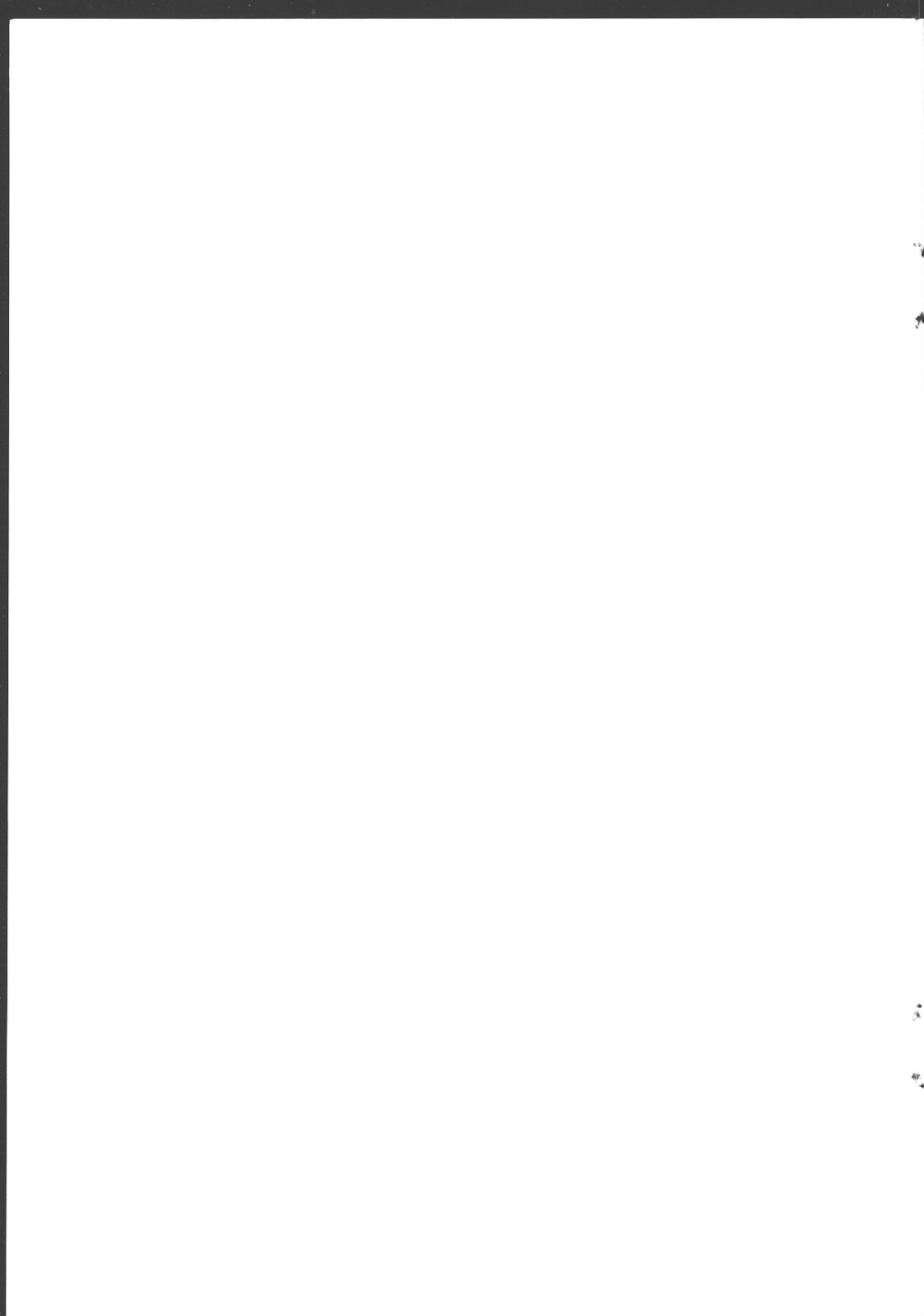


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Douane et Fiscalité Indirecte



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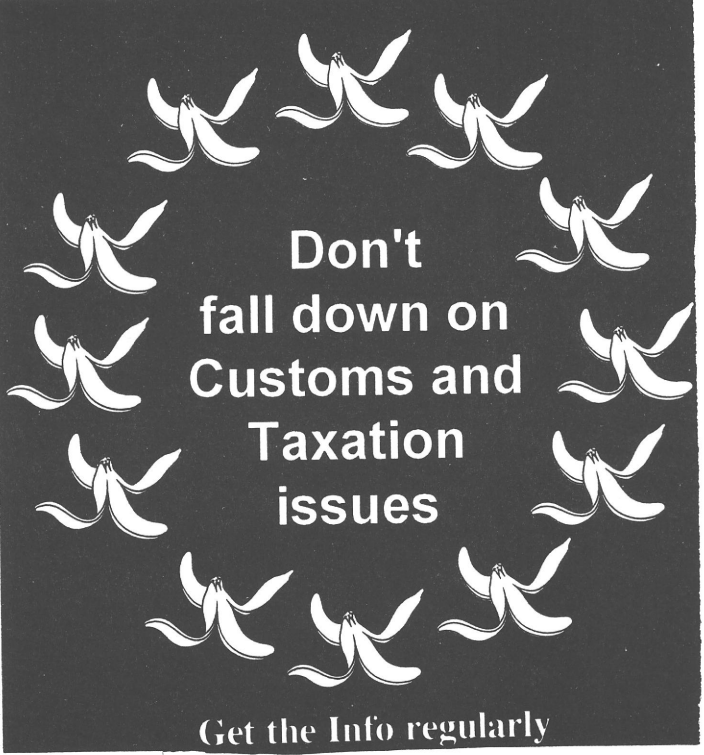
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**Don't
fall down on
Customs and
Taxation
issues**

Get the Info regularly

Editorial



This is the twenty fifth edition of the Info; it has taken us six years to get here. About the average term of office of an indirect taxation Director General! The magazine was started by Henry Chumas, just before Peter Willmot took over, both of them in one way or other the victims of their relationships with their, different, Commissioners. However both felt the need for a forum in which we who work and play in DG XXI could speak to each other about what we do and why we are doing it. We hope that you have felt that the INFO was useful and at the same time amusing, perhaps the need for it is diminishing now that it is possible to post virtually anything you want into the Insem mail system, but we still feel that it serves a purpose, as well as providing employment! Hopefully the new DG will take note?

In the very first editorial Henry said that good communications are an es-

sential element for any organisation and that they are a two way affair. In his second editorial he says,..... Well you will need to turn to the next article to find out! We have also let the original Editor loose again, but this time without that dog. The DG has some words for you as well and we have articles on the transit system, the customs union with Turkey and much more.



After a year of publication we provided a questionnaire for you the reader to send to us to tell us what you wanted. The level of response was fantastic and encouraged by the immense lack of criticism we continued with the mix more or less as before. Our post bag remains pretty empty as well so we really have little guidance on how to help you by providing what you want and need. This edition is a little slim volume, way

smaller than some of the editions in recent months. Partly this is because of illness on the part of one author who was unable to produce her promised article on the customs and the east of Europe, that we cannot control. At least one other author was frustrated by the volume of real work he had to do and was unable to find the time to do his article. We have to live with these things. Hopefully as the days lengthen enthusiasm will return and pens will start to flow again!

Seriously though the Info does not write itself and we do need your contributions and your news. This is why we have a fairly large editorial group so that we have a better chance to hear about things and chase people for contributions. Shortly Valère Moutarlier will be leaving us so we should take the opportunity to thank him for both the light hearted and the serious parts of his input which have greatly helped us in the last year or so. It looks like Thomas Carroll will also have to lay down his office if he is asked to accept elevation to the hierarchy, again we have a lot to thank him for as his dry pointed comments have tended to keep us to the point! So we will be looking for replacements from Directorate C. If anyone is interested talk to one of them and find out what is involved. If there are no willing victims then we

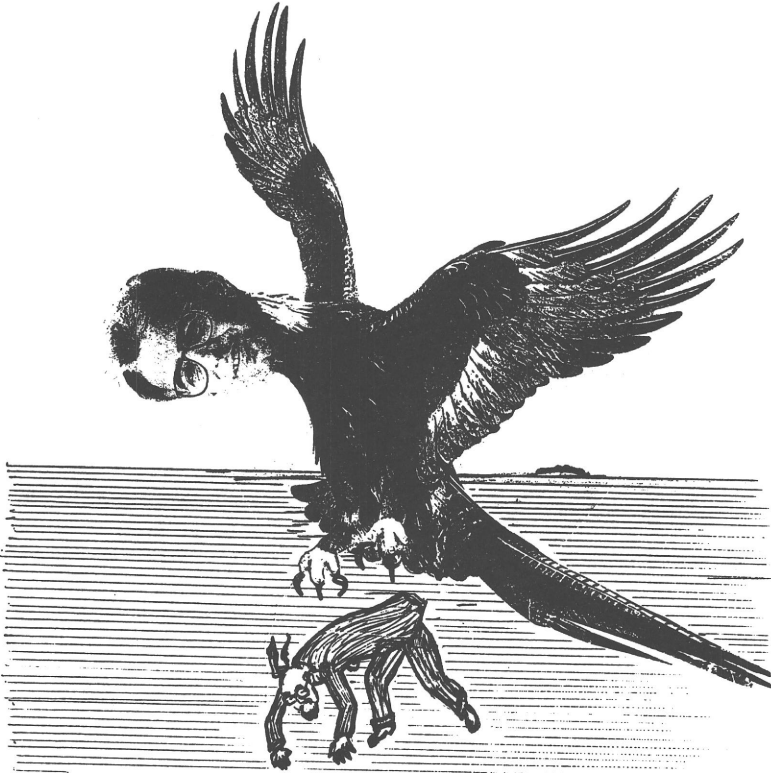
will prowl the corridors looking for a "volunteer". But we are also interested in having help from the other directorates, especially from the new entrants to our ranks.

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It is depressing to lose people and losing a Director General for reasons we don't really understand and when it is hinted in the press that this is at least partly to do with the deficiencies found elsewhere in our organisation is particularly worrying. What can we say? Only thank you Peter, for all you have done or have tried to do, for the flashes of humour in the DG newsletter, the reports of missions to far flung places, the guidance and the wisdom. Not all of us have always agreed with everything coming out of the fourth floor, but then you haven't always been able to agree with everything coming at you from the other floors or other places! On balance though the last six years have been pretty positive and a lot has been achieved. Perhaps not all we would have wished for or that the idealists consider necessary. But it will always be the job of somebody to "carry the can" when a scapegoat is required. We wish you and your family all the best whatever you do and wherever you do it. We suspect it might not be too far away and you will still find ways to keep DG XXI

on its toes! We must be careful not to say more, because we all need to eat at midday. In this respect, hopefully you enjoyed the lunch given for you

by your Heads of Unit as a mark of their feelings and respect, although enjoy might not be the best word to use here!



Perhaps the Roc is not so fabulous? It lives up the road!

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Which brings us to 'the dauphin', whoever they¹⁾ might be, when will they be made known? Knowing the editorial luck it will be ten minutes after this has been sent off to the printers! In any case part of their required reading will be at least this edition of the INFO, and its future rests in their hands so we had better wish them luck. We also hope that they will have time to learn what we are supposed to be doing quickly enough to be able to put in a major element of reality into whatever is put forward definitively, and then to be able to keep it there!

