

# Official Journal

of the European Communities

ISSN 0378-6986

C 88

Volume 26

30 March 1983

English edition

## Information and Notices

---

Contents

### I *Information*

#### **Commission**

ECU..... 1

State aids (Federal Republic of Germany) (Articles 92 to 94 of the EEC Treaty) —  
Notice given in accordance with the first subparagraph of Article 93 (2) of the  
Treaty to interested parties, other than Member States, regarding an amendment to  
the Eleventh General Plan pursuant to the Joint Task Scheme for the Improvement  
of Regional Economic Structure ..... 2

Commission communication under Article 115 of the EEC Treaty..... 2

#### **Court of Auditors**

Special Report of the Court of Auditors on the Community Inward Processing  
System (Observations, Article 206a of the EEC Treaty)..... 3

## I

(Information)

## COMMISSION

ECU (\*)

29 March 1983

Currency amount for one unit:

Belgian and Luxembourg franc con.	44,3669	United States dollar	0,920094
Belgian and Luxembourg franc fin.	45,5492	Swiss franc	1,91858
German mark	2,23831	Spanish peseta	126,145
Dutch guilder	2,52244	Swedish krona	6,94165
Pound sterling	0,632367	Norwegian krone	6,65596
Danish krone	7,94961	Canadian dollar	1,13282
French franc	6,71162	Portuguese escudo	90,1692
Italian lira	1333,45	Austrian schilling	15,7520
Irish pound	0,708582	Finnish markka	5,04441
Greek drachma	77,2051	Japanese yen	221,007
		Australian dollar	1,06185
		New Zealand dollar	1,41771

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the EUA;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

(\*) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1).  
 Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).  
 Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).  
 Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).  
 Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).  
 Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

**STATE AIDS****(Federal Republic of Germany)***(Articles 92 to 94 of the Treaty establishing the European Economic Community)*

Notice given in accordance with the first subparagraph of Article 93 (2) of the Treaty to interested parties, other than Member States, regarding an amendment to the Eleventh General Plan pursuant to the Joint Task Scheme for the Improvement of Regional Economic Structure

1. The Commission has initiated the procedure of Article 93 (2) of the EEC Treaty in respect of certain measures of assistance. They concern a 5 % increase in ceilings for aid to investments in the extension of establishments where granted in the labour market regions Itzehoe (including the areas in the Heide-Meldorf labour market region added following adjustments by Land authorities), Grafschaft Diepholz-Vechta, Alfeld, Kleve-Emmerich, Holzminden-Höxter, Buchen im Odenwald, Aichach-Neuburg-Schrobenhausen, Landsberg am Lech, Traunstein-Bad Reichenhall, Miesbach, Garmisch-Partenkirchen and Lindau. By means of the Notices published in *Official Journal of the European Communities* No C 316 of 4 December 1981 and No C 147 of 11 June 1982 the Commission raised objections to assistance for these regions.
2. Pursuant to Article 93 (2) of the EEC Treaty, the Commission hereby gives notice to all interested parties other than Member States to submit their comments on the above measures within three weeks of the date of this Notice to:  
Commission of the European Communities;  
rue de la Loi 200,  
B-1049 Brussels.

---

**Commission communication under Article 115 of the EEC Treaty**

By Decision dated 28 March 1983 the Commission has rejected an application by the Italian Republic for authorization not to apply Community treatment to imports of products falling within heading No 55.09 of the Common Customs Tariff (category 2), originating in South Korea and in free circulation in the other Member States.

---

# COURT OF AUDITORS

## SPECIAL REPORT OF THE COURT OF AUDITORS

### On the Community Inward Processing System (Observations, Article 206a of the EEC Treaty)

This report was adopted by the Court of Auditors in its meeting of 16 September 1982, in application of Article 206a of the EEC Treaty. On 7 April 1982 it was sent for comment to the Commission of the European Communities whose replies are attached.

*NB: This text replaces the text published in Official Journal of the European Communities No C 286 dated 4 November 1982, which contained errors in some language versions (the errors did not apply to the English-language version which is therefore unchanged).*

### INTRODUCTION

1. Community industrial markets are protected by a common customs tariff applicable to imports from third countries. For agricultural markets protection is assured by a system of import levies supplemented, in some cases, by customs duties. The duties and levies at present constitute about half of the resources which go to finance the general budget of the Communities.

