II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a Council Regulation (EEC) concerning the single administrative document [1]

(91/C 60/01)

On 4 September 1990 the Council decided to consult the Economic and Social Committee, under Article 100A of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the matter, adopted its Opinion on 5 December 1990. The Rapporteur was Mr Giacomelli.

At its 282nd plenary session (meeting of 18 December 1990), the Economic and Social Committee adopted the following Opinion by with no votes against and 1 abstention.

1. Introduction

1.1. The Committee welcomes the principle underlying the new proposal since the recasting of the three existing Regulations on the single administrative document reflects the Commission's intention of adjusting to the new situation which will arise after 31 December 1992, i.e. the deadline laid down in Article 8A of the Treaty, as amended by the Single Act, for the introduction of the Single Market, with all that this implies in terms of the removal of intra-Community frontiers and the free movement of goods between the Member States.

1.2. When this Single Market comes into existence, border controls and formalities will be abolished within the European Community and goods will be traded under the same conditions as in any single Member State.

1.3. Whilst the move to recast the three existing Regulations is to be welcomed, it nonetheless raises various questions which will be looked at in Chapter 3 of this Opinion.

2. Background

2.1. After protracted discussions at the time between representatives of the appropriate Member State departments, the Commission drew up a number of proposals aimed at simplifying formalities in trade within the Community. These proposals, which were adopted unanimously by the Council under Article 235 of the Treaty, sought to achieve overall simplification of customs documents by using a single administrative document—instead of various Community or national forms—for dispatch, Community transit and Community goods' entry for home use or entry under any other procedure in the Member State of destination. In the views of the authors of the proposals, the introduction of a single administrative document could be regarded as an intermediate stage on the way towards the abolition of all administrative documentation in intra-Community trade.

2.2. The single administrative document, which entailed a substantial easing of the administrative burden on firms, particularly small and medium-sized firms, was introduced by Council Regulation (EEC) No 678/85 of 18 February 1985, accompanied by Council Regulation (EEC) No 679/85 of the same date on a specimen declaration form to be used in trade in goods within the Community. This simplified form was intended to lead to standardization of the information to be supplied in the context of intra-Community trade, it being understood that the form would be restricted to information which might justifiably be required for the purposes of such trade.

[1] OJ No C 214, 29. 8. 1990, p. 11.

2.3. The third and last piece of the legislation on the single administrative document was finally put in place with the adoption on 8 July 1985 of Regulation (EEC) No 1900/85 introducing Community export and import declaration forms—a Regulation applicable to goods which, in trade with third countries or intra-Community trade, do not comply with the conditions laid down in Article 9(2) of the Treaty (products coming from third countries and products which are in free circulation in Member States).

3. General comments

3.1. When the Single Market starts operating on 1 January 1993, the goods referred to in Article 9(2) of the Treaty will be able to move freely within the Community without being subject to checks or formalities of any kind. This means that the single administrative document will no longer be required for this type of trade.

3.2. The document will then be used solely for (a) trade in non-Community goods not in free circulation in the Community, (b) import and export trade with non-Community countries, (c) trade between the Community of Ten and Spain or Portugal during the transitional period of Spanish and Portuguese accession to the Community, and (d) trade between Spain and Portugal in goods not yet totally exempt from customs duties and charges having equivalent effect.

3.3. Moreover, since the provisions on the single administrative document have in the meantime been amended, notably by Commission Regulation (EEC) No 1062/87 of 27 March 1987 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure, as well as by Regulation (EEC) No 1900/85 (referred to in paragraph 2.3 above) introducing Community export and import declaration forms, the Committee considers that it should support the Commission's efforts to recast existing texts because of the reforms connected with the Single Market, and to replace such texts by a new Regulation even though this implies a major change in scope. However, as has been made clear in point 1.3, the Committee's approval is tempered by certain reservations spelt out in the following paragraphs.

3.4. Article 10 of Council Regulation (EEC) No 678/85 of 18 February 1985 simplifying formalities in trade in goods within the Community—a Regulation rescinded under Article 9 of the present draft Regulation—contains highly detailed provisions governing the cancellation or correction of the declaration made by the declarant. These provisions, which reappear to some extent in the regulation on goods in free circulation as well as being referred to in Article 63 of the proposal for a Council Regulation establishing a Community Customs Code, should also be included in the present proposal for a Regulation. The Committee believes that their presence would help users and would make the proposed Regulation more complete, given that the single administrative document is still used in trade with non-Community countries and during the transitional period of Spanish and Portuguese accession, as laid down in Article 1 of the proposal for a Regulation under discussion.

