lists A and B, with effect from 1 December 1976.

Other more general simplifications, such as the rationalization of the cumulation rules and the introduction of an alternative criterion for added value (see items 5.5.2. to 5.5.4.), are currently being studied, in particular from the angle of their economic implications.

The experience gained from the implementation of the simplified authentication procedure enabling approved exporters to consign goods without the need for direct customs involvement in every case has been conclusive. The procedure has therefore been maintained.

F. TRANSIT

Examination of the possibility of abolishing Community transit documentation for goods in free circulation after the end of the transitional period

(Item 6.1. of the Programme)

The Community Transit Committee decided unanimously that it was not possible at present to consider abolishing internal Community transit documentation.

Introduction of greater flexibility in the guarantee system

(Item 6.2. of the Programme)

Review of the application of Article 41 of Regulation (EEC) No 542/69

(Item 6.4. of the Programme)

A draft regulation on this subject was transmitted to the Council in December 1975. It has not yet been adopted, in particular because of the lack of provisions for recovering VAT and excise duties at Community level.

Examination of the possibility of abolishing transit advice notes etc.

(Item 6.3. of the Programme)

The Commission has not yet found it possible to present a proposal on this subject for reasons similar to those given in respect of items 6.2. and 6.4. above.

Possibility of establishing Community rules on sealing

(Item 6.5. of the Programme)

Community rules on sealing have been established by administrative action by the Community Transit Committee.

Annex IV

Standardization of documents used in intra-Community trade

(Item 6.6. of the Programme)

Examination of the possibility of reducing data requirements on documents used in intra-Community trade

(Item 8.1. of the Programme)

The work which had been initiated with a view to reducing the current data requirements on customs documents has not produced positive results. On the other hand, the Commission forwarded to the Council in December 1976 a draft regulation aimed at instituting a Community export document. The Commission's departments are pursuing this work further with a view to aligning transit documents on the Geneva layout-key. A decision in this matter could be taken in the first half of this year.

Examination of the possibility of basing customs controls more on companies' accounts than on physical controls at ports and frontiers

(Item 8.2. of the Programme)

The nature of the objective - the attainment of which implies a profound adjustment of administrative structures - precludes it as a suitable subject for regulation. The Commission's actions will consist in making customs procedures sufficiently flexible to enable the administrations to base their controls on firms' accounts.

F. INWARD AND OUTWARD PROCESSING AND TEMPORARY ADMISSION

Examination of the requirement for special statistics on inward and outward processing and temporary admission

(Item 7 of the Programme)

Following a detailed examination of this question by a special group of experts, it was decided not to modify the information system at present in force.

G. CODIFICATION OF COMMUNITY LEGISLATION

A Commission proposal for consolidating the basic instruments in respect of Community transit has been adopted by the Council.

The Commission has carried out a parallel consolidation of the relevant implementing regulations.

The two regulations in question were published in Official Journal No L 38 of 9 February 1977.

RESOLUTION OF THE EUROPEAN PARLIAMENT
of 19.4.1977

RESOLUTION

on simplification of customs procedures, customs legislation and institutional methods for dealing with customs matters, with opinion on the Commission's proposal to the Council for a regulation instituting a Community export declaration form

The European Parliament,

- having regard to the political, economic and psychological importance of all measures to improve the functioning of the customs union;
 - having regard to its resolution of 7 July 1975¹;
 - having regard to the motion for a resolution 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 statements by the President of the Council and the Commission Member during the debate on Oral Questions (Doc. 317/76)²;
 - having regard to the proposal from the Commission for a regulation instituting a Community export declaration form³;
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 520/76);
 - having regard to the report by the Committee on Economic and Monetary Affairs (Doc. 14/77);
1. Notes that the amount of administrative work to which firms and private persons have to attend when sending goods or small consignments has not decreased despite the creation of the customs union;
 2. Stresses that the creation of a customs union involves not only the replacement of national customs tariffs with common tariffs but also the harmonization of national administration of the common customs tariff and other national laws and provisions in order to avoid unnecessary waste of time and money when persons or goods are to cross one of the Community's internal frontiers or external customs frontiers;