In pursuance of particular industrial, commercial or development aid policies, the Community has developed a series of special arrangements under which the level of tariff protection is modified — by reduction, exemption or suspension with a view to achieving desired economic or social objectives.

These special regimes involve a cost (albeit hidden) to the Communities, in terms of revenue forgone or delayed. They therefore fall to be managed, as far as circumstances allow, within the confines not only of legality and regularity but also of sound financial management.

vs,6One such regime is the Community Inward Processing System. Under arrangements applicable to this system, import charges are not imposed on certain goods brought from outside the Community when the goods are destined to be processed within the Community and later re-exported.

The Court of Auditors, in the course of its audit of revenue, examined the operation of this regime in most of the Member States. The observations arising from this examination are set out below.

### DESCRIPTION OF SYSTEM

2. Before the advent of the Customs Union in 1968 it was common practice for countries to take special measures to ensure that national tariff barriers, designed to protect national markets, did not operate

in such a way as to create difficulties for their own export industries. These industries often experienced difficulties in obtaining supplies of certain materials from within the country and were compelled to seek supplies from abroad. It was recognized that, since export industries had to sell their products on the world market, they should not be disadvantaged, in comparison with competitors located in other countries, by having to bear import charges on raw materials which they were compelled to import. The customs regimes under which these arrangements took place were called 'inward processing arrangements'. The national provisions were, of course, designed solely with national interests in view. Thus, for example, in some countries the concession would not be allowed in respect of imported materials where the same or similar materials could be obtained on reasonable terms from a home source.

3. The installation of the Customs Union did not automatically put an end to these national practices in the Member States. However, as their continued existence was at odds with the aims of the common market, studies were undertaken with a view to evolving a Community system which, while retaining the advantages of the national systems, would substitute Community interests for national interests.

4. These studies culminated in the adoption of Council Directive 69/73/EEC (1) which introduced, with effect from 1 October 1969, a Community inward processing system to replace the various national systems then in operation. Its purpose was to encourage and facilitate Community export industries by permitting goods from outside the Community to be imported from third countries and processed within the Community without giving rise to customs duties or agricultural levies 'where such goods were

(1) OJ No L 58, 8. 3. 1969, p. 1.

intended for export outside the Community wholly or partly in the form of compensating products' (Article 2). In this report, goods to be processed (including partly processed goods for further processing) are referred to as 'materials'. Goods resulting from the processing of those goods are referred to as 'products'. 'Processing' can include working, fitting, assembling or repairing goods or the use of goods as catalysts, etc.

5. Relief may be granted in either of two ways. The first consists in suspending collection of import charges during the processing operation, and their collection only if and when the products are diverted to the Community market. The Member State may require a security from the importer. The second requires the importer to deposit the import charges at importation subject to repayment on exportation of the products.

6. All Member States have chosen to operate the suspension system, but some of them also operate the deposit system at the choice of the trader (<sup>1</sup>). In Denmark, however, the deposit system is compulsory for industrial products. In certain other countries, notably the United Kingdom and the Netherlands, the authorities refuse the suspension system in certain specific cases (for example, where they consider the trader's accounting system to be insufficient to allow satisfactory control) but permit the deposit system in such cases.

7. The Directive allows the benefits of the system to be granted by the competent authorities of the Member States to processing industries established within the Community in cases where such benefits contribute towards providing the most favourable conditions for export of goods resulting from processing without conflicting with essential interests of producers within the Community. It spells out certain cases in which the economic conditions justifying the use of imported materials are deemed to be met.

They are:

- (a) where the materials are not the property of the processor, but are supplied for processing by or

(<sup>1</sup>) Many traders do, in fact, choose the deposit system, presumably because of the less rigorous accounting requirements demanded by the customs authorities in such cases.

on behalf of a person established in a third country;

- (b) where the materials must be used in order to comply with trade marks, patents, etc.;
- (c) where the goods are imported for repair;
- (d) where the materials are not produced within the Community or are not produced in sufficient quantities or cannot be made available in time;
- (e) where similar materials produced within the Community do not have the desired qualities having regard to the technical requirements of the processor's clients;
- (f) where similar Community materials are shown to be so costly as to make their proposed commercial use economically impossible.

Authorizations falling within categories (d), (e) and (f) are subject to review at Community level in an attempt to ensure the uniform application of the economic criteria. To that end, Member States must inform the Commission of all material cases authorized by them which fall within these categories so that they can be commented upon by a Committee for Customs Processing Arrangements composed of representatives of the Member States and the Commission.

