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–Preparation of the Council's position for the Conciliation Committee

Delegations will find attached the declassified version of the above document.

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INTRODUCTORY NOTE

from : General Secretariat

to: Permanent Representatives Committee

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Subject: Customs 2000

– Preparation of the Council's position for the Conciliation Committee

1. On 6 April 1995 the Commission forwarded a proposal, based on Article 100a of the Treaty, for a European Parliament and Council Decision adopting an action programme for Community customs⁽¹⁾. An amended proposal was submitted on 6 October 1995⁽²⁾.
2. The Economic and Social Committee delivered its Opinion on 14 September 1995⁽³⁾. Further to the European Parliament's first-reading Opinion delivered on 25 October 1995⁽⁴⁾, the Commission submitted a second amended proposal under Article 189a(2) of the Treaty on 21 November 1995⁽⁵⁾.

⁽¹⁾ OJ No C 346, 23.12.1995, p. 4.
⁽²⁾ OJ No C 327, 7.12.1995, p. 32.
⁽³⁾ OJ No C 301, 13.11.1995, p. 5.
⁽⁴⁾ OJ No C 308, 20.11.1995, p. 46.
⁽⁵⁾ OJ No C 23, 27. 1.1996, p. 7.

3. The Council adopted its common position ⁽⁶⁾ on 21 December 1995 and forwarded it, together with its reasons, to the European Parliament.
4. Parliament proposed 23 amendments to the common position ⁽⁷⁾ on second reading at its plenary sitting on 16 April 1996.
5. The Commission has forwarded its Opinion on the European Parliament's amendments to the Council (7425/96 UD 70 CODEC 308).
6. On 3 June 1996 the Council considered that the amendments of the European Parliament were not acceptable as they stood and consequently decided to convene the conciliation committee in accordance with Article 189b(3) of the Treaty.
7. The Working Party on Economic Questions, at meetings held on 28 June and 5 July 1996, examined the amendments of the European Parliament with a view to drawing up the position to be adopted by the Council at the conciliation committee.

The draft Council position on which the Working Party reached broad agreement is set out in the Annex.

Outstanding reservations are noted in columns 3 or 4 on pages 7, 9, 11, 13, 16, 17 and 21.

⁽⁶⁾ 12049/95 UD 160 CODEC 216.

⁽⁷⁾ 6522/96 CODEC 215 UD 48.

Decision on "Customs 2000"

1. Title	<p><u>COMMON POSITION</u></p> <p>Decision of the European Parliament and of the Council adopting a Community action programme on customs (Customs 2000)</p>	<p><u>E.P. AMENDMENT (N° 1)</u></p> <p>Decision of the European Parliament and of the Council adopting an action programme on Community customs (Customs 2000)</p>	<p><u>COUNCIL'S POSITION</u></p> <p>Reject. The amendment is unrealistic. There is no legal notion of "Community customs". Customs legislation is applied by the fifteen national customs administrations.</p>	<p><u>FALLBACK POSITION</u></p> <p>Decision of the European Parliament and of the Council adopting an action programme on customs in the Community (Customs 2000)</p>
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2. First recital

COMMON POSITION

Whereas the completion of the internal market, operational since 1 January 1993, the entry into force of the Treaty on European Union, the enlargement of the Community to include new States and the rapid development of trade between the Community and the rest of the world, in particular as a consequence of the General Agreement on Tariffs and Trade 1994 (GATT) agreements signed in April 1994 and approved by the Council on 19 December 1994, require the clear identification and implementation of strategic guidelines, so that the role that customs services are expected to play in the Community may be better defined;

E.P. AMENDMENT (N° 2)

Whereas the completion of the internal market, operational since 1 January 1993, the entry into force of the Treaty on European Union, the enlargement of the Community to include new States, the planned extension of the Community transit procedure to the Visegrad countries and the rapid development of trade between the Community and the rest of the world, in particular as a consequence of the General Agreement on Tariffs and Trade (GATT) agreements signed in April 1994 and approved by the Council on 19 December 1994, require the clear identification and implementation of strategic guidelines, so that the role that customs services are expected to play in the Community may be better defined;

COUNCIL'S POSITION

Reject, although the spirit of the amendment is acceptable.