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This edition will, due to forces beyond our control, such as printing lead times, almost certainly come out in 1996. Therefore, instead of wishing you a

**Happy Christmas
and a
prosperous New Year,**

we will hope you had a great time in the couple of weeks or so you had to relax, and that you are all well and fighting fit to meet the demands of 1996. Anyway at the time we wrote this we probably were all still feeling



DISAPPROVING

and in need to get away from it all!

¹⁾ Ed: This is not a plural, we do not expect to have more than one DG at a time. This is politically correct and recognizes that, luckily, not everybody is a 'he'.

GUEST EDITORIAL

DG XXI Info is 25 numbers old! When we launched the magazine in December 1989 few people expected it to survive for more than a year. I am, therefore, delighted to see that the magazine has gone from strength to strength over its first six years and I look forward to receiving further numbers regularly in the years to come.

When Tony Griffiths invited me to write a 'guest editorial' he suggested that I should "blow loose and tell us what you want to say". I have to say that I am saddened by the current state of the European Union. Certain politicians, including government Ministers, have blatantly set "Brussels" up as an 'Aunt Sally'⁽¹⁾ in an attempt to divert attention from their own failings and, in some case, in the hope of gaining electoral advantage. The definition of "Brussels" used to be "Capital city of the Kingdom of Belgium". Certain eurosceptical politicians have redefined "Brussels" as "An unelected, overpaid, and bloated bureaucracy hell-bent on hegemony within the European

Union". Unfortunately, this definition seems to be gaining more and more currency.

For political reasons, some Ministers and former Ministers try to give the impression that "Brussels" is responsible for all of Europe's woes.

In doing so, they disclaim all responsibility for Community decisions, except those such as the Single Market which are popular. It is not easy for the Commission to redress the balance. It is difficult to get the public to accept that all important European policy and administrative decisions are taken by the Member States within the framework of the Council of Ministers; that the Commission's administrative and subordinate legislative powers are exercised under strict rules laid down by the Council; and that the complexity of European legislation is often the result of the 'mangling' of relatively simple and clear Commission drafts by Member State officials during the adoption process. It is also delicate to suggest that there may be some advantage in

(1) Ed: An old English fairground amusement where you throw things at a dummy called "Aunt Sally".

European Commissioners being appointed rather than elected. At least they do not have the temptation to put party political interests before the interests of the Union as the time for parliamentary elections approaches.

The Commission must, however, accept its share of the blame for the current European 'malaise'. The Delors Commission clearly achieved a great deal, not the least the creation of the Single Market, but it was over-ambitious. It tried to move the Community forward at a pace that was unsustainable. In its keenness to make progress, it largely overlooked the need to consolidate the foundations before starting on the upper storeys. 'Maastricht' was a public relations disaster. Ambitious new projects were launched without the resources to pursue them effectively. More importantly, the need to secure public support was seriously underestimated.

As a result of the failings of the Member States and of the Commission, the Union has become discredited and is out of favour with many of the citizens. The political manoeuv-

ring related to the forthcoming Intergovernmental Conference disenchant the public still further. Fortunately, the Santer Commission has recognised these problems and is trying to do something to solve them. It will, however, be very difficult to overcome the current inertia, particularly since the Member States find it impossible to agree common objectives on major issues at the present time.

My analysis may seem somewhat pessimistic. I am, however, an optimist by nature as well as being a committed European. The development of the Community has always been determined by the quality of its political leaders and the force of external influences. Political leaders come and go and external forces can change very rapidly. The European Union may be calmed at present but I believe that it has the capacity to sail out of the doldrums, just as it has weathered major storms in the past.

In the meantime, I should like to take this opportunity to wish all the readers of DG XXI Info a happy Christmas and a Healthy and Prosperous New Year.

Henry CHUMAS

EX-EDITORIAL

It gives me great pleasure, as the founder and first editor of "XXINFO" to take up my editorial pen once again. But what cause shall I espouse? What iniquity should I denounce?

There is no shortage of good causes: how to enhance job satisfaction and stem the brain drain, better communication between the 17 units of DG XXI, fuller consultation of the staff by the bosses, harmonization of reporting standards across the DG, integration of units 01 and 02 into their appropriate Directorate(s)...

What iniquities? Well, the removal of our Director-General for a start! The fact that on-line management never meets as a collegiate body, only at Directorate level; the fact that of our 17 units, only two are headed by women; the fact that a director's post has not been filled for 18 months, putting an intolerable strain on the whole Directorate and, in particular, on the head of unit filling the gap; the fact that certain members of staff

do not take advantage of the training that is on offer...

But let us keep matters in perspective. In my rôle as staff representative in the A Promotion Committee I get to see how other services perform, and on most of the above indicators DG XI compares favourably with them.

Where we outperform them all is in publishing, without a budget, a house-magazine that is lively, topical and attractive. We established our editorial independence early on with a parachute cartoon in issue N° 2 (I wonder if we will need to reissue it). I salute Tony's achievement in preserving our independence, in attaining a high quality of content and presentation - and in expanding the Editorial Board to the size of a football team.

The whole team deserves our thanks, congratulations and continued support. May you score many more goals, while entertaining us in the process.



LE COIN DES DIRECTEURS GÉNÉRAUX

VALEDICTION

How do you sum up in a few short words the impressions left by five and three quarter years in DG XXI?

Perhaps, most simply, in the two words "frustration" and "satisfaction".

Before coming to DG XXI, I was assailed on all sides by friends and colleagues saying "you'll find it terribly frustrating, you know - those Member States can be impossible". This is also what Internet junkies would call a Commission FAQ ("Frequently Asked Question") - how can you live with the frustration of never getting your proposals agreed?

The truth is different. For me, frustration comes from within the Commission, and not from outside.

Member States have their own interests to defend. Often, these can be traced to genuine concerns in national parliaments, industries or interest groups. Sometimes they stem from hobby horses ridden by individual officials. On occasions they can be

traced to the whims and fancies of bloody-minded ministers. But, however much we groan, we have to take them seriously - usually at face value - and look for a negotiated solution.

It says a lot for the Community that in a surprising number of cases solutions can be found. I have never really felt frustrated by this interplay of interests within and between the institutions (although I would admit at times to very real irritation at the obtuseness and obstinacy of certain delegates!).

Inside the Commission it is a different story. This is an institution with internal procedures and staff rules better suited to the nineteenth than to the twenty-first century. There is little sign of a unified culture, and very little overall "esprit de corps". All too often we suffer from friction and conflict between services, and between them and the "political" layer of the institution. This sometimes defies logic and frequently impedes the efficient conduct of business. Informal networks may try to compensate

for the perceived failure of many more formal procedures. But the result is a further reduction in clarity and momentum in the Commission's internal workings, rather than any real improvement.

Furthermore, the old joke "how many people work in the Commission? On a good day, about half..." contains more than a grain of truth. There are lazy people here, and (more dangerous perhaps) hyperactive incompetents. Both types cause management difficulties, and throw an excessive burden on those who want to work hard and do a good job. Yet there are very few effective remedies in the hands of managers. The classic response is to engineer a transfer to some unsuspecting service, or to shunt the offending official on to a branch line where nothing happens and no harm can be done. Conseillers who do not advise, and fonctionnaires who do not function, are luxuries that the Commission can ill afford. When, I wonder, will it stop pandering to the political intriguers and the many "old boys networks" and start to manage these problems in a hard-nosed and effective way?

These are the real frustrations for someone who just wants to get the job done. The overall effect is to create a machine that can be unresponsive or - worse - quite unpredictable

in the way it works. Committing ourselves externally to deliver particular results by a specified date is a risky business. I have lost count of the times that I have had to apologise to Member States for missing deadlines, or simply for poor quality work.

After such a diatribe, it may seem strange then to talk of satisfaction. If Galileo ever did say "eppur' si muove...", I know what he meant. The place can deliver results, and - on a good day - is capable of producing very high quality output. Above all, individual members of staff have a vision of Europe and a determination to make it happen that ought to put to shame some of Europe's more spineless political leaders. We believe in the long term, and know that it is our job to keep faith with the ideas of the Community's founding fathers. The trick, of course, is to avoid blind adherence to outdated notions, and to adapt and update our thinking so that it meets the needs of the present, and not of the past. That so many of you succeed in pulling that off, day in and day out, is remarkable. It is a pity that these sterling efforts cannot be acknowledged more frequently in an institution that is not noted for giving positive strokes to its staff.

Perhaps the most satisfying thing of all is our relationship with the Mem-

ber States. Whether in the customs field or on the tax side, we are acknowledged not just as experts but as leaders. Things happen because we set them in motion. The Community moves forward because individual members of DG XXI have ideas, propose, present and defend them, and then fight to ensure that they are put into practice. Our professionalism and dedication are accepted and respected in the Member States' administrations.

More than that, I think we do a good job on behalf of all inhabitants of the European Union, and not just for its administrations and officials. Without our will to defend the interests of citizens and businesses, Europe would be even more discredited in the more sceptical of our countries than it is. People and business would suffer more, and fairness and justice would have a harder time overcoming the opposing tendencies that, regrettably, we sometimes see in individual cases in individual Member States.

So, is there any overall conclusion to be drawn?

I think so. Most important, it seems to me, is the fact that satisfaction generally outweighs frustration. The former is a lasting feeling, whereas the latter is a more transient emotion. Beyond that, though, is the very real pleasure to be obtained from working (and sometimes playing) with people of different backgrounds and cultures. The experience is rich, and the benefits enriching. So much so that those of us who have been hooked on Europe - and I think that I have been since the early seventies - find it hard to contemplate life back in the single-dimension world of a national administration.

This is maybe the main reason why, despite leaving the Commission, I do not feel that I shall be going away. Physically I may find myself splitting my time more between Brussels and the UK. Spiritually, I shall still be attached to the task of building Europe, and I will feel close to all of you who are actively struggling to finish the job. I can only wish you every success in the venture, and express the hope that satisfaction and fulfilment loom very much larger in your feelings about the job than any baser or meaner emotions.



QUI FAIT QUOI?

To wisely go where no man has gone before -Future transit

"What went wrong?" they ask. "Nothing", you say. But, do they believe you? Or, "What are you doing at the Commission?" "I am with the project of computerisation of Customs Transit." "What! you have to be kidding, don't you know it is impossible!" Well, in DG XXI we know that it certainly is not impossible, but it requires a lot of hard work and commitment from us all and from the Member States. Perhaps it makes sense to look back in time.

The Transit system, exchanging Customs transit data and carrying out transit procedures in the field of Community and Common transit, as well as transit based on the TIR Convention, has been criticised lately with estimates of losses in own resources and national revenues varying from 750 million ecus from 1990 to date, or up to 8 billion ecus from the beginning of the single market. I can not comment on the accuracy of these figures. All I can say is that the numbers seem to be quite impressive. Besides the fiscal aspects there are also negative side effects for the operation of the market, to fair competi-

tion and consequently to honest economic operators.

What would be the other side of a coin? Is it possible to establish a system that is one hundred per cent secure? Surely it is but the cost to the business community and to the economy would certainly be much more than the benefits of that system. To clear the goods only at the point of entry and at the point of exit? Not very likely, I think. But to achieve a level of security well above the existing one is certainly feasible.

The Community transit system was introduced in 1969 and in 1987 it was expanded, as Common transit, to the EFTA countries. The main reasons for setting it up were to avoid delays at borders and to create a system where it was possible to clear goods only at their final destination or at their place of departure. Facilitation of trade and effective allocation and use of customs officials were the main targets.

Today we have something like 18 million transit operations per year

and the amount is increasing rather than diminishing. The increasing use of the "Just in Time"¹⁾ principle and the growing economic importance of central and east European countries are adding extra spices to the soup.