Furthermore, authorizations granted by a Member State on grounds other than those mentioned at (a) to (f) in the previous paragraph are valid initially for a maximum period of nine months. Before the end of the seventh month the Council, on a proposal from the Commission, may forbid the renewal of the authorization.

8. Before authorizing an inward processing operation the authorities must, among other things, satisfy themselves that the economic conditions are fulfilled, that the compensating products are intended for export outside the Community, that the rates of conversion from materials to products are correct and that the accounting arrangements of the firm are satisfactory. The authorization defines among other matters the materials to be imported, the process to be performed, the rates of conversion approved, and the period within which the process is to be completed and the products exported. The latter period depends on the nature of the process and normally varies from several months to a year. Control is effected by means of periodical returns sent by the processor to the customs authorities and by on-the-spot examination of processors' accounts and installations.

9. In order to allow a degree of flexibility in changing market conditions and 'where circumstances so warrant', Article 15 of the basic Directive permits diversion to the internal Community market of materials imported under inward processing arrangements or of products processed therefrom. Such diversions are, under the suspension system, declared on the processor's periodical return or by specific declaration and duty is paid at that stage by reference to the original materials imported. In any case, if the products are not exported within the time limit laid down, they are deemed to be diverted to the Community market and the import charges relating to imported material content become payable. The effect of these provisions, for goods imported under the suspension system and placed on the Community market, is that processors are allowed additional time for payment of import duties over and above that extended to importers generally.

#### New proposals of the Commission

10. As part of its general programme to work towards greater uniformity and legal certainty in customs legislation, the Commission transmitted to the Council, on 20 January 1981, a proposal (\*) to convert the Directive into a Regulation which would be directly applicable in the Member States. The Regulation will, among other things, spell out in more detail the duties of the national administrations operating the system and thus will, in some respects, reduce the disparities noted by the Court. Certain of the provisions of this proposal are discussed below.

(\*) COM(80) 916 final.

#### ECONOMIC EFFECTS

11. A study of the general economic effects of the system would be outside the scope of the present report. Nevertheless, in its examination the Court had regard not only to questions of financial legality and regularity but also to whether the system appeared to be achieving its main objectives, which are:

- (a) to provide the most favourable conditions for the export of goods resulting from the processing of imported materials;
- (b) to protect the essential interests of Community producers generally, but especially of producers of materials of the same kind as those imported.

#### ABSENCE OF HARMONIZATION IN PRESENT SYSTEM

12. The Court found during its examination of the system a great variety of practices still persisting in the Member States. These differences have consequences not only for the Communities' resources but also for conditions of competition within an important part of Community industrial activities. The amounts involved, in terms either of potential sales lost to Community producers or of own resources potentially at risk, are sufficiently attested by the volume of goods admitted under cover of inward processing arrangements — 14 050 million EUA in 1978, 14 125 million EUA in 1979 and 14 936 million EUA in 1980, or 7,9, 6,5, and 5,5 %, respectively, of total Community imports. For 1980, the breakdown by Member State is as follows:

	Inward processing imports 1980 (million EUA)	% of total imports
Belgium/Luxembourg	1 181	5,78
Denmark	168	2,34
Federal Republic of Germany	1 527	2,13
France	3 173	6,37
Ireland	328	16,42
Italy	3 323	8,24
Netherlands	1 183	4,57
United Kingdom	4 053	7,71
EUR 9	14 936	5,53

Source: Eurostat.

### Economic conditions

13. The economic conditions mentioned at paragraph 8 are designed to strike a balance between the interests of exporters (to obtain materials on the most favourable terms and from outside the Community, if necessary) and of Community producers (to supply, where possible, Community materials to processing industries in substitution for imported materials). While own resources are not directly at issue, the correct application of the economic criteria is the chief safeguard of the interests of Community producers of materials. To this end, the national authorities handling applications need a reliable source of information on the availability of Community materials. The Directive provides *inter alia* for an exchange of information at Community level on the granting or withholding of authorizations to use inward processing. The Committee for Customs Processing Arrangements, mentioned at paragraph 7, holds regular meetings to exchange views on this information. Where it turns out that the authorization conditions were not fulfilled for a particular operation, permission is not renewed. Commission officials observed, in discussions with the Court, that this procedure, while being a step in the right direction, does not go far enough: while certain delegations to the Committee play an active part in the exchange of information and keep in touch with the industries concerned, others contribute less to the procedure.