FALLBACK POSITION

Whereas the completion of the internal market, operational since 1 January 1993, the entry into force of the Treaty on European Union, the enlargement of the Community to include new States, the extension of the Common transit procedure to include Poland, the Czech Republic, Hungary and Slovakia and the rapid development of trade between the Community and the rest of the world, in particular as a consequence of the General Agreement on Tariffs and Trade (GATT) agreements signed in April 1994 and approved by the Council on 19 December 1994, require the clear identification and implementation of strategic guidelines, so that the role that customs services are expected to play in the Community may be better defined;

3. New recital 1a

COMMON POSITION

E.P. AMENDMENT (N° 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;

COUNCIL'S POSITION

Reject. The reference to a "genuine home market" goes too far and is in any case not directly related to the objectives described in the action programme.

FALLBACK POSITION

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 the Member States and the European internal market; whereas the further development of the European internal market is therefore a matter of priority;

4. New recital 1b

COMMON POSITION

E.P. AMENDMENT (N° 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 free movement of goods, persons, services and capital, including the single currency, will be totally guaranteed; whereas this must be achieved as soon as possible;

COUNCIL'S POSITION

Reject. This lies outside the scope of the action programme.

FALLBACK POSITION

Whereas greater consistency and efficiency of customs controls throughout the customs territory of the Community will promote the development of an internal market in which the principles contained in the Treaty will be fully implemented; whereas this must be achieved as soon as possible;

5. Fourth recital

COMMON POSITION

Whereas the application of these procedures and controls at the point of entry into, or exit from, Community customs territory or at the point in that territory where customs formalities are carried out is the responsibility of the customs administrations of the Member States; whereas the effectiveness of the action of those customs administrations is an essential condition for guaranteeing the proper management of the internal market;

E.P. AMENDMENT (N° 5)

Whereas the application of these procedures and controls at the point of entry into, or exit from, Community customs territory or at the point in that territory where customs formalities are carried out is the responsibility of the customs administrations of the Member States; whereas the effectiveness of the action of those customs administrations is an essential condition for guaranteeing the proper management of the internal market; whereas, however, it is necessary to agree at Community level on the criteria which will determine the level at which the controls must be carried out;

COUNCIL'S POSITION

Reject. The reference to "level" of controls (implying fixing a % rate) is incompatible with modern customs techniques based on targeting and risk analysis.

FALLBACK POSITION

Whereas the application of these procedures and controls at the point of entry into, or exit from, Community customs territory or at the point in that territory where customs formalities are carried out is the responsibility of the customs administrations of the Member States; whereas the effectiveness of the action of those customs administrations is an essential condition for guaranteeing the proper management of the internal market; whereas, however, it may be necessary to agree at Community level on the criteria which will determine the characteristics of the controls to be carried out;

Scrutiny reservation from the Greek delegation.

6. New recital 4a

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 6)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p><u>Whereas the creation of a homogeneous European customs system is essential in order to protect the financial interests of the European Union; whereas it is desirable in the long term to create a genuine European customs authority which could be financed with that portion of levies and customs duties which is now received by the Member States;</u></p>	<p>Reject. This amendment falls outside the scope and objectives of the action programme.</p>	<p>None.</p>

7. Thirteenth recital

COMMON POSITION

Whereas consideration must be given, in the fields of training and technical cooperation, to the external dimension of the action taken by the Community and the Member States;

E.P. AMENDMENT (N° 7)

Whereas consideration must be given, in the fields of training and technical cooperation, to the external dimension of the action taken by the Community and the Member States; whereas officers employed in the customs administrations of the Member States should visibly wear the twelve-star symbol of the European Community.

COUNCIL'S POSITION

Reject.

