COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.05.1996
COM(96) 225 final

95/0087 (COD)

OPINION OF THE COMMISSION
pursuant to Article 189 b (2) (d) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the

proposal for a
EUROPEAN PARLIAMENT AND COUNCIL DECISION

adopting an action programme for Community customs (Customs 2000)

AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 189 a (2) of the EC Treaty

Explanatory memorandum

On 16 April 1996, the European Parliament adopted a decision on the common position agreed by the Council with a view to the approval of a European Parliament and Council decision adopting an action programme for Community customs ("Customs 2000").

This decision of the Parliament invites the Council to consent to the 24 amendments voted by the Parliament and to amend its common position accordingly.

The Commission has consented, wholly or by indicating that it would suggest a slightly different wording, to the following parliamentary amendments: 1, 2, 3, 4, 5, 7, 8, 9(2), 10, 11(1), 15, 19, 20, 21, 23. The acceptance of these amendments, as set out in this opinion, entails the amendment of the proposal for a European Parliament and Council decision, in implementation of Article 189 A of the EC Treaty.

The Commission cannot, on the other hand, accept the other Parliamentary amendments, on the grounds that they appear either superfluous in the light of articles already adopted by the Council in its common position (amendments n° 12, 13, 16, 24) or in contradiction with the principle of subsidiarity or other principles laid down in the EC Treaty (amendments n° 6, 9(1), 11(2), 14, 18, 22, 25).

Commission position
in conformity with Article 189 B (2d) of the EC Treaty
on the decision of the European Parliament
in respect of the common position agreed by the Council with a view to
adopting a European Parliament and Council decision
adopting an action programme for Community customs
(Customs 2000)
amending the proposal for a decision, in implementation of
Article 189 A of the Treaty

On 16 April 1996 the European Parliament gave its views, on a second reading, on the Council's common position regarding the proposal for a European Parliament and Council decision adopting an action programme for Community customs ("Customs 2000")[1].

This common position resulted from the examination carried out on a first reading of the initial proposal for a decision presented by the Commission on 6 April 1995 COM(95) 119 final[2], as amended by documents COM(95) 451 final[3] and COM(95) 576 final[4].

The decision adopted by the European Parliament regarding the Council's common position contains 24 amendments to the latter.

1. Amendments by the European Parliament endorsed by the Commission.

The Commission can accept, in the wording proposed by the European Parliament, amendments n° 1, 3, 5, 7, 9(2), 15, 21, 23.

The Commission can also accept, with some changes of wording, amendments n° 2, 4, 8, 10, 11(1), 19, 20.

In consequence, the proposal for a decision, as it results from the text of the Council's common position, is amended as follows:

1.1. Title (amendment 1).

The words: Community action programme on customs" are replaced by *"action programme for Community customs"*.

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[1] Common position (CE) N° 2/96 adopted by the Council on 22 December 1995 - OJ N° C37, 9.2.1996, p11

[2] COM(95) 119 final, 6 April 1995 - OJ N° C346, 23.12.1995

[3] COM(95) 451 final, 5 October 1995 - OJ N° C 327, 7.12.1995

[4] COM(95) 576 final, 20 November 1995 - OJ N° C 23, 27.1.1996

1.2. 1st recital (amendment 2).

Between "...the enlargement of the Community to include new States..." and "...and the rapid development of trade between the Community and the rest of the world...", add:

", the planned extension of the Common Transit procedure to include Poland, the Czech Republic, Hungary and Slovakia..."

1.3. New recital 1a (amendment 3).

Whereas, although the completion of the internal market eliminated controls on goods at all the internal borders of the Union, substantial differences persist between the home markets of European countries and the European internal market; whereas the further development of the European internal market will result in a genuine home market with open internal borders and a common external border and is therefore a matter of priority;

1.4. New recital 1b (amendment 4).

Whereas the strengthening of the common protection of the external borders will promote the development of a European home market of this nature, in which the implementation of the principles contained in the provisions of the Treaty will be totally guaranteed; whereas this must be achieved as soon as possible;

1.5. 4th recital (amendment 5).

The text of the recital is completed by the following:

...whereas, however, it is necessary to agree at Community level on the criteria which will determine the level at which the controls will be carried out;

1.6. 13th recital (amendment 7).

The text of the recital is completed as follows:

whereas customs officers employed in the customs administrations of the Member States should visibly wear the twelve-star symbol of the European Community;

1.7. Article 1 new paragraph 4a (amendment 8).

For the purposes of this decision, 'customs administration' means the administration that has the main responsibility for the application of customs rules.

1.8. New Article 1a (amendment 9).

The Member States shall ensure that Community customs officers visibly wear the twelve-star symbol to remind both European Union citizens and non-Community nationals of the role of such officers, who are carrying out important tasks for the Community.

1.9. Article 3 new paragraph 7 (amendment 10).

7. Assist the customs administrations of associated countries that wish to accede to the European Union.

1.10. Article 4 new paragraph 4a (amendment 11(1)).

4a. foster in particular the development of targeting and risk analysis techniques and, where appropriate, approximate the frequency of controls at a minimum level;

1.11. Article 7(2) point 6 (amendment 15).

The text is completed as follows:

after "developing co-operation with third countries", add:

particularly the associated countries of Central and Eastern Europe,"

1.12. Article 13 new paragraph 5 (amendment 19).

5. The Commission shall examine, in partnership with the Member states, the possibilities for the creation of a common and permanent European school for higher customs studies in order to supplement the training of the customs officers of the Member States.