14. In order to improve the information flow the Commission proposes to set up a card index with information fed in by Member States and from any other relevant sources. The card index would provide:

- (a) for Member States, an information source on Community materials which might be recommended to processors for use in substitution for imported materials, and
- (b) for Community producers, or potential producers of materials, a data source on materials which are currently being imported under inward processing relief.

### Co-existence of suspension system and deposit system

15. The suspension system confers a distinct cash flow benefit on eligible processors as compared with

the deposit system. Under the deposit system the processor must deposit the full import charges when he imports the materials: the charges are refunded if and when the processed products are exported. The processor using the suspension system has some additional costs associated with the keeping of detailed stock records for customs purposes and, in some countries (see paragraph 24 below), with the provision of security. But these are insignificant compared to financing costs involved in the deposit system. The continuance of the two systems side by side is, where the trader is allowed no choice, a most unsatisfactory feature. Clearly, the deposit system does not provide the most favourable conditions for the export of processed products.

### Diversions to Community market

16. The Directive does not require statistics on diversions of products to the Community market to be transmitted to the Commission, and Member States, for the most part, do not compile them on a national basis. Nevertheless, from discussions with national officials and a test examination of documents in some Member States, the Court was able to obtain a picture of the situation which suggests that the absence of strict limits in the Directive has led to widely different practices. In Germany, the United Kingdom, France and Italy, for example, inward processing authorizations are limited to imports destined for exportation as compensating products, and diversions to the home market appear to be below 20%. In the Netherlands diversions range up to a maximum of 30%. For Luxembourg, the average appears to be of the order of 50%. In Ireland, it was learned that authorizations are granted if any part, however small, of the imported goods is to be exported as compensating products, though no overall statistics were available. In some cases diversions were as high as 90%.

17. The diversion to the internal Community market of materials imported under inward processing arrangements or of products processed therefrom, was intended, in the spirit of the Directive, to be an exceptional occurrence in cases where changing market conditions so warranted. Under the suspension system import charges then become

payable on such diversions, by reference to the quantity or value, and tariff classification of the original materials and the rates applicable at the time they were first admitted to inward processing. However, no criteria or limits are laid down for allowing such diversions. It could hardly have been the intention to favour those processors selling on the Community market, who use third country raw materials, by granting them a delay of several months in the payment of import charges at the expense of the Community. To avoid such an outcome either stricter regulations should be introduced to limit diversions to the minimum or, alternatively, an interest provision should be considered, as suggested in paragraph 19.

18. The proposals of the Commission referred to in paragraph 10 will, if enacted, oblige Member States to gather statistics on rates of diversion and to notify them periodically to the Commission. However, the proposals do not lay down Community criteria for allowing diversions. In these circumstances, the distortions of trade and delays in the establishment of own resources inherent in the present system are, in the opinion of the Court, likely to continue.

#### Interest

19. Article 15 of the Directive permits, but does not require, the charging of interest on import duties which were not levied at the time of importation of materials but which later became due when the materials, or products processed therefrom, are diverted. Of the eight Member States reviewed, only Italy applies the provision consistently but uses a rate of interest well below market rates. In France interest may be charged where there is manifest abuse of the system. The Court suggests that, as an alternative to limitation of diversions, consideration should be given to making compulsory a charge of interest at market rates in such circumstances. Such a provision would offset the cash flow advantages inherent in the suspension system, and inward processors would thus be put on the same footing as other manufacturers when they sold on the Community market, but would be unaffected when they exported outside the Community, as the Directive clearly intends them to do.

#### Accounting and control

20. Beyond providing that the processor shall submit to any measures of inspection prescribed by the Customs (Article 10), the Directive contains no provisions regarding accounting and control. The relevant national regulations and instructions were, accordingly, examined by the Court and, subject to what follows, found to be generally satisfactory.

21. In some Member States on-the-spot audit of processors' accounts was infrequent, the controlling officers tending to rely chiefly on their familiarity with the firms involved or on the detailed accounting extracts submitted by the processors. Since the Court is not authorized to perform its own checks in the premises of taxpayers<sup>(1)</sup>, it was not possible to test directly the soundness of these practices.