¹ OJ No. C 179, 6.8.1975, p.7

² OJ No. C 259, 4.11.1976, p.23

³ OJ No. C 37, 14.2.1977, p.66

3. Stresses that the present situation leads to shifts in trade and production patterns, which are contrary to the objectives of the EEC Treaty;
4. Regards this situation as a luxury that 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;
5. Fully appreciates the progress made in recent years, not least the fact that, since the European Parliament last delivered an opinion on the simplification of customs procedures,¹ new rules have been adopted for:
 - processing outside the Community (COM(74) 417);
 - the recovery of sums paid in error and of agricultural levies and duties (COM(72) 1578);
 - the duty-free importation of educational, scientific and cultural works (COM(73) 208);
 - the simplification of customs tariffs on agricultural products;
 - rules of origin in trade with EFTA countries, etc.;
6. Is, however, of the opinion that the introduction of a uniform administration of customs legislation and the free movement of goods in the Community is proceeding too slowly;
7. Endorses and welcomes the Commission's proposal for the institution of a Community export declaration form²;
8. Urges the Commission to continue and intensify its efforts to draw up common customs legislation; points out that so far a basic regulation on 'Community consignments' has been achieved and agrees that revision and simplification of the rules of origin and common rules for the administration of the relevant customs tariffs should have high priority; also points out the particular need for drawing up common rules for the calculation of dutiable value;
9. Appreciates the fact that, before 1 July 1977, the Commission will draw up and submit a report on the situation in the customs union and urges the Commission to put forward as quickly as possible proposals for implementing its 1975 programme for the simplification of customs procedures³ and the European Parliament's opinion of 7 July 1975;

¹ OJ No. C 179, 6.8.1975, p.7

² OJ No. C 37, 14.2.1977, p.66

³ COM(75) 67

10. Urges the Council to adopt at an early date the Commission proposals for the administration of the customs union¹, especially those on:
- mutual assistance between the competent authorities of the Member States and between the latter and the Commission for ensuring the correct application of Community customs and agricultural regulations²;
 - the release of goods for free circulation³;
 - repayment of customs duties⁴;
 - guarantee arrangements for the transit trade⁵;
 - export documents⁶;
 - customs exemption for small consignments of a non-commercial nature⁷;
11. Makes an urgent appeal to the Member States to approve the measures already adopted for simplifying customs legislation and to do their utmost to support the efforts of the European authorities towards harmonization, and stresses that this is of particular importance to small and medium-sized undertakings;
12. Urges the Commission to seek the support of the European Parliament if it has difficulty in getting its harmonization proposals accepted by the customs authorities in one or more Member States;
13. Instructs its President to forward this resolution to the Council and Commission of the European Communities and to Member States' governments and parliaments.

¹ See list in SEC(77) 62

² COM(73) 538

³ COM(73) 2137

⁴ OJ No. C 54, 8.3.1976

⁵ OJ No. C 204, 11.8.1975

⁶ COM(76) 698

⁷ COM(74) 2084 and COM(75) 164

EUROPEAN COMMUNITIES

Brussels, 14 February 1977

180/77 (ASS 108)

The Council

R e s o l u t i o n

on the relationship between Community law
and criminal law

adopted
by the European Parliament
at its session
of 10 February 1977

The European Parliament,

- having regard to the report of the Legal Affairs Committee (Doc. 531/76);

1. Recognizes that a general harmonization of the national criminal law of the Member States of the Community is a complicated and sensitive subject, so that it is unlikely to be achieved in the near future, but stresses that where offences against Community law are concerned, harmonization should be the Community's aim;
2. Emphasizes that Community legislation must, if the Community is to function properly, be respected throughout the Member States and that, to this end, there must be sanctions against those who contravene the provisions of Community law;
3. Notes, however, that the Commission's powers of sanction are not of a nature to provide a complete solution to the problem of Community law enforcement;
4. Urges the Commission to make full use of such powers of sanction as are conferred upon it by the Treaties;
5. Calls upon the Member States, therefore, to cooperate urgently in measures designed to ensure that breaches of Community law are the subject of sanctions under their national legislations particularly to prevent fraud upon Community funds;

6. Notes the difficulties and drawbacks such as those caused by: like cases not treated alike, distortion of competition, disregard of the ne bis in idem rule, effects of the principle of territoriality, which nevertheless inevitably result from a system whereby the Community must rely almost entirely on the national legal systems of Member States for the enforcement of Community law ;
 7. Is pleased to note that the Commission has submitted to the Council draft protocols, on which Parliament has been consulted, to be added to the relevant Treaties concerning
 - (a) the criminal liability and protection of Community officials, and
 - (b) common rules for the suppression of infringements by individuals in matters governed by Community legislation ;
 8. Awaits the report of its Legal Affairs Committee on these draft protocols ;
 9. Invites the Commission to study the laws of the Member States on the criminal liability of legal persons, an area in which the differences between Member States cause particular difficulty, as much Community legislation affects such persons rather than natural ones ;
 10. Invites the Commission to consider the use of Article 100 of the EEC Treaty to harmonize existing provisions of national legislation relating to sanctions for breaches of Community law, and to undertake studies in and consultations with the Member States to assess the practicability of the future use of Article 100 ;
 11. 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 Ministers of Justice of the Member States.
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