The Transit system at its time of introduction was modern and effective, but the overall development of society, business and international trade have brought new requirements to the system. And now it is time to find answers to those requirements. Of course the system has continually been developed and improved all the time, but a deeper renewal of the regime has always been left to the future. And we are now in that future.

Like all other institutions where money is involved, transit has always faced problems. The situation is not new. However the growing complexity of international trade, the need to cut expenses in administration and the lack of resources available are not making the situation any better. The main reason for the latest transit problems is said to be the introduc-

tion of the single market and the abolition of border controls on internal frontiers from the beginning of 1993. The "reversed presumption", according to which the goods transported between two points in different Member States shall be deemed to be Community goods unless otherwise proved, rather than the traditionally opposite way round, has also been put forward as one of the reasons. It has also been claimed that the amount of fraudulent activities has rapidly increased during the last few years. At the same time, however, I am sure that the control in Member States is actually more effective today than before, and thus it is in fact easier to detect fraudulent operations than before - unfortunately too often only too late.

Proposals for solutions to transit problems have been presented in various occasions and from various sources. These solutions are mostly based on the use of different technical control devices, for example "smart cards"²⁾. Common to all these proposals is that they seem to

1) Ed: "just in time" is where the manufacturer does not hold stocks of components, which would cost him money, but arranges that they arrive from his supplier just at the time they are to be used.

2) Ed: Smart cards are like credit cards with all the information about the shipment on them, a bit like the telephone cards we lose so easily!

aim at automating some of the current procedures and practices and thus bringing about only a partial interim solution. These kinds of solutions are good up to a certain level, but we have to take a more far reaching approach to cure the problems rather than only treat to the symptoms.

DG XXI's approach is that the system has to be made better and more reliable by developing the system as a whole, not just giving first aid to a place where the need is most urgent. Bit by bit solutions are often fairly expensive and their implementation requires time, effort and resources from Member States. This should not be taken to mean that we are not interested in partial solutions to the problems, where they seem to fit in the overall framework or at least are not working against it. The main issue is actually to find a balance between these bit by bit solutions and the renewal of the whole system.

We should aim towards a solution that is likely to be accepted by the EU and by the other participating countries. Whatever the solution is it must be seen to be feasible and cost effective by all. To find a balance between trade facilitation, effective and smooth operation of the single market on the one hand and security on the other is essential. To achieve the

official goal by the imposition of difficult requirements at the expense of the business community must also be avoided.

One solution in fighting against fraud and in developing a more reliable and effective operation of the transit system is the computerisation of transit, a project which was launched late in 1993. This project, known as Transit Computerisation Project (TCP) aims at developing a system to manage Community/Common Transit by using advanced computer systems, EDP-technology and electronic data interchange (EDI). The main objectives of the project are:

- increase the efficiency and effectiveness of operation of the Community/common transit procedure,*
- improve performance in preventing and detecting frauds in transit, and*
- bring about faster and more secure operation of the transit procedure, at the same time offering enhanced facilities to economic operators where appropriate and feasible.*

An important aspect of the project is that it also aims to achieve better or-

ganisation of transit practices and working methods in national administrations. One of the major features is that the system should provide prior information of anticipated arrival of consignments in transit, so that this information can be effectively used for risk analysis purposes, and for planning and the preparation of the necessary activities in offices of destination and transit. And because transit is not an isolated customs procedure and is normally linked to previous and following phases, the benefit of fast and accurate information is even wider.

The utility of the project has been widely recognised and to support it, and other related activities, the Internal Market Council, at its meeting on 23 November 1995, adopted a Resolution with regard to the computerisation of Customs Transit.

"What are the typical frauds in transit?" The range of fraudulent activities is very large. The cases vary from very simple and easily detectable single operations to fairly sophisticated and complicated set of activities. But usually the basis is that the consignment is never presented at the office of destination and perhaps

even forged documents are used. The problem is that the paper based system is slow and time consuming and by the time the Customs can be sure of an infringement having taken place it may already be too late to do anything effective. The other thing is that the administration of guarantee system, as it is today, is too complicated and, at least until now, the compulsory use of full amount guarantees has not been accepted by Member States.

Faster reaction time where irregularities occur is one of the key elements of the New Computerised Transit System (NCTS). This means that if the goods are not presented at the prescribed time and intact at the office of destination the office of departure is able to take action to regularise the situation much faster than is the case in paper based environment. The new system for administration of guarantees and faster reaction time will be a huge improvement to the regime. Of course to get the best out of any new system requires support from the Member States and EFTA countries. Without co-operation no system can solve the problems on its own.

Jouko LEMPIÄINEN B-1

See also page 27



ACTUALITES

Replacement of Duty and VAT relief rules

In "Stop Press" in the Summer 1994 edition, it was announced that Council Regulation 918/83 setting up a Community system of reliefs from customs duty and the "mirror" Council Directive 83/181/EEC on exemption from VAT on the final importation of certain goods were to be replaced. Tempting fate, I ended by saying that it was hoped the new provisions would enter into force "early in 1995".

Alas, early 1995 came and went and so did the Summer. Now 1996 beckons and still nothing has been adopted. This is perhaps surprising in view of the fact that I said earlier that no revolutionary changes were proposed and that the purpose was simply updating and clarification, simplification or liberalization in a number of areas. So what has been happening, and what is the position now?

First of all, I should make it clear that excise duties are involved as well. Excise colleagues are of course working on their own rules and they have been fully involved in the work going on.

In fact discussions in the Economic Questions Group got off to a prompt start, but several readings later a number of mainly fiscal problems still remain.

To a large extent the problem lies in the relationship between the customs and the fiscal rules. Council Regulation (EEC) No 918/83 and Council Directive 83/181/EEC have always been effectively identical, except in those cases where the differing natures of customs and VAT demand otherwise, and they have been presented in the form of parallel texts. In future, the VAT text will be much shorter, saying simply that the customs rules apply, except in the specific cases listed, and the excise text will contain cross references to the customs Regulation. This is further complicated because in the single internal market at least where customs duties are concerned it is no longer possible to avoid issues by saying "Member States may...". Clearly, therefore, the texts cannot be considered in isolation. Moreover, whilst the customs text requires only a qualified majority, the fiscal texts need unanimity: and given the num-



— Ils n'utilisent pas les arguments favorables à l'aboutissement d'un accord !

ber of points in the customs text with customs and fiscal aspects, in practice the customs text too will require unanimity.

By Easter 1995 the customs experts had completed three readings of the customs text, but largely leaving aside points with customs and fiscal aspects (in brief, mainly where value and quantitative limits were concerned). However, if no decisions were taken on them, that is not to say that they were not given an airing - far from it. At long last, it was agreed that the time was now finally ripe for a joint meeting with fiscal experts to resolve these matters.

In May I suffered a slipped disc (no, it wasn't due to carrying all those heavy files about!) and I was off work for two months, but nothing much changed in my absence - or at least not for the better. The much-anticipated joint meeting produced no solutions, only further disagreements and problems. Since then, there have been two further readings with fiscal experts present, but still few final answers. However, on the positive side, the European Parliament did give its opinions at its June 1995 session.

So, what exactly have been the problems? The main ones are:

-
- *the monetary limits for goods of negligible value, small consignments sent from one private individual to another and wedding presents. The Commission had proposed updating these - the limit for wedding presents had been unchanged since 1983 - but encountered strong objections from a number of Member States;*
 - *whether or not tobacco and alcohol could be imported as wedding presents or as part of an inheritance - a sensitive matter for some countries;*
 - *whether perfumes should be included in the "other goods" allowance for travellers (as proposed by the Commission - because perfumes are no longer produced using exciseable alcohol, but they see it as undermining the sales of intra-Community tax-free shopping) or whether they should be subject to a quantitative limit as at present; and*
 - *the amount of fuel that may be imported VAT and duty-free in means of transport. A number of Member States are concerned at loss of revenue given the size of modern lorry fuel tanks if there is no limit (as proposed by the Commission) or too high a limit. Member States in the other camp fear the administrative cost of dipping the tanks of every incoming lorry.*

What now?? Discussions continue. We will also be putting forward some amendments to our proposal for a customs regulation shortly which take into account the opinion of the European Parliament. It is not at present possible to say with precision when the new rules will now be adopted but we hope that it will not be too long delayed!

Then we will need to finalize the implementing regulation....!

Turquie: réalisation de l'Union Douanière

La Turquie, pays qui a la rare caractéristique de se situer sur deux continents (3% de son territoire se trouve en Europe et 97% en Asie). La Turquie, pays aux charmes de l'Orient mais qui tente de se tourner résolument vers l'Occident. La Turquie, pays avec lequel la Communauté a conclu un Accord d'Association basé sur une union douanière.

C'est donc la Turquie qui hante mes journées (et parfois mes nuits) depuis que j'ai hérité de ce dossier au sein de l'Unité A3.

L'histoire des relations contractuelles de la Communauté avec la Turquie remonte à 1963, lorsque fut signé l'Accord d'Association encore en vigueur aujourd'hui. Cet accord fut complété en 1970 d'un Protocole additionnel, où il fut décidé que l'association reposerait sur une union douanière à réaliser en 22 ans. Si l'on sait que ce Protocole additionnel est entré en vigueur en 1973 et qu'on ajoute 22 années, on découvre que 1995 est l'année où tout doit être fait pour l'achèvement de l'union douanière. Les puristes, les mathématiciens et les curieux auront toutefois noté que les dates en question s'étendent au 1^{er} janvier et qu'en conséquence l'année 1995 représente ce

qu'il convient d'appeler un vide juridique.

L'année 1995 a donc été très chargée. Il a d'abord fallu préparer un projet de décision du Conseil d'Association, qui est l'organe supérieur de l'Accord d'Association. Pour ce qui nous concerne, cette décision avait notamment pour objet d'énumérer les dispositions que la Turquie devait adopter pour aligner son code douanier sur le Code des douanes communautaire. Ce projet a fait l'objet dès le 6 mars 1995 d'un accord politique entre la Communauté et la Turquie. Il a toutefois fallu attendre la fin de l'année pour que la décision puisse être formellement adoptée. En effet, le Parlement européen était appelé à donner son avis sur cette décision et la problématique des droits de l'homme en Turquie a longtemps rendu incertaine l'issue du vote du Parlement européen, lequel n'est finalement intervenu que le 14 décembre 1995.

Par ailleurs, il a fallu élaborer une "décision-pont" (il s'agit ici d'une expression nouvelle, que j'envisage de faire tomber sous le champ d'application du droit d'auteur). Cette décision-pont a pour objet d'établir un lien entre le Code des douanes communautaires (applicable dans le

territoire douanier de la Communauté) et le Code des douanes turc (applicable dans le territoire douanier de la Turquie). Cette tâche a été confiée au Comité de coopération douanière.

C'est pour préparer les travaux du Comité de coopération douanière que j'ai eu l'occasion de me rendre plusieurs fois en Turquie. Les rapports officiels de ces missions figurent bien entendu dans les dossiers, mais des informations sur la partie "récréative" de ces missions sont disponibles sur demande. Pour la petite histoire, sachez que les difficultés budgétaires actuelles encouragent l'utilisation de billets d'avion "pex" avec obligation d'inclure un week-end dans le séjour. En l'absence de nombreux points d'intérêt à Ankara (lieu des réunions), c'est donc à Istanbul que j'ai passé plusieurs week-ends gracieusement offerts par la Commission.