In Ireland, where the suspension system is applied exclusively, a test check on customs files of processors in the Dublin region disclosed that the payment pattern in relation to diversions was irregular. Most processors there, besides benefiting from the suspension of duty pending diversion, were entitled to the further period of grace allowed by Council Directive 78/453/EEC<sup>(2)</sup> on the deferment of payment of duties. Thus, duty on diversions in month N would be due on or before the 15th of month N + 1. Despite these advantages, some traders were several weeks late in their payments and there was evidence of a lack of vigorous pursuit on the part of the collecting agency of the customs. The Irish authorities have since informed the Court that appropriate steps have been taken to eliminate these delays.

22. Denmark, which operates the deposit system for industrial products, has no accounting machinery whereby duty payable to the Community on diversions of such products can be ascertained directly. Instead, the liability is derived globally month by month. Because of the methods employed,

<sup>(1)</sup> Statement 2 appended to the 1975 Treaty amending certain Financial Provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities.

<sup>(2)</sup> OJ No L 146, 2. 6. 1978, p. 19.

the Court of Auditors is unable to verify the correctness of the liability at any specific time. Furthermore, global procedures are not authorized in relevant Community provisions. The Court of Auditors understands that the Commission has this problem under active examination.

23. While a Directive, of its nature, might be expected to leave matters such as the foregoing (paragraphs 20 to 22) to be handled by the Member States, the Court of Auditors considers that the proposed Regulation, as a directly applicable instrument, should attempt to improve the situation in this respect. Failing such provisions either in the Regulation itself or in implementing provisions, differing national practices will continue to operate in such areas as:

- (a) the returns to be rendered by processors, the information to be contained therein and their frequency;
- (b) the minimum controls to be operated;
- (c) the precise time at which goods are considered to have been placed on the Community market.

#### Securities

24. Many Member States require an independent security from traders operating the suspension system. Securities are, in some countries, waived where the authorities are satisfied that the risk of abuse is minimal. The extent of the guarantee varies widely. For example, in Luxembourg, it covers 100 % of the import charges at risk and in the Netherlands, it can be as low as 25 %. The United Kingdom is content with asking for a written undertaking from the trader that he will pay import duty on diverted goods, a practice which seems to add little to the security of the system since the trader is already legally bound to do so. Germany requires no security, but the authorities there stated that they do not grant inward processing facilities where doubts exist as to the financial soundness of the processor. The risks to own resources from the absence or insufficiency of securities arising from defaulting traders or bankruptcies are potentially serious because the general rules for establishing Community entitlements in such cases are not uniformly interpreted in the Member

States. Some establish the own resources and make them available to the Community while others, taking a more liberal interpretation of Article 17 of Council Regulation EEC, Euratom, ECSC No 2891/77 (<sup>(1)</sup>), regard such cases as constituting *force majeure*, absolving them from making an establishment. The proposals of the Commission will make the lodging of a security mandatory, except in cases, to be defined in implementing measures, where the solvency of the operator is satisfactory.

#### Conclusion

25. The proposal to convert the Directive into a Regulation mentioned in paragraph 10 will, if adopted, bring about definite improvements in the areas of:

1. the flow of information relating to the availability of Community materials which might be used in substitution for imported materials (paragraph 14),
2. the monitoring, at Community level, of goods diverted to the Community market (paragraph 18) and
3. the lodging of securities (paragraph 24).

It is to be hoped that the Commission will, either by amending its proposals or by adopting implementing provisions, address itself to the other weaknesses of the present system noted in this report, viz.,

4. the trade distortions and inequity stemming from the co-existence of the suspension system and the deposit system (paragraph 15),
5. the absence of effective regulations to limit diversions to the Community market (paragraphs 16 to 18),
6. as an alternative to (5) the possible need for a compulsory interest provision (paragraph 19), and
7. the variety of practices in regard to establishment and collection of own resources on diverted products, and measures of accounting and control of processors (paragraphs 20 to 23).

The above comments were adopted by the Court of Auditors at its meeting of 16 September 1982.

Luxembourg, 20 October 1982.

*For the Court of Auditors*

Pierre LELONG

*President*

(<sup>(1)</sup>) OJ No L 336, 27. 12. 1977, p. 1.