FALLBACK POSITION

Eleven delegations could accept the following text:

"Whereas consideration must be given, in the fields of training and technical cooperation, to the external dimension of the action taken by the Community and the Member States; whereas customs administrations will ensure that the 12-star symbol of the Community is clearly placed at entry and exit points of the customs territory of the Community; whereas these administrations will encourage their officials to wear the 12-star symbol visibly,"

Four delegations (ES, L, S, UK) have entered reservations. The Swedish delegation stated that it might be able to move towards such a solution, however, if the compulsory nature of the text were removed.

8. Article 1 (4a) (new)

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 8)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p>4a. For the purposes of this decision, "customs administration" shall mean the administration which has sole power for the application of customs law.</p>	<p>Reject. This amendment does not reflect the actual situation of most customs administrations in the Community which do not have sole power for the application of customs law.</p>	<p>Delete the term "sole".</p>

9. Article 1a (new)

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 9)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p data-bbox="363 1323 392 1440">Article 1a</p> <p data-bbox="427 1167 520 1630"><u>Measures contributing to awareness of belonging to a Community customs administration</u></p> <ol data-bbox="555 1144 1161 1630" style="list-style-type: none"><li data-bbox="555 1144 874 1630">1. <u>The Commission shall put forward proposals to ensure that the staff regulations applicable to Community customs officers are extended so as to enable such officers to be seconded to the customs administrations of other Member States in order to take up any post corresponding to their abilities.</u><li data-bbox="909 1144 1161 1630">2. <u>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.</u>	<p data-bbox="363 622 520 1108">Reject. The Commission has also rejected this amendment stating that it cannot contemplate presenting proposals in a field which falls under the competence of the Member States.</p> <p data-bbox="874 1025 903 1108">Reject.</p>	<p data-bbox="363 129 584 593">A statement from the Commission accepting to examine Parliament's request in the framework of Article 5 of Decision 91/341/EEC establishing the Matthaeus training programme and to make appropriate recommendations to the Member States.</p> <p data-bbox="874 174 935 593">Linked to the thirteenth recital (see page 9).</p>

10. Article 3, point 6a (new)

COMMON POSITION

E.P. AMENDMENT (N° 10)

6a. prepare associated third countries which wish to accede to the European Union.

COUNCIL'S POSITION

Reject, although the spirit of the amendment is acceptable.

FALLBACK POSITION

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

11 Article 4, point 4 new 2nd and 3rd subparagraphs

COMMON POSITION

E.P. AMENDMENT (N° 11)

The Commission shall propose measures to harmonise these controls by encouraging the development of targeting and risk analysis techniques and, where appropriate, by approximating the frequency of controls at a minimum level.

The Commission shall coordinate post-clearance controls by customs authorities, in particular by taking responsibility for drawing up a proper policy for retrospective controls to be carried out jointly.

Reject.

COUNCIL'S POSITION

FALLBACK POSITION

Add to Article 4 a new paragraph 4a reading as follows:

"4a foster in particular the development of targeting and risk analysis techniques and, where appropriate, approximate controls with a view to achieving equivalent results."

Scrutiny reservations from the Greek and Swedish delegations.

12. Article 4a (new)

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 12)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p data-bbox="363 1323 392 1435"><u>Article 4a</u></p> <p data-bbox="427 1137 970 1630"><u>To improve the poor results obtained in the post-clearance collection of duties evaded or the recovery of amounts wrongly paid out, the Commission shall submit a report on the Member States' legal provisions and the difficulties encountered by their customs authorities. It shall do its utmost to coordinate the action of the Member States in these areas. With the assistance of the Member States it shall also submit a report identifying the cases in which the guarantees established under Community laws were set at an inadequate level in relation to the risks incurred and shall propose appropriate amendments to safeguard the Union's financial interests.</u></p>	<p data-bbox="395 622 456 1106">Reject and draw Parliament's attention to Article 6 of the common position.</p>	<p data-bbox="363 510 392 584">None.</p>

13. Article 5 (2) new subparagraph a

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 13)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p>The Commission shall ensure that common customs legislation is interpreted appropriately, with due regard for economic processes and in such a way as to avoid disproportionately high administrative costs.</p>	<p>Reject and draw Parliament's attention to Article 5(3) of the common position.</p>	<p>None.</p>