L'union douanière Communauté/Turquie a donc été réalisée le 1^{er} janvier 1996. Il s'agit d'une union douanière qui présente encore certaines imper-

fections. Ainsi, par exemple, la Turquie a été autorisée à maintenir, pour une liste limitée de marchandises tierces, des droits de douane plus élevés que ceux de la Communauté. Il s'agit aussi d'une union douanière qui, en particulier dans le domaine douanier, dispose de législations harmonisées. Il s'agit enfin d'une union douanière qui a des conséquences sur le travail quotidien de certaines unités de la DG XXI. Ainsi, par exemple, l'harmonisation des législations douanières implique que des experts turcs sont désormais invités à participer aux travaux de différentes sections du Comité du Code des douanes communautaire.

En conclusion, je peux dire que la réalisation de l'union douanière avec la Turquie a été pour moi un dossier très intéressant: il s'agissait de construire quelque chose qui n'avait jamais été fait auparavant. En effet, si l'on fait abstraction d'Andorre et de Saint-Marin, c'est la première fois que le concept d'union douanière concerne un pays qui n'est pas un Etat membre.

Letter from Lisbon¹⁾

A report on the Excise Conference which took place on 13, 14 and 15 November at the Cultural Centre of Belem Conference Centre, Lisbon.

As we waited for our flight to Lisbon on the morning of Saturday, 11 November, a TV news crew were interviewing a tall, slim man in the departure hall. "So what do you hope to get out of this encounter? Most of the comments we have heard so far suggest that you are doomed to failure", posed the interviewer. "Not at all", came the reply. "We have a pretty good idea how this will go, and we are confident of a good result. The two sides came up against each other not so long ago when they shared the spoils....." Our ears pricked up as the conversation continued: "..... we know what we are likely to come up against in Lisbon, though that does not mean that there may not be some surprises.....". "So will it be a dirty encounter?" "Well, you never know. We will try to keep it clean, but if someone is determined to cause trouble, we are ready for it....."

Already, we realised that the excise conference was even bigger news than we had imagined. We strained harder to hear the rest of the conversation, wondering whether the interviewee was talking about the wine versus beer and spirits issue, or state tobacco monopolies versus multinational virginia importers. Or maybe it was a more general North/South philosophical divide. As the camera was switched off and the interviewee turned towards us, we realised it was indeed a North/South issue, but that Jack Charlton was more concerned with Ireland's European Cup qualifying match against Portugal in Lisbon on 15 November than with the future of the Community's excise policy. Maybe our conference wasn't the biggest event of the year in Lisbon after all.

Doubtless now some of you think you know why the conference was held in

¹⁾ Apologies to Keith Boyfield and the Adam Smith Institute, who recently published a paper on excise duties titles "Letter to Lisbon"!

Lisbon in the middle of November. Lets see: an Irish organiser, a critical football match, it all adds up, doesn't it? If you have come to this conclusion, you simply join a large number of cynical sceptics. My only defence is to point to the nature of an organisation like the Commission and the difficulties that can arise in planning even the simplest of events. Anybody who thinks that you could plan, and then deliver, a "coincidence" of such immense proportions clearly does not live in the real world. If only I had that kind of power!!!

Anyway, back to the business of the conference. To understand its origin, you need to know that the Internal Market saw introduction of a Community excise system, which included minimum duty rates for alcohol products, tobacco products and mineral oils. The legislation included provisions that those rates be reviewed every two years. The first review²⁾ noted that there was room for improvement, but that even comparatively minor adjustments were likely to impinge on other policy areas. It also found little evidence that Member States were prepared to move, voluntarily, towards greater rate approxi-

mation. The report concluded that greater consultation with all parties was needed, prior to the preparation of proposals for change.

Hence, a consultation process was launched, with all interested parties - administrations, trade organisations, consumers, specific interest groups - being invited to make submissions to the Commission. The Lisbon Conference was to be a focal point of this consultation process. A brief document to stimulate the debate divided the discussion into three broad themes: What type of internal market do we want, how should excise duties be used to generate revenue and what is the appropriate interaction between other policy areas and excise policy. The purpose of the conference was simply to allow all the participants to make their views known.

The conference was to be structured around six workshops. There would be one each for alcohols, tobacco and mineral oils, in which participants would be asked to reflect on each of the three themes mentioned above. These would be followed by one workshop per theme, each covering all three product groups. As we wanted to ensure that there would be

²⁾ COM(95)285 of 13 September 1995



The Bar at the Follies Bruxelloises

a true debate, including reaction to other participants interventions, we decided not to allow formal presentations.

There was a mixed reaction to the decision to hold the conference. Some felt that it would serve no purpose, as nobody would have anything interesting to say. Others thought that it would be a disaster, as the variety of groups participating would ensure total chaos. Others complained that they would not get an opportunity to express their views if they could not make a formal presentation. The most interesting criticism I heard came from a number of groups who complained about the amount of time and energy they had invested in their preparation for the conference - surely testimony to how important and worthwhile they saw the event!

The negative views expressed prior to the conference did not prevent organisations queuing up to attend. Despite the fact that we did not admit any national organisation or individual company, we received over 350 requests for 250 places. Such was the level of interest that we had to create an observer category, with audio-visual transmission to a salle d'écoute for the plenary sessions.

So - how did it go?

We seemed to be off to a bad start when, contrary to our expectations, we did not get access to the meeting rooms until the day before the conference. Being Sunday, there were very few people present to reassure us that everything was in order. Without having had a demonstration of the audio-visual link, without being satisfied that the same headphone

sets would work simultaneously in three different workshops, without being assured that overhead projectors would be installed in place of the elaborate slide-viewing equipment which we had not expected, we left on Sunday evening wondering if "it will be all right on the night".

As it transpired, our fears were misplaced - everything was ready and waiting, in perfect working order, on Monday morning at 9.00. We now had an hour or so to relax, and sort out any last minute details, before the three hundred or so participants started to arrive. (Registration was scheduled for 10.00, with coffee and sandwiches to keep people amused until the proceedings proper began at 11.00). Or so we thought! Due to the efficiency of our Portuguese coach drivers, the first coach loads of delegates arrived at 9.25. Action stations all round (not least for the unfortunates from the conference centre who were trying to prepare the coffee!).

It wasn't long until things were in full swing. The opening address was underway, and a quick peep into the *salle d'écoute* showed fifty or so observers watching the Portuguese Finance Minister, Mr. Sousa Franco, larger than life on a giant screen, welcoming everyone to Lisbon. The observers looked comfortable with the idea that they could see and hear

without being seen or heard! Speeches from the other dignitaries (Commissioner Monti, the Spanish Minister for Finance, Mr Pedro Solbes, and our director, Mr. Michel Aujan) followed without major incident, then it was off to lunch.

The real work started that afternoon. The three workshops got under way under the stewardship of their external, independent chairmen: Dr. Dietmar Schweisgut, Director General at the Austrian Ministry of Finance chaired the alcohols workshop, Professor Cnossen from the Erasmus University in Rotterdam handled tobacco products and Mr. Carlos Lambarri from Coopers and Lybrand in Bilbao looked after mineral oils. Just to keep things in order, each of them had two "handlers" from DGXXI/C/2!

In hindsight, these were the most interesting, and important, sessions. In general, they were characterised by open and frank debate, with active participation not just by the traders but also by delegates from national administrations. Indeed, I think it is fair to say that the extent of intervention by the latter exceeded our expectations and was a very welcome feature. The debate was also stimulated by the presence of particular interest groups such as Greenpeace and The European Federation for Transport

and the Environment in the mineral oils sector, Eurocare and the International Christian Federation for the prevention of alcoholism in the alcoholic beverages workshop, and the International Union Against Cancer in the tobacco sector. These groups attended in their own right, largely to advance their viewpoints under the "wider treaty aspects". However, they also acted as a counterbalance to the more mainstream groups and ensured that the debate always looked at both sides of the argument.

The same three chairmen took charge of the second round of workshops. The idea here was to "cross-pollinate" the three sectors under the three broad themes, though they consisted mainly of a repetition of the views expressed earlier. Some common ground emerged between the alcohol and tobacco sectors, whereas the issues relevant in the mineral oil sector tended to be somewhat different.

So what overall conclusions can we draw from the proceedings? Firstly, there was warm appreciation for the

decision to hold the conference, and for the way in which that decision was implemented. Many of the delegations spared a portion of their valuable two or three minutes for their closing position in order to record such sentiments, and those who had feared a disaster generally conceded that they had been mistaken. Several participants also pointed to the experience gained, both in the formal



Shamrock Rovers' Mark Reid at full stretch

and not so formal sessions, from putting together a group of people whose views and interests, though diverse, nonetheless lay in the same area.

As to the real outcome, everybody present who wished to express a view did so, and that alone was sufficient

to ensure that the conference was a success. However, I believe that the success goes beyond such a simple analysis. It was clear from the interventions that, for some, there has been a shifting of position which was not evident beforehand. We also got a feeling about how people might react to different types of approaches in the future. Finally, we had, for the first time, representatives of national administrations and European trade groups teasing out the future of the excise world together, in the same room. For some the very fact that they were in the same room was a miracle. For others, the fact that they were talking, was an even greater miracle. For me, the fact that they (at least some of them!) appeared to agree with each other from time to time, was indeed extraordinary!

In particular, we had some interesting reaction on the question of the type of Internal Market that should exist for excisable goods. We had asked whether simply removing frontier formalities was sufficient, or whether we needed greater integration of Member State economies, to produce a market similar to a national one. Whilst the mineral oil trade supported greater integration, there was a lot of support from the tobacco and alcohol traders for the "minimalist" approach, with some even calling for the removal of some of the

measures, particularly minimum rates, which were introduced in 1993. Hardly surprisingly, the administrations were not always as specific as their trade counterparts.

DGXXI/C/2 now has the task of sifting through the various viewpoints expressed, in an effort to identify the most important, most useful, most realistic. In addition, dozens of detailed submissions are expected to arrive in the weeks following the conference. One thing is for sure: preparation of future proposals is likely to prove far more difficult than organising the Lisbon conference, not least because we will not be able to call on the resources of all kinds of people who helped to make the conference so successful.

It would be remiss of me not to acknowledge, at this point, the enormous contribution of the three chairmen in ensuring that the workshop debates remained lively and in making clear and succinct reports back to the plenary sessions. I should also record my thanks to our colleagues in the Portuguese administration for handling a huge amount of the behind the scenes tasks and for all their assistance in preparing the conference. (Incidentally, the Coach Museum in which they hosted a reception on the Tuesday evening must surely be one of the most spectacular venues

possible for such an event). The conference centre management handled their end of the arrangements calmly and efficiently and the four hostesses which they provided were a model of professionalism. Michel Aujean and Steve Bill obliged enormously by getting on with their respective tasks and (wisely!) doing their best to keep out of my way!

Finally, the contributions of Luc Vergeylen, Florinda Ferragolo, Claudine Van Hoolant, Mary Makropoulou and Annie Burkard were indeed trojan. Luc had the thankless task of organising all the logistical arrangements, whilst Florinda was the main link with the Portuguese administration. Claudine, Mary and Annie provided the secretarial support for the conference. As always, these tasks are underestimated in advance and inadequately appreciated afterwards. Suffice to say that I am aware of scores of minor problems which were sorted out by the five of them quietly and efficiently: I suspect hundreds more of which I knew nothing were handled in the same way!

I think, too, that whatever misgivings they may have had beforehand, the participants all embraced the conference in the spirit in which it was in-

tended. It was clear, too, that a healthy amount of peripheral meetings and social events were taking place, and it is difficult to come away without feeling that new links, alliances and friendships were forged, not least crossing the divide between trade and administrations. DG XXI should not be shy in taking some of the credit for that!