## ANNEX

## COMMISSION REPLIES

## To the Observations of the Court of Auditors on the Community Inward Processing System

6. In reply to the observation that the conditions laid down by the customs authorities as regards accounting procedures are less strict in cases where the import charges are deposited, the Commission would point out that it does not matter at all from this point of view which of the two procedures provided for in Article 3 of Directive 69/73/EEC is used.
9. The Commission cannot accept the Court of Auditors' simplistic finding that the effect of the provisions governing payment of the charges on goods imported under the suspension system and placed on the Community market 'is that processors are allowed additional time for payment of import duties over and above that extended to importers generally'. It draws the Court's attention to the fact that, although strictly speaking this effect does occur, it is not the only factor to be taken into consideration, the problem being far more complex than the Court seems to think: the fact of noting only this effect means that other important aspects, as indicated by the Commission in point 19, may well be overlooked.
12. The Court of Auditors rightly stresses the importance of the arrangements in question. The Commission, however, feels that, in order to understand the arrangements better, their economic impact must be further emphasized.

Thus the statistics for 1979 and 1980 show that the Community's exports under the inward processing arrangements account for some 8 % of the total value of exports to all countries. The value of these exports is nearly twice that of imports under the inward processing arrangements from all countries. This value added includes in particular the Community labour input and the Community parts and components used in the working or processing. In absolute terms, it may be estimated at 18 000 million EUA per year.

In addition, to appreciate the true scale of inward processing traffic, the Commission points out that it would be misleading to take as a basis solely the statistics for all third countries, since a large proportion of raw materials and semi-manufactures may be imported into the Community free of customs duties under contractual or autonomous preferences or other arrangements according duty-free entry.

Generally speaking, the trader does not use the inward processing customs procedure when importing such raw materials or semi-manufactures.

Similarly, in the case of exports to a country linked to the Community by an agreement which provides for reciprocal tariff preferences and the 'no-drawback' clause, the Community trader who imports the raw materials and semi-manufactures in order to process them and export the originating products obtained to that country will not use inward processing in every case.

Having said that, in order to get some idea of the economic impact of inward processing it is necessary to concentrate on trade with third countries whose raw materials and semi-manufactures are subject to customs duties upon importation: the 1979 and 1980 statistics for some of those countries show that exports from the Community under the inward processing arrangements may account for as much as 24 % or so of exports, and imports under inward processing arrangements for some 15 % of imports.

In view of the above, the Commission feels that the system cannot be studied solely in terms of 'potential sales lost to Community producers or of own resources potentially at risk'.

13. The Commission takes account of the fact that the conditions for examining the factors considered when granting authorizations vary appreciably from one Member State to another and will do its utmost to see that the present procedure is further improved.

14. The Commission is able to confirm its intention of improving the information flow.
15. With regard to the methods under which relief may currently be granted in respect of inward processing operations on the basis of Article 3 of Directive 69/73/EEC, the Commission considers that the choice of one method rather than the other cannot have substantial repercussions and cannot confer unfair advantages from the angle of authorization for release for free circulation, the time at which the latter is to take place or the accounting practices of the firm in question. Obviously, the choice of procedure must be left to the party concerned.

The Commission will endeavour to have this possibility accepted when the proposal for a Regulation on inward processing is adopted. It also draws the Court's attention to the fact that this proposal reserves for the Commission the right to lay down the implementing procedures — which by their nature constitute implementing provisions — under the procedure provided for in Article 18 of the proposal.
16. The Commission does not share the Court of Auditor's view that 'the absence of strict limits in the Directive has led to widely different practices', for, as the Court remarks in the following point, diversion to the internal Community market is meant to be an exceptional occurrence. With regard to application of the relevant provisions by the Member States, the Commission sees to it that they are respected. The Irish practice has been examined within the Committee for Customs Processing Arrangements and Ireland should cease to follow that practice.
17. The Commission proposal for a Regulation on inward processing clearly shows that the release for free circulation of compensating products must, as under Directive 69/73/EEC, remain an exceptional occurrence. This is borne out by the general context of the proposed Regulation and in particular Article 9 (3) thereof, which stipulates that authorizations for release for free circulation may, where the circumstances so justify, be granted by derogation from the general obligation to export.

The whole system of the Regulation is based on this obligation to re-export and on the exceptional nature of release for free circulation.
18. Under the powers delegated to it in accordance with Article 155 of the Treaty the Commission will, as provided for in Article 18 of the proposed Regulation (\*), adopt the implementing provisions establishing when the circumstances justify release for free circulation. This will be a step forward compared with Directive 69/73/EEC, which makes no provision for regulating this matter by implementing arrangements.
19. With regard to interest on arrears, the Court of Auditors rightly stresses the interdependence between the problem of such interest and the exceptional nature of release of compensating products for free circulation.