3.5. The Committee approves in principle the provisions permitting the 'use of simplified procedures, whether or not based on the use of computers', but regrets that the details have not been spelt out. The Committee therefore recommends that rather than leaving the question of regulating such procedures to the Single Administrative Document Committee, as provided for under Article 6 of the proposal, key provisions already contained in Article 14 of the above-mentioned Regulation (EEC) No 678/85 should be explicitly incorporated in the new proposal for a Regulation. The key provisions to be taken over would include the possibility, on the authorization of the competent authorities, of attaching to the single document commercial schedules describing the goods for the purpose of completing formalities, and the possibility that Member States might dispense with the single document in the event of application of the special provisions laid down with regard to consignments by letter or parcel-post etc.

3.6. Article 7 deals with the powers and operation of the Single Administrative Document Committee, which is chaired by a representative of the Commission and composed of representatives of the Member States.

Experience of committee procedures in other fields (e.g. statistics) reveals that there is a tendency to confer on such committees a purely consultative role although the Commission is expected to 'take the utmost account' of their opinions.

Under the present proposal for a Regulation, however, the Commission plans to have as many detailed problems as possible dealt with under the Single Administrative Document Committee procedure.

Without abandoning its preference for a more active participation of Member State representatives, the Committee considers that it should not in this case press for a Committee with the form and powers of a Management Committee. It does however believe that economic operators should be given the chance to offer the Committee in question (which is composed of officials) the benefit of their practical experience. It is therefore proposed that the Single Administrative Document Committee should consult economic operators before delivering its opinions.

3.7. The Regulation in question will have a direct impact on employment, with an estimated 85 000 jobs axed in customs departments. The Committee is pleased with the Commission's decision to finance a special study on the matter but takes the view that it should also present a programme for the retraining and conversion of customs officials so that they can satisfy new data-processing requirements and adjust to the needs of firms. Firms must be given adequate resources to deal with this problem.

3.8. The authors cite Treaty Article 100A as the legal basis of the present proposal, presumably because they have in mind Article 100A(1) which allows the Council to act by a qualified majority, in cooperation with the European Parliament and after consulting the Economic and Social Committee. *A priori* there are no objections here since the proposal is merely concerned with the simplification of formalities and there are no fiscal implications.

4. Specific comments

Insertion of a new recital after the fourth recital

The seventh recital of Regulation (EEC) No 679/85—a Regulation which will be rescinded by the proposed Regulation—makes it clear that, when filling in the single administrative document, the declarant must always strictly follow the instructions laid down in the relevant explanatory note. Unless this requirement, together with the explanatory note itself, appears in the implementing provisions to be drawn up by the Single Administrative Document Committee established under Article 6 of the present proposal, it is proposed to reintroduce it in the form of an additional recital worded as follows:

> 'Whereas after 1 January 1993, the single administrative document will continue to be used for third-country goods not in free circulation within the Community, for all imports and exports in trade with non-Community countries, and finally, during the transitional period of Spanish and Portuguese accession to the Community, for trade between these two countries and the Community of Ten as well as for certain types of trade between Portugal and Spain, it is important, in the interests of standardizing the information to be provided, to retain the use of an explanatory note for the abovementioned trade which summarizes all the information users need to complete the form easily; whereas this note must be readily available to users.'

5. Conclusion

5.1. Subject to the previous comments, the Committee approves the proposal for a Council Regulation (CEE) on the single administrative document since it is consistent with all the other provisions which will need to be adopted if the Single Market is to come into existence on 1 January 1993.

5.2. Despite its agreement in principle, the Committee would reiterate its concern that the abolition of a document which has hitherto made it possible to monitor the honesty of intra-Community trading practices, particularly with regard to the payment of taxes and duties, will considerably weaken the instruments of control. The Committee therefore trusts that the new mechanism, which will be based on cooperation and on the exchange of information between national government departments in the field of indirect taxation, will close the loopholes.

Done at Brussels, 18 December 1990.

The Chairman

of the Economic and Social Committee

François STAEDELIN