On Thursday morning, the day after the conference, two men were overheard talking in Lisbon airport. "What a disaster," one was saying. "A complete disaster! We never got going at all." "What did I tell you," said the other. "Didn't I tell you Lisbon would be a fiasco. Nothing prepared properly, nothing to offer, nobody interested in anyone else or prepared to put in a team effort. And as for the guy in charge - what a joke! Impartial? He was as biased as they come. If he'd even had his eyes open some of the time....." The gang from C2 passed without batting an eyelid. They knew that their director's integrity was not being questioned. The two sorry looking gentlemen in green white and orange football regalia clearly were not discussing the Excise Conference!

John CALLINAN C-2

Transit Swindles cost Billions

From the European Voice

TRANSIT fraud has cost the European Union up to 8 billion ecu since the single market entered into force, prompting calls for a major investigation into the problem and how to combat it.

The losses have resulted in part from organised crime, with the contents of thousands of lorries and containers sold illegally in cities, towns and villages throughout the 15 member countries.

All-party pressure is now growing within the European Parliament for MEPs to use new Maastricht powers to establish their first temporary committee of inquiry, with the ability to call national and European witnesses, to investigate the transit system and to devise ways of closing the loopholes.

The growth in transit crime as goods – particularly cigarettes – disappear inside the Union instead of reaching their stated destination in a third country, affects every EU government.

According to Labour MEP John Tomlinson, who has led the fight against EU fraud, 75% of the loss of revenue in uncollected excise and customs duties affects national exchequers and 25% is lost from EU funds.

The European Confederation

of Tobacco Retailers (CEDT) estimates that one in five cigarettes smoked in Spain and Italy are contraband.

The figure for Germany is put at 15% and elsewhere at between 5 and 10%. The Spanish government alone lost 625 million ecus of potential revenue from tobacco excise last year.

The problem is most serious in the tobacco sector, because cigarettes are relatively easy to steal and sell. But it also affects alcohol, textiles, frozen meat and bananas.

The Court of Auditors has devoted a special section of its 1994 annual report, to be released next week, to transit fraud. The European Commission's anti-fraud squad, UCLAF, is constructing a profile of the many levels of tobacco transit fraud, establishing links between the trade and other criminal activities.

The problems stem largely from the failure of the transit system, designed 30 years ago, to cater for the huge growth in demand. Introduced for the first six EU members, it now covers 15 and will be extended next year to the four Visegrad countries: Poland, Hungary, Slovakia and the Czech republic.

The tactics used by organised

crime to make freight 'disappear' include forged customs stamps,



Tomlinson: fighting fraud

false declarations of goods, stolen merchandise and misuse of names of legal and respectable companies. Polish and Czech forwarding companies are now accused of establishing limited companies in Germany with a DM 20,000 guarantee. They allegedly issue thousands of transit documents and when presented with a tax bill go bankrupt, only to set up a new company.

The scope for fraud is evident given that 18 million transit documents are issued annually and that 432 billion ecu of taxes and

duties are channelled through the system annually. The fraud affects not just national authorities and the EU's budget, but also manufacturers, legitimate traders and freight companies. In the Netherlands alone, freight forwarders have received tax bills of nearly 900 million ecu for missing goods.

The European Parliament's political group leaders will have to decide in the coming weeks on the specific brief for the first committee of inquiry. Many MEPs are openly impatient that even two years after they were given this new power, which they believe can be employed to improve the Union's image, it has not been used.

With approval of the ad hoc committees' rules of procedure agreed by MEPs last month, there is now little excuse for delay. After its recent setback against France, there is now little momentum in the European Parliament behind an earlier suggestion to select nuclear tests as the first subject.

Tomlinson, whose call for the inquiry to focus on fraud has won support from other MEPs, said: "Of all the issues I feel this would be the most appropriate for the first committee of inquiry to deal with. People are queuing up to give evidence and it would show the Union in a good light."

A LA COUR



Lorsque les juges français assurent la primauté du droit fiscal communautaire

Deux arrêts récents, l'un de la Cour de Cassation - Chambre criminelle (*Cass. crim.*, 10 avril 1995 n° K 94-81.138 PF - "Gelain"), l'autre de la Cour administrative d'appel de Paris (*CAA Paris*, 23 mars 1995, n° 93-925 à 927, 3^{ème} ch "CNIH c/ Bouyouud et autres") illustrent la manière dont, sans même estimer opportun un renvoi préjudiciel en interprétation à la Cour de Justice des CE, les juges français - qu'ils soient de l'ordre judiciaire ou administratif - entendent faire respecter le droit communautaire.

1. *La première affaire constitue, à ma connaissance, le premier cas en France où une disposition fiscale nationale se trouve confrontée à une des nouvelles directives "accises", en l'occurrence la directive 92/81/CEE du Conseil du 19 octobre 1992, concernant l'harmonisation des structures des droits d'accises sur les huiles minérales. L'occasion d'une telle confrontation a été fournie par la condamnation, pour délit douanier, de Mme Gelain qui exploitait à titre professionnel un navire comme salle polyvalente pour la tenue, à quai, de réunions, expositions ou séminaires, dans le cadre d'activités culturelles et qui avait eu la mauvaise idée d'alimenter le réservoir du navire non pas en gazole taxable, mais en fioul domestique exonéré.*

Les Douanes, et les juges d'appel à leur suite, avaient fait application d'une disposition du Code des Douanes français réservant l'exonération de l'accise aux produits pétroliers destinés à être utilisés "comme carburants pour la navigation maritime dans les eaux communautaires, autre que la navigation d'agrément privée".

Ils ont dès lors considéré que l'organisation, même à titre onéreux, d'activités d'agrément relevait de la "navigation d'agrément privée" et ne pouvait donc prétendre au régime fiscal privilégié.

La Cour de Cassation a au contraire constaté que la disposition de la directive 92/81/CEE (article 8.1.c) dont la disposition française constitue, à compter du 1^{er}

janvier 1993, la transposition, n'excluait de l'exonération d'accise que les "bateaux de plaisance privés", c'est-à-dire ceux utilisés à des fins autres que commerciales.

Dès lors que le navire de Mme Gelain servait à une activité commerciale, elle devait donc pouvoir bénéficier de l'exonération.

Pour ce faire, la Cour de Cassation a considéré, en premier lieu, que l'article 8 de la directive 92/81/CEE était directement applicable et, en second lieu, que cela imposait au juge national d'écarter l'application du texte interne ayant fondé l'incrimination dans la mesure où il méconnaissait une disposition de droit communautaire. Elle a suivi en cela la Cour de Justice qui considère que l'incompatibilité d'un acte législatif national entraîne l'incompatibilité d'une sanction pénale prononcée sur son fondement.

Il est clair que cet arrêt, en dépit de sa portée individuelle et essentiellement pénale, ne pourra rester sans conséquence sur les dispositions fiscales françaises relatives à l'exonération des carburants pour navires.

2. La seconde affaire porte sur l'application de l'article 95/CE à des

taxes parafiscales affectées à une aide.

La Cour de Justice a posé en la matière des critères jurisprudentiels de qualification de la taxe, soit comme taxe d'effet équivalant à un droit de douane (articles 9 et 12/CE), soit comme imposition intérieure discriminatoire (article 95/CE), en tenant compte de la destination du produit de l'imposition, lorsqu'il est affecté aux seuls produits nationaux imposés.

Ainsi, si ces avantages compensent *intégralement* la charge ayant initialement grevé ces produits, la taxe doit être qualifiée de *taxe d'effet équivalent*, dans la mesure où elle ne porte en fait que sur les produits importés et n'est donc qu'en apparence une taxe "intérieure".

Si cette compensation n'est que partielle, la taxe reste une imposition intérieure mais discriminatoire et donc interdite par l'article 95/CE puisque les produits nationaux seront finalement moins taxés que les produits similaires importés.

La Cour administrative d'appel de Paris a estimé pouvoir faire application de ces principes jurisprudentiels à une taxe parafiscale finançant le Comité National Interprofessionnel de l'Horticul-



ture, alors même que, selon une décision de la Commission du 1^{er} décembre 1990 prise en matière d'aides d'Etat, les opérateurs français bénéficiaient, non pas exclusivement, mais "davantage" des travaux du CNIH que les producteurs étrangers. La CAA va donc plus loin que le critère posé par la Cour de Justice et également plus loin que le juge de première instance qui, tout en aboutissant à la même conclusion, à savoir la non-conformité de la taxe à l'article 95/CE, notait que les actions du CNIH profitaient "spécifiquement" aux produits nationaux.

A noter que la décision "aide d'Etat" se fondait principalement, non sur l'article 95/CE, mais sur un arrêt de la Cour du 25 juin

1970 (affaire 47/69 "France c/ Commission"), qui considère que l'application à des produits importés d'autres Etats membres d'une taxe affectée à une aide a pour effet de rendre cette aide incompatible avec l'article 92/CE. Cette jurisprudence s'applique donc sans égard au caractère discriminatoire ou non de la taxe en cause et conserve en principe à cet article fiscal son autonomie. La Cour a d'ailleurs eu l'occasion par la suite de confirmer que les articles 92 et 95 ne s'excluaient pas mutuellement.

Il semblerait que la Cour Administrative d'Appel, plus communautaire encore que la Cour de Luxembourg, n'ait pas hésité à avoir recours à des éléments d'analyse de la taxe parafiscale

CNIH figurant dans la procédure d'aide pour en tirer des conséquences au regard du droit fiscal communautaire, au risque de prendre quelques libertés avec les limites posées par la Cour de Justice elle-même à la reconnaissance du caractère discriminatoire d'une telle taxe.

Le juge français, décidément inspiré par l'esprit du Traité, a en outre considéré que, dans la mesure où il était établi (par la décision de la Commission dans le cadre des aides d'Etat) que le produit de l'imposition "profite dans des conditions différentes au produit national et au produit importé, il incombe au bénéficiaire de cette imposition de démontrer que cette disparité de régimes ne se traduit en aucun cas par une discrimination fiscale".

Il impose ainsi, en matière de compensation d'une taxe par une

aide, la charge de la preuve de la non-discrimination à l'Etat membre. Il suit en cela certains arrêts en manquement de la Cour de Justice selon lesquels le manque de transparence et de précision d'un système de taxation impose à l'Etat membre concerné d'apporter la preuve que ce système ne peut en aucun cas avoir un effet discriminatoire.

En l'absence d'une telle preuve, le juge a décidé de décharger les redevables des taxes qui leur étaient réclamées, ces taxes étant incompatibles avec l'article 95 alinéa 1/CE et donc dépourvues de base légale.

Entretemps d'ailleurs, le texte institutif de la taxe sur les produits des autres Etats membres avait été supprimé, pour se conformer à la décision "aides" de la Commission.

DANS LA PRESSE



By TIM JONES

THE European Union's highly-complex system for harmonising indirect taxation this week claimed the scalp of the leading Commission official mandated to oversee it.

At this week's meeting of the Commission, Internal Market Commissioner Mario Monti won the backing of his colleagues for the dismissal of his director-general for customs and indirect taxation.

Peter Wilmott, a 48-year-old Briton, was removed from his post because of "irreconcilable differences" with Monti.

"It would be inappropriate for me at the moment to enter into the fundamental reasons that led me to propose this decision to the Commission," said Monti, in announcing the dismissal.

Monti cited his "responsibility to see that the Commission services do their part to complete the single market as effectively as possible", implying Wilmott had been foot-dragging in his duties.

It was obvious for months that all was not well in DGXXI since new proposals for creating a definitive regime for value-added tax had still to be drawn up.