No provision for such interest has been made in the proposed Regulation on inward processing on the basis that release for free circulation is an exceptional occurrence and that therefore the incidence of such interest would be slight. Furthermore, since the situation in the Member States is as described in the report, the economic implications of introducing interest on arrears would, given the exceptional nature of release for free circulation, be to increase the total cost of the processing operation, which in turn would be bound to be reflected in the price of exported products, on which (except in Italy) such a charge is at present not imposed.

Consequently, when the Directive is converted into a Regulation, inward processing would be less favourable to exporters than before. The Commission also takes account of the fact that, when authorized, release for free circulation is effected in certain Member States subject to certain conditions as regards time limits which prevent major discrimination and the administrative complications which would result for the customs authorities from the introduction of interest on arrears, to say nothing of the effect that the latter would have on the interpretation of the exceptional nature of release for free circulation.

(\*) In other cases the Commission has already specified by Implementing Regulation the circumstances which may justify a decision by the governmental authorities as, for instance, in Article 7 of Directive 75/349/EEC implementing Articles 24 and 25 of Directive 69/73/EEC.

20. The Commission is not in favour of including detailed provisions regarding controls in acts of Community customs legislation. It feels that the controls to be carried out by the relevant authorities must be so operated as to ensure that the arrangements are applied correctly.

With regard to accounting practices, the Commission feels that any provisions needed should be adopted as part of the provisions for implementing the Regulation on inward processing once that Regulation is adopted by the Council.

22. The Commission shares the Court of Auditors' view regarding the impossibility of verifying the correctness of the liability at any specific time under the system applied in Denmark. It confirms that the problem is being studied.

With regard to the differences between the procedures followed by the various Member States for establishing the Community's own resources, the Commission points out that, under Article 1 of Regulation (EEC, Euratom, ECSC) No 2891/77, the own resources are established by the Member States in accordance with their laws, regulations and administrative provisions, which does not mean that the Commission should not continuously press the national authorities to achieve greater harmonization of these procedures. On 24 October 1980 the Commission sent a letter to all the Member States spelling out clearly once and for all its position on virtually all the cases. Clearly the problems raised by the Court of Auditors concerning the procedures for establishing own resources in the Community's inward processing arrangements may raise specific issues deserving detailed attention in the light of the information provided in the report.

The Commission is about to draw its conclusions from a number of checks made in all the Member States in order to take account of situations which might not be covered by the solutions proposed in the abovementioned letter regarding uniform establishment of own resources. As soon as those conclusions are available and have been approved by the Commission the Court will be informed.

23. The Commission considers that the proposal for a Council Regulation on inward processing arrangements will reserve for it the possibility of adopting the implementing provisions required to reduce the extent of divergent national practices.
25. The Commission considers that the proposed Regulation will be able to eliminate virtually all the deficiencies encountered under the present rules.
-

## THE COMMUNITY LEGAL ORDER

Jean-Victor LOUIS

The European Communities are not simply a forum of discussion and negotiation between States. Their institutional structure, far more complex and original than that of traditional international organizations, has given birth to a vast quantity of legislation, most of which can be relied upon directly before national courts. The Court of Justice of the three Communities is faced with a workload increasing year by year in its efforts both to clarify the interpretation of Community law for the benefit of national courts and to resolve disputes between the institutions and individuals or Member States. In short, the Communities constitute a unique legal order with a highly complex structure, which penetrates further every day into economic and social reality in the Member States, yet still remains largely unrecognized.

This work on 'The Community legal order' from the pen of Professor Jean-Victor Louis of the Free University of Brussels, published by the Commission of the European Communities, is designed to enable the reader, with very little expenditure of time, to familiarize himself with the main characteristics of this system. It is written in a form easily understood by the layman, but its precise information and critical approach make it equally suitable for use by lawyers as a work of reference.

Jean-Victor Louis — Born 10 January 1938 — Agrégé in international law, Brussels University (ULB), 1969 — Lecturer in Community law, ULB — Former Director and Research Director, European Studies Department, ULB — Director of the Cahiers de Droit Européen — Head of the Legal Department, Banque Nationale de Belgique — Author of 'Les règlements de la Communauté économique européenne' and, with others, of 'Le droit de la Communauté économique européenne', ed. Jacques Mégret (nine volumes published).