1.13. Article 13 new paragraph 6 (amendment 20).

6. The training of customs officers as provided for in the Matthaeus Programme shall be extended to the associated countries of Central and Eastern Europe that wish to accede to the European Union.

1.14. Article 16(2), 2nd indent (amendment 21).

The date of 31 December 2000 is replaced by that of "*30 June 1999*".

1.15. Article 16(3), 1st indent (amendment 21).

The date of 31 December 1998 is replaced by that of "*30 June 1998*".

1.16. Article 17 new paragraph 3 (amendment 23).

3. The Member States shall take care, in this respect, that the use of the sums retained as the costs of collecting own resources pursuant to Article 2(3) of Council Decision 88/376 EEC, EURATOM of 24 June 1988 takes the fullest account of the objectives of this Decision.

2. Amendments by the Parliament that the Commission cannot consent to

As it pointed out during the plenary session of the European Parliament, the Commission cannot give support to amendments n° 6, 9(1), 11(2), 12, 13, 14, 16, 18, 22, 24 and 25, for the reasons set out below.

2.1. Amendment 6

This amendment provides for the long-term creation of a single European customs authority, financed from the share of own resources paid back to the Member States in recognition of the cost of collecting the resources.

This amendment has no place in the philosophy of the Commission's proposal, which seeks to develop co-operation between national administrations in order to improve their efficiency, without calling into question their individual responsibility for the collection of own resources and the implementation of Community law.

2.2. Amendment 9(1)

This amendment calls on the Commission to present proposals aimed at changing the status of customs personnels in order to make it easier to second officials between the administrations of different Member States.

The Commission will encourage the Member states, in the framework of work that will be carried out in implementation of this programme, to develop this kind of practice in relations between administrations, but cannot contemplate presenting proposals in a field which falls under the competence of the Member States.

2.3. Amendment 11(2)

This amendment calls on the Commission to co-ordinate the controls carried out by customs services and to take responsibility for working out a genuine policy on post-clearance checks to be carried out jointly.

The Commission cannot approve of such a proposal in this form, as it would be in contradiction with the responsibility of Member States for the implementation of Community law and of the controls associated with it.

2.4. Amendment 12

This amendment, which concerns the improvement of the recovery of customs duties, has been incorporated in the Council's common position, in Article 6 (Recovery), following an amendment adopted by the European Parliament on first reading. Its adoption thus seems no longer necessary.

2.5. Amendment 13

This amendment calls on the Commission to ensure that common customs legislation is interpreted appropriately, with due regard for economic processes and in such a way as to avoid excessive administrative formalities.

This amendment has been incorporated, in substance, in Article 5(2) of the common position. Its adoption thus seems no longer necessary.

2.6 Amendment 14

This amendment calls on the Commission to put forward, before 1 January 1996, a binding calendar for the computerization of customs offices and of the Community transit procedure.

Although the Commission has already put forward a calendar for the computerization of Community and common transit, which has been endorsed by the Member States, it considers that such a proposal has no place in this action programme.

2.7. Amendment 16

This amendment, which seeks to emphasize the need to give priority to customs controls carried out before release is given, has been incorporated in substance in Article 8 of the common position. Its adoption thus seems no longer necessary.

2.8. Amendment 25

This amendment calls on the Commission to put forward proposals aimed at allowing mutual direct access to to information held in the data-banks of other Member States, and to propose the storage of this information in one single data-bank.

The Commission considers that the questions raised here will be studied in the framework of the work to be carried out in implementation of the action programme, as one of the possible aspects of the co-ordinated development of compatible computer systems, in order to improve co-operation between administrations and the efficiency of controls.

2.9 Amendment 18

This amendment calls on the Commission to put forward a report and proposals regarding the harmonization of the powers of customs officials.

The common position provides for an examination of the responsibilities of these officials and of the part that they are expected to play in implementing Community law. The amendment envisages going further. What is proposed goes beyond the framework of the action programme and deals with a field that falls under the responsibility of the Member States.

2.10. Amendment 22

This amendment deals with the financing of the action programme. The Commission considers:

- that the wording used in the common position makes any detailed account of the sharing of financial responsibility between the Community and the Member States superfluous;

- that it is not possible to mix up the operating appropriations of part B of the budget and the administrative costs falling under part A;

- that paying over the receipts from customs penalties to the Community budget has no place either in the framework of the legal basis that has been chosen or in the objectives of the action programme.

2.11 Amendment 24

This amendment refers to the usefulness of agreeing memoranda of understanding with business operators.

The Commission considers that this point is already made in Article 8(5) of the common position. Its adoption thus seems no longer necessary.

ISSN 0254-1475

COM(96) 225 final

DOCUMENTS

EN 02

Catalogue number : CB-CO-96-235-EN-C

ISBN 92-78-04407-5

Office for Official Publications of the European Communities

L-2985 Luxembourg