"Just look at the VAT system," says one tax specialist. "Everything has to change in January 1997 and we still have no proposal from the Commission.

There is no way they will meet the deadline."

After many years of negotiations, member states agreed to set up a transitional regime for VAT, whereby businesses would continue to pay tax in the country where the goods are consumed.

Tentative Commission plans envisage that, under the definitive regime, VAT would be charged in the country where the goods originate. But, since this would discriminate in favour of exporting countries, the Commission would set up a clearing system to reallocate tax revenues as though the old home-consumption system applied.

Needless to say, this will be complicated and Monti believed insufficient work had been done on the impact of the reform. Wilmott's reluctance to draft a detailed impact analysis within a tight deadline was the catalyst for his sacking.

However, Wilmott's supporters claim he is being made the scapegoat for the failure of Monti to come up with a VAT reform proposal and champion it through the Commission and the Council of Ministers.

The Commissioner's natural unwillingness to fight his corner is supported, they claim, by his overprotective Chef de Cabinet Enzo Moavero Milanese, who allegedly makes access to Monti all but impossible even for senior



Commission staff.

With Wilmott out, the UK government will want at least an equivalent post within the Commission, although it may be hard-pressed to find even an ambitious official willing to fill his shoes at DGXXI.

European Voice 2-8 November 1995



Wilmott: soon to be replaced

One's loss is another's gain

If Verrue's vacant job has indeed got a French flag on it, then the UK flag is surely fluttering above the empty chair of director-general in DGXXI, responsible for customs and indirect taxation.

Peter Wilmott's hasty departure from the post, sacked by Commissioner Mario Monti after months in which the two were unable to see eye to eye, has led to enormous speculation about which Briton is best placed to take over. Many point to long-serving Adrian Fortescue, self-effacing head of the Commission Secretariat-General's unit for cooperation in justice and home affairs.

But watch out for Jim Currie, the twinkly-eyed Scot whose twinkle deserted him earlier this year when he failed to make the transition from number two in the Commission's Washington office to number one. Currie, a highly-popular deputy in Washington, was furious to be passed over in favour of former Commission chief spokesman Hugo Paemen, and was mollified not one jot when offered the number one job in Moscow as a consolation prize. However, a deal has yet to be sewn up and Wilmott's job could be the passport Currie needs to bring him home with dignity to his house with a swimming pool in Overijse.

The Brussels Borgias

SOMETHING is seriously wrong with the European Commission when one of its least impressive commissioners sacks one of its brightest and best officials. The commissioner, Mario Monti, an Italian responsible for the single market, has removed Peter Wilmott, the director-general for indirect taxation, whose achievements have included the abolition of VAT controls at the EU's internal frontiers.

Mr Monti, who is a competent economist, has proved to be out of his depth in the world of EU politics. He has fallen under the sway of Enzo Moavero Milanesi, his *chef de cabinet*, who is what the French call a *Florentin* and the British a Machiavellian. Mr Moavero is renowned for being more interested in office politics than in policy. Ostensibly, Mr Wilmott has gone because of disagreements with Mr Monti over indirect taxation. The real reason seems to have been that Mr Moavero could not stand this plain-speaking Englishman.

Ten months into his job as single-

market commissioner, Mr Monti has achieved virtually nothing. His own indecision and Mr Moavero are not the only problems. The whole *cabinet* (private office) has won an unparalleled reputation for inefficiency and incompetence. One member recently admitted to a lawyer that he did not know the difference between a directive and a regulation. Lesson one in Eurocracy teaches that EU directives must be implemented through national legislation, while EU regulations apply directly.

Mr Wilmott's departure reflects a structural weakness in the commission: the power of the *cabinets* has undermined the working of the directorates-general (as the departments are called). The whim of a *gauche cabinet* official often counts for more than the opinion of a seasoned director-general. Over the past ten years, numerous reports on the commission have concluded that the *cabinets* have too much power. But the commissioners—advised, of course, by their *cabinets*—have done nothing about it.

Top EU official faces sack in row over VAT

By Emma Tucker in Brussels

One of the most senior European Union officials in Brussels faces the sack after a row over delays to a new value-added tax regime.

Mr Peter Wilmott, the British director-general of the customs and indirect taxation department, has written to colleagues saying it had "been decided" that he should leave his job because of "irreconcilable differences" with Mr Mario Monti, the Italian commissioner responsible for the single market.

Mr Wilmott's likely departure after 5½ years as head of the taxation department is another distraction on the tortuous path towards a VAT regime which harmonises tax collection throughout the EU.

Progress has been slow because member states are concerned that Brussels may interfere in their domestic tax affairs and because businesses oppose a hasty move from one system to another.

Mr Wilmott said the sacking move resulted from a lack of communication between himself and Mr Monti's cabinet. Mr Monti yesterday had no comment to make on the dismissal.

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Mr Wilmott suggested the commissioner had made impossible demands for complicated analyses of how a single VAT system would work.

The sacking of Mr Wilmott has yet to be decided by the whole Commission, but following meetings between Mr Monti and Mr Wilmott, it is almost certain that he will leave.

Companies in the EU are operating under a "transitional" regime in which VAT continues to be levied in the country where goods are consumed. This means companies have to differentiate between goods they sell at home and those they sell to other EU member states.

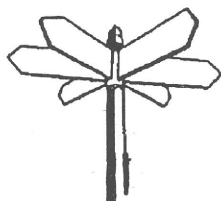
Under the new regime VAT would be charged in the country where goods originate, but this would have the effect of swelling the tax revenues of exporting countries at the expense of net importers. To counter this, the Commission is planning a "clearing system to reapportion revenue to member states so that each continues to receive tax revenues according to home consumption".

Mr Monti believes insufficient work has been carried out on the impact of the switch to the new regime, which has to be understood in order to construct the clearing system.

Tax experts agree the system will be very difficult to construct. "Figuring out this clearing system will be the most phenomenal task," an industry official said yesterday.

The Council of Ministers has set a date of January 1 1997, for the new regime to be in place, but it is widely acknowledged - even by Mr Monti - that this deadline will not be met.

"ENTRE NOUS"



Nous souhaitons la bienvenue aux collègues qui sont entrés en fonction depuis le dernier XXInfo:

fonctionnaires:

Marie FANTIN	BE/IT	A-2
Pia MICHELSEN	DK	C
Marie PHILIPS	IRL	SAMCOMM
Eladio VALLINA	ES	SEC

experts nationaux détachés:

Michael HALL	GB	B-1
Ulrika HANSSON	SE	C-1
Thomas JÄGERS	DE	02
Teppo SILDENIUS	SE	B-5

agents auxiliaires:

Line ANDERSSON	DK	C
Domenico CORVO	IT	B-2
Keith MARSHALL	GB	A-1

agents temporaires:

Anders WILLUMSEN	DK	C-1
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interimaires:

Julian CANAS	ES	SEC
Nathalie EECKHOUT	BE	A-3
Anne Marie EUSEPI	IT	B-6

Christa PICOLIN	DE	B-6
Kristina MANDIUS	SE	B-7
Pilar RUIZ	ES	02

mouvements à l'intérieur de DG XXI

Baudouin BAUDRU	AUX	→	Official
Freddy DE BUYSSCHER	C	→	B official
Antonio GUERRA NUNES DOS REIS	TEMP	→	AUX
Timothy HEYWOOD	END	→	AUX
Frank JANSSENS	B	→	A official
Dominique LAMIC	END	→	AUX
Volker ROKOS	END	→	Official
Maryse VOLVERT	END	→	Temporary

Nous disons au revoir à:

fonctionnaires:

Peter DIERICKX	BE	To OEDT-Lisbon
Antonio PANDUCCIO	IT	To DG IX

auxiliaires:

Petra NAWROTH	GB	B-6
Terence EMMS	GB	A-1
Antonio DE LORENZO	IT	A-2

interimaires:

Priscilla NERI	IT	B-6
Elaine KEENAN	IRL	A-3

experts nationaux détachés:

Pierre TOURNON	FR	A-3
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CONGRATULATIONS

to those colleagues recently promoted:

To A4	Michael BOTT	C-2
	Geralyn DONALDSON	A-2
	John PULFORD	A-3

Liliane Van Overloop

The staff of DG XXI will have been saddened to learn of the recent death of our colleague Liliane Van Overloop (C4) at the shockingly young age of 38. Liliane had been ill for some time but battled bravely till the end. She will be remembered for her good humour and her quiet efficiency. She was always willing to help those who worked with her. Our thoughts are with her husband, Jean, and her two children, Quentin (age 4) and Julian (age 18 months).

It is always difficult to find the appropriate words to say at times like these. The following poem has been often mentioned as a source of consolation by those who have lost loved ones, particularly in wars or similar situations, but its sentiments are universal.

I am not there

Do not stand at my grave and weep
I am not there; I do not sleep.
I am a thousand winds that blow
I am the diamond glints on the snow.
I am the sunlight on ripened grain
I am the gentle autumn rain

When you awaken in the morning's hush
I am the swift uplifting rush
of quiet birds in circled flight
I am the soft stars that shine at night.

Do not stand at my grave and cry
I am not there; I did not die.

Anon.

Thomas Carroll





Wintertime

Following the success of our summer competition we offer this winter equivalent to while¹⁾ away your time spent on the beach, if you take the option favoured by your editor, or in a traffic jam²⁾ if you go skiing, we offer the following translation from English into French. Unfortunately something seems to have gone astray - the meaning perhaps? We offer a small prize for the best corrected or reised translation by

- *a francophone,*
- *an anglophone and*
- *one whose native language is none of the above.*

"Elle avait des papillons dans l'estomac le premier jour. Elle a secoué une jambe pour éviter la confiture de

circulation et a débarqué chez un homme-chasse de la planche. Il avait une compagnie limitée et entre deux oranges de cerveau et une réunion de planche, il allait jouer au pont dans une partie de jardin, habillé au neuf. Il était le pas père de deux enfants qui étaient comme les petits pois dans leur cosse même si l'un entre eux était un coucou dans le nid. A première vue, on aurait dit des bébés dans le bois, mais en matière de fait, ils faisaient voler la fourrure et parlaient une vraie bleue. Ginette, ça lui faisait avoir la chèvre que deux jeunes enfants lui tirent la jambe et lui donnent l'oiseau en criant au meurtre bleu:

- Couverture mouillée!
- Douleur dans le cou!
- Cas de noix!"

1) cause time to pass without boredom; as long as

2) pulped fruit boiled and preerved in sugar; to press tightly into a small space

The first Austrian customs officer stagiaire

Of the several Austrian colleagues from the Austrian Customs Authority who had been trainees here in the last five years I am the first customs officer working in DG XXI. Because Austria is a new member of the European Union it was especially interesting to see how work is organised here in Brussels in DG XXI and how regulations, provisions, guidelines etc. are established.

During two former official stays in Brussels I had the possibility to meet colleagues from DG XXI and the

WCO. I am happy to say that my wish to spend my time as trainee especially in Unit B/3 was granted. At home I have been working for 25 years on the subject of Customs valuation and more particularly as a post clearance auditor. The tasks of colleagues John Malone and Michael Rathje were generally well known to me. The possibilities given to me to join committees, meetings, symposiums and workshops at the Commission, the Council and the WCO will remain with me as an unique experience as long as I am a customs offi-



cer. Special thanks to Mr. Vaultont who "opened the doors".

Nevertheless I was also interested in other fields e.g. the Origin Rules. They are a very difficult area demanding very specialised staff. Mr. Casella and his colleagues gave me several informal possibilities to join their meetings at the Borschette. Thus I could see the way in which common decisions are established during the meetings. Now I can really grasp the difficulties in finding more or less acceptable conclusions and adopting them for use in the Member States.