Published in: Danish, Dutch, English, French, German, Greek, Italian, Portuguese, Spanish.

Publication No CB-28-79-407-EN-C  
ISBN 92-825-1053-3

Price (excluding VAT) in Luxembourg: 3,70 ECU; Bfrs 150; £ Irl 2,50; £ 2,60; US \$ 5.

OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES  
Boîte postale 1003, L-2985 Luxembourg

Sales and subscription offices	National currencies	Annual subscription				Price per single copy		
		'L + C' (calendar year) 1983	'L + C' Microfiches	OJ Supplement (Notices and public contracts) calendar year 1983	'Annex — Debates' (March 1982-February 1983)	1 - 32 pages	33 - 80 pages	81 or more pages
<b>UNITED KINGDOM</b> H. M. Stationery Office — P.O. Box 569 London SE1 9NH — Tel. 01-928 69 77, ext. 365 National Giro account No 582-1002	£	97,00	88,00	43,00	29,00	1,00	2,00	Price determined according to each case and printed on cover
<b>BELGIUM</b> Moniteur belge — 40-42, rue de Louvain 1000 Bruxelles — Belgisch Staatsblad Leuvensestraat 40-42 — 1000 Brussel Postal cheque account: 000-200 5502-27 — Tel. 512 00 26	Bfrs	8 100,—	7 300,—	3 600,—	2 400,—	80,—	160,—	
<b>DENMARK</b> J. H. Schultz — Boghandel — Møntergade 19 DK 1116 København K — Tel. (01) 14-11-95	Dkr	1 450,—	1 305,—	650,—	440,—	14,50	29,—	
<b>FRANCE</b> Service de vente en France des publications des Communautés européennes — Journal officiel 26, rue Desaix — 75732 Paris Cedex 15 Tel. 5 78 61 39 — Postal cheque account: Paris 23-96	FF	1 175,—	1 060,—	525,—	350,—	12,—	24,—	
<b>GERMANY</b> Bundesanzeiger — 5000 Köln 1 — Breite Straße Tel. (02 21) 20 29-0 Postfach 108/006 Telex: Anzeiger Bonn 08 882 595 Postal cheque account: 83 400-502 Köln	DM	415,—	374,—	185,—	125,—	4,20	8,40	
<b>GREECE</b> 1. Ethnico Typografia Kapodistriou 34 — Athens 2. G. C. Eleftheroudakis Ltd 4 Nikis Street — Athens 126 Tel. (01) 322 22 55 — Telex 219410 elef gr	Dr	11 750,—	10 580,—	5 250,—	3 500,—	120,—	240,—	
<b>IRELAND</b> Govt. Publications, Sales Office, GPO Arcade, Dublin 1 or by post from Stationery Office, Dublin 4 — Tel. 78 96 44	£ Irl	122,00	110,00	54,00	37,00	1,20	2,40	
<b>ITALY</b> Istituto Poligrafico e Zecca dello Stato Libreria dello Stato, piazza G. Verdi 10 00100 Roma Tel. (06) 85 08 22 76 — 85 08 22 21 CCP: 38 70 01 — Telex IPZSRO 611 008	Lit	234 000	210 600	104 000	70 000	2 400	4 800	
<b>LUXEMBOURG</b> Subscriptions to the OJ may be arranged and paid for at Post Offices <i>Sale of single copies*</i>	Lfrs	8 100,—	7 300,—	3 600,—	2 400,—	80,—	160,—	
<b>NETHERLANDS</b> Staatsdrukkerij- en Uitgeverijbedrijf Christoffel Plantijnstraat — The Hague Tel. (070) 78 99 11 Postal cheque account: 42 53 00	Fl	455,—	410,—	205,—	135,—	4,50	9,—	
<b>OTHER COUNTRIES</b> <i>Subscriptions and sale of single copies*</i>	Bfrs	8 100,—	7 300,—	3 600,—	2 400,—	80,—	160,—	

\* Office for Official Publications of the European Communities — Tel. 49 00 81

L-2985 Luxembourg — Postal cheque account: 19 190-81 — Bank current account: B.I.L. 8-109/6003/200

Special mailing charges are invoiced separately. Other European Communities' publications on sale, whether periodical or otherwise, may be obtained at the abovementioned offices. Price lists sent free on request.

OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES — L-2985 LUXEMBOURG