Finally I was allowed among others to follow a Matthäeus planning meeting moderated by Mr. Young. That meeting dealt, among other things with the exchange programme of officials concerned with multinational companies. I was originally nominated for such post clearance audits (in France, Germany and Austria) and already preparing the facilities before I was replaced because of my stay here in Brussels.

Last but not least, I appreciated taking part in the well prepared FIDO II and Newcomers training programmes for which Mr. Gordon is responsible.

Moreover I was very impressed by the multilingual working style and communication that showed me again the importance of the knowledge of foreign languages for Austrian customs officers if in the future more delegates of the Commission officially visit the Austrian authorities.

Outside the office I used the weekends to take advantage of the cultural opportunities on offer, like the Art Nouveau buildings, concerts and the opera; here I found a lot of similarities to my home town Vienna. I also had enough possibilities to improve a little bit on my knowledge of French which will be very useful at home.

I hope to come again to Brussels from time to time, may be as a member of an Austrian delegation. I enjoyed my stay.

A bientôt

Karl GRUBER,

Austrian Stagiaire (Senior Customs Officer at the Austrian Ministry of Finance)

P.wilmott@mhsg.cec.be= oofph?!"

From the Irish Times with thanks to Michael Cunningham

■ **1:** Everyone seems to be talking about e-mail addresses at the moment. What's yours?

It's (all one line):
mcunningham@irish-times.ie



■ **2:** But that just looks like a whole load of squiggles . . .

Not really, once you get used to how e-mail addresses are structured. The first confusion is that it's both your networking "name", and your "address" too — your mailbox in cyberspace.

■ **3:** But what's the @ squiggle?

That's commonly referred to as the "at" sign — it separates the individual user or account from the rest of the address — the "host" computer that holds your waiting e-mail.

The trick is to know which part is which, and the @ sign and (much of the time) the various dots are the dividing lines between the components. Try to visualise those various squiggles as the address, postcodes etc on a sort of electronic envelope, in the following order:

- 1) the *username*;
- 2) (@ or "at") an *organisation*;
- 3) A sometimes optional indicator of the *type of organisation* — a private company, university etc;
- 4) the *country* or overall "domain".

So when I'm giving my e-mail address to someone over the telephone, I say: "*mcunningham AT irish HYPHEN times DOT ie*". Those three components are:

- 1) *mcunningham* (user)
- 2) *@irish-times* (organisation)
- 3) *.ie* (country).

Therefore you can't forget all those dots and hyphens and squiggles — the system for sending e-mail around the world is fussy.

■ **4:** So the address has different "levels"?

Right. Like the Internet itself, an e-mail address is organised in various tiers. The final *.ie* (or "dot ie") part of the address indicates the highest tier — what country I'm coming from. Just as the top-level Internet domain name for Ireland is *.ie*, for Britain it's *.uk*, Germany is *.de* (or Deutschland) and so on. The one major exception is the US.

■ **5:** Why?

Blame history — the Internet began in the States, so they never got around to this foreign names convention.

■ **6:** Because they never saw the Internet as "foreign"?

Right. It's a bit like the way Britain "invented" postage stamps, so they never bothered to put the country of origin on them. So if you see an address without those two final tell-tale letters suggesting a foreign name (for example, Bill Gates is *billg@microsoft.com*), you can be fairly sure it's a US address.

■ **7: What does the *com* stand for? Is Bill Gates a communist?**

Course not. It stands for "company". A two- or three-letter convention evolved, to show what kind of organisation you're in. Just to keep you totally confused, there are two variants of this convention — the US and non-US one. So *com* (or, on this side of the Atlantic, *co*) is a private company, *edu* (or *ed*) an educational establishment, *gov* a government body, *org* a non-governmental organisation, and *mil* is a military one (the Internet, remember, was originally a semi-military network).

■ **8: But why doesn't your Irish Times address have *co* in it?**

Because, just for confusion, this two- or three-letter organisation tag is optional in countries such as Ireland.

■ **9: Could you recap on everything so far?**

OK. If I wanted to send e-mail to, say, the people at the *Guardian's* "Online" computer page in London, I'd e-mail them at:

online@guardian.co.uk

(or if I was saying it out loud, to "online AT guardian DOT co DOT uk"). *Online* is the user's account name, and the stuff after @ is the overall domain — the *guardian*, which is a company (*co*) in Britain (*uk*).

■ **10: Stop the lights! How do I get their e-mail address in the first place? Does the Internet have anything like a telephone directory?**

The simple answer is: no. The sheer size of the Internet — and its rapid growth and decentralised nature — means there's no single catalogue of its total resources. Therefore much of the

time it can be difficult to use unless you know exactly who/what you're looking for, and where to pinpoint them/it.

There have been a few brave attempts to rectify this, such as the X500 directory, but it's a very sketchy database — and virtually impossible to keep fully up-to-date.

■ **11: Ask a silly question — how can you send someone e-mail if you don't know their e-mail address?**

Find it out by ringing them. Or if you know their node (say, *irish-times.ie*), at least you can e-mail its "postmaster":

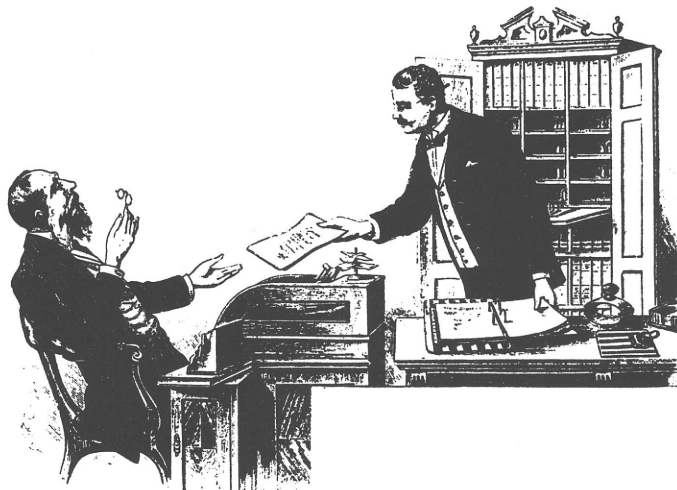
postmaster@irish-times.ie

The worse that can happen is that you've got the domain's address wrong, and the mail "bounces" — it's automatically sent back to you within an hour or two of sending it, with the electronic equivalent of a "return to sender" sticker on it. On the other hand, it means you can be sure that the mail *hasn't* arrived, and then try a different route or approach.

■ **12: Or just guess it . . .**

Well, in a sense you *can*. One neat trick is to deduce the naming convention of a particular node. You already know that, for example, at the Irish Times node I have to call myself *mcunningham* (because that's the convention used); so you might second guess that my colleague Joe Breen will be called *jbreen*, and the rest of the address is the same (which it is):

jbreen@irish-times.ie



"Your mail bounced back, Sir — it must have had too many squiggles"

Another company's system might have a different naming convention altogether, such as:

cunningham_m

(such as some universities for their staff). Or then again a commercial online service provider might let me call myself anything I like. If, for example, I were a subscriber to Ireland Online (*iol.ie*) they might let me adopt the account name:

master-of-the-universe

but the rest of my address would be the same, in other words:

master-of-the-universe@iol.ie

■ **13:** Wait a minute. Supposing I'm an Irish business wanting to set up on the Internet — what's stopping me from setting myself up as *irish-times.ie* or *mcdonalds.ie* or whatever?

The rules. Like other top-level domains, the *.ie* domain is administered by a central naming authority, the "hostmasters" of

the electronic universe. In Ireland's case, since 1991 it has been UCD's Computing Services department (if you're an organisation in Ireland wanting to set up as a domain, it's worth e-mailing them for further information at *hostmaster@ucd.ie*).

It deals with the next tiers down — the "primary sub-domains" of the top-level *.ie* domain. The administrative contact-person for the primary sub-domain is responsible for registration of these second-level sub-domains.

■ **14:** But what's a valid domain name?

Well, you're only allowed the characters of the Roman alphabet, and numerals and hyphens.

■ **15:** And blank spaces?

They are totally forbidden within an Internet name or address. So to make the name easier to understand, people make do with hyphens (eg *irish-times.ie*). A sub-domain name

must be at least three characters long, and obviously has to be distinct from any of the recognised "top-level" domain names (these include such names as *edu*, *gov*, *mil*, *net*).

Ireland's hostmasters also rule that the domain name should be "reasonably close" to the name of the applicants, or to an abbreviation or trademark by which they are well known.

■ **16:** Apart from all that, do they dole out names on a first-come first served basis?

In some countries, yes, but not in Ireland. They'll make you choose another name if your proposed one is already being used, "or appears likely to be claimed by another applicant", such as *apple.ie*, *galway.ie*, *irfu.ie* or *rugby.ie* — and they won't let you have a name if it's likely to lead to confusion.

■ **17:** What about other countries?

In the US, the naming authority is called InterNIC (the Internet's Network Information Centre). It does issue addresses on an essentially first-come-first-served basis, which inevitably leads to squabbles over who has the most right to an address such as *bob.com* (a guy in Boston who owned it relinquished it to Microsoft, because Bill Gates just happens to have a software package called *Bob*).

■ **18:** I suppose it leads to all kinds of court cases.

Yes, particularly when (as in the US) you have 600 requests for domain names per day. For example, InterNIC recently found itself in a trademark law-

suit when it issued the name *knowledgenet.com* to a computer consultant — there was already a Knowledgenet company in Illinois.

In Irish domains, which are more strictly named, there are other technical requirements too. For example, the domain has to provide a "point of contact" for e-mail where requests for information may be addressed. The standard address for this is:

postmaster@domain.ie

(substitute the domain's name for the "domain" part). There are also rules about what messages go in the "header lines" of outgoing mail etc.

■ **19:** But one thing is still bugging me. Where exactly is your e-mail address?

Strictly speaking, it's not pinned down to any particular place. It's a storage place, somewhere on the Internet — a larger computer than the PC I might be actually logging on with. I could be reading the mail from a terminal in my office, or at home, or, theoretically, anywhere else in the world (if I could afford the long-distance phone bills). But the one e-mail account on this central computer is the "actual" source of my outgoing mail to the rest of the Internet, and the destination of incoming mail addressed to me. Have I lost you yet?

■ **20:** So what is our address?

Well first your name and initial, then "at" the "message handling systems gateway" of the "Commission of the European Communities" in Belgium or for example

p. wilmott@mhsg.cec.be

EN BREF

Non result of the last "new caption" competition.

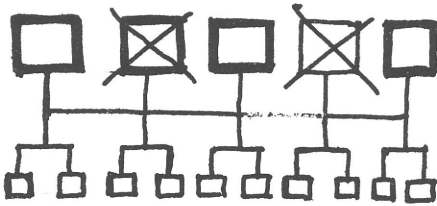


"We would have bought one,
but we already have so many."

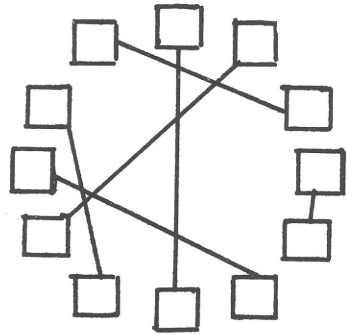
There was no result as nobody recognised any of our colleagues. Not even the lady on the right?

Pyramids

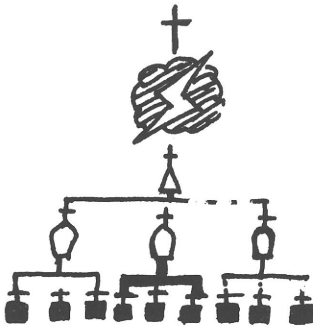
We turn our attention further south, including a couple of our "enclosures" or geographical anomalies



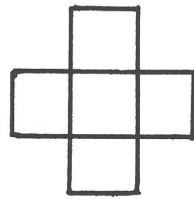
Italy



Greece



The Vatican



Switzerland

Plainly

No C 256/8

EN

Official Journal of the European Communities

2. 10. 95

Opinion on Plain Language

(95/C 256/03)

The Economic and Social Committee decided on 29 March 1995 in accordance with Article 23(3) of its Rules of Procedure, to draw up an Opinion on Plain Language.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for the preparatory work, adopted its Opinion on 15 June 1995. The Rapporteur was Mrs Guillaume.

At its 327th Plenary Session (meeting of 5 July 1995) the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The debate over the Maastricht Treaty showed that the people of Europe no longer unreservedly accept the EU.

1.1.1. Effective communication is essential if Europe is to match people's aspirations. This includes avoidance of jargon. Although DG X has overall responsibility, the College of Commissioners is responsible for the definition of political priorities in information and communication policy; a steering committee of senior representatives from all DG's ensures an integrated approach to information strategy.

1.2. Reorganization is needed. The Commission's position needs to be expressed clearly and quickly. Plain language is essential to a more open Community.

2. Comments

2.1. *Would it be better to use plain language in official documents?*

2.1.1. People would understand official documents more easily. Translation would be easier, quicker and cheaper. Above all, hostility to European ideals and principles would be reduced because the people of Europe would feel more at ease with European institutions, rules and the people in charge of European matters. European documents would become an influence towards harmony and cohesion in Europe. In this context, differentiation can be made between 'legal' and 'political' texts.

The former may be complex not
nonetheless require precise definition; the latter have a
message that must be clear to every citizen.

The Maastricht Treaty on European Union failed on both counts. It is vital that any future revision to the Treaty be comprehensible legally and politically.

2.2. *Is it possible for official documents to be written in plain language?*

2.2.1. It is. But it is difficult for officials and others to shed the habit of using jargon, legal language and insensitive terminology (e.g. the misuse of the word 'migrants'). A long tradition of using official language, together with a powerful urge to conform and follow precedent, has created an instinct to use long words and long sentences. It is not necessary to do so. Examples of how official documents could be written in plain language are annexed to this Opinion.

2.3. *Is it official policy to use plain language as much as possible?*

2.3.1. It is. Jacques Delors, then President of the Commission, spoke to the European Parliament on 10 June 1992 and said: '... we must be inventors of simplicity which must lead to a collective examination of conscience, firstly within the Commission, for whom the pen must be lighter and the texts plainer....; the quest for compromise at Council level-results in texts which are too complicated, even incomprehensible'.

2.3.2. The Declaration of the Birmingham Summit of 16 October 1992 said: 'We want Community legislation to become simpler and clearer'.

2.3.3. On 8 June 1993 the Council passed a resolution on the quality of drafting of Community legislation, effective of making Community legislation more comprehensible. However, the Council did not have a resolution in plain language. The text of the Council resolution as it was passed. Appendix B is the text of the resolution redrafted using plain language.

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Mise en page:

Ida Perez

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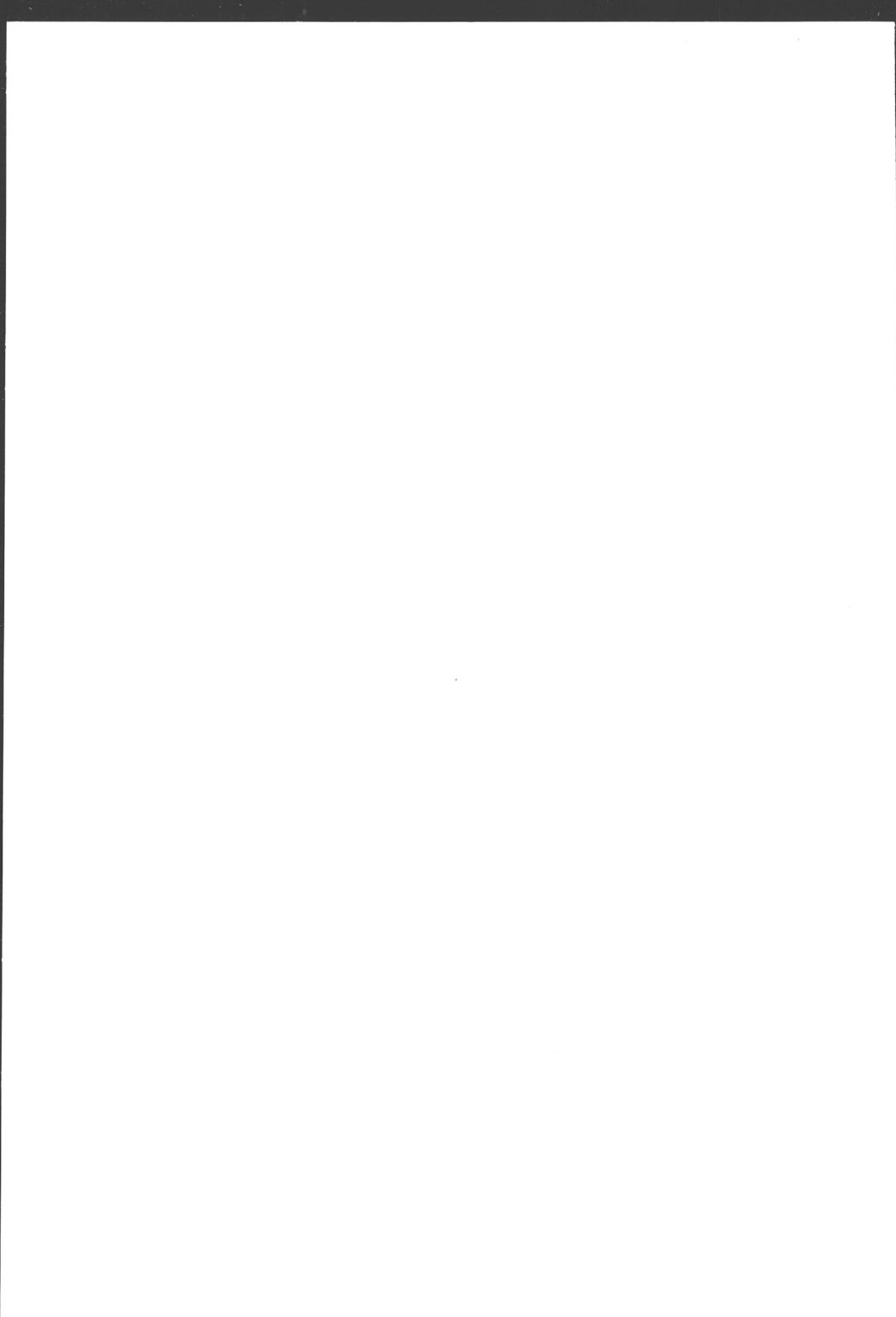
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perezid.*

Pour plus d'information téléphonez au 61639 ou 55729

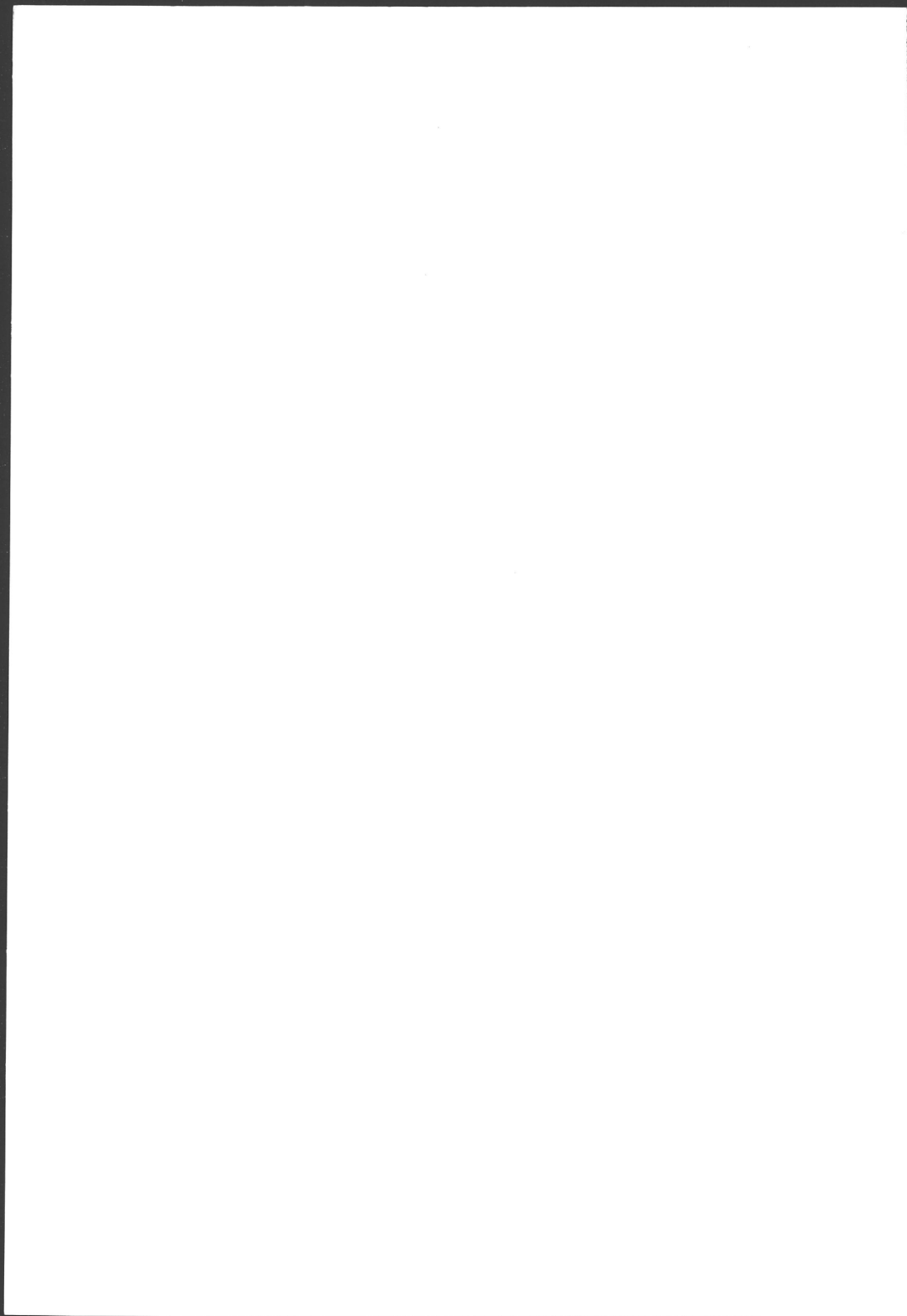
* *faisant fonction*

** *sit. vac.*

NOTES



NOTES



Ont participé à ce numéro:

John Callinan, Thomas Carroll, Henry Chumas, Michael Cunningham, Jean-Michel Grave, Jean-Marie Gobeaux, Leon Gordon, Karl Gruber, Jouko Lempiäinen, Robert Light and Peter Wilmott

ainsi que:

Olimpia Da Silva, Ana-Maria Pumares Pita, Sandra Losada and Rory Watson

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