14. Article 7 (2) 2nd subparagraph, point 2

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 14)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
<p>2) improving the collection, analysis, distribution and exploitation of information at Community level, making the fullest use of information technology, and increasing the use of computer systems by the customs services as rapidly as possible;</p>	<p>2) improving the collection, analysis, distribution and exploitation of information at Community level, making the fullest use of information technology, and increasing the use of computer systems by the customs services as rapidly as possible; <u>this means that:</u></p> <p>- <u>by 1 January 1997, all customs officers must be able to provide real-time information on the TIR documents issued and received; the Commission shall submit a plan before 1 January 1996 to facilitate this in partnership with the Member States.</u></p> <p>- <u>the Community transit procedure must be computerised before 1 January 1998.</u></p>	<p>Reject. The dates in the amendment are no longer valid or are unrealistic.</p>	<p>2) improving the collection, analysis, distribution and exploitation of information at Community level, making the fullest use of information technology, and increasing the use of computer systems by the customs services as rapidly as possible; <u>this includes:</u></p> <p>- <u>the necessity for the Commission to present a plan for all customs offices to provide real-time information on TIR documents issued and received,</u></p> <p>- <u>the computerisation of the Community transit procedure by 1998.</u></p> <p><u>Scrutiny reservation from the Austrian and Spanish delegations.</u></p>

15. Article 7 (2), 2nd subparagraph, point 6

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 15)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
6) developing cooperation with third countries and with competent international organizations, as well as with relevant business circles;	6) developing cooperation with third countries, particularly the associated countries of Central and Eastern Europe, and with competent international organizations, as well as with relevant business circles;	Acceptable for <u>fourteen delegations</u> . Reservation from the <u>Spanish delegation</u> .	

16. Article 8 Introduction

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 16)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
<p>The Community shall support actions aimed at improving the working methods of customs administrations. In partnership with the Member States, it shall encourage the coordinated development and application of new working methods, in particular in the following fields:</p>	<p>The Community shall support actions aimed at improving the working methods of customs administrations. In partnership with the Member States, it shall encourage the coordinated development and application of new working methods, in particular in the following fields, <u>with priority being given to customs control before release:</u></p>	<p>Reject and draw Parliament's attention to Article 8(1) of the common position.</p>	<p>None.</p>

17. Article 8, point 4 new 2nd and 3rd subparagraphs

COMMON POSITION

E.P. AMENDMENT (N° 25)

In order to assist the work of the offices responsible for controls, the Commission shall propose measures to facilitate their access, when required, to information stored in the databases of other Member States concerning transactions subject to the Community Customs Code.

If necessary, the Commission shall formulate proposals to encourage Member States whose systems are ineffective to equip themselves similarly to the Member States with the most effective systems and shall propose measures for entering in a single database the data stored by the Member States.

Reject.

COUNCIL'S POSITION

FALLBACK POSITION

A statement to be provided by the Commission.

18. Article 10, new

<u>COMMON POSITION</u>		<u>E.P. AMENDMENT (N° 18)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
		<p><u>Where discrepancies in the powers granted to customs officers hamper satisfactory customs and administrative cooperation within the Community or with countries outside the Community, the Commission shall submit a report on these discrepancies and on the measures to be adopted in order to approximate and harmonise these powers.</u></p>	<p>Reject. This matter falls under subsidiarity.</p>	<p>None.</p>

19. Article 13 (4a) (new)

COMMON POSITION

4a The Commission shall provide a programme for joint further training, in particular for senior officials of the Member States' customs administrations. It shall review the possibilities of setting up a permanent joint European Customs Academy in order to supplement the training of the customs officers of the Member States.

COUNCIL'S POSITION

Reject.

FALLBACK POSITION

Ten delegations could accept the Commission's amended proposal:

"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."

Five delegations (D, DK, L, S, UK) have entered reservations.

The Chairman asked delegations to reflect on a fallback position avoiding a reference to the establishment of a physical institution but focussing on the need to continue to work under the Mattheus programme to achieve common core training programmes.

20. Article 13 (4b) (new)

COMMON POSITION

E.P. AMENDMENT (N° 20)

4b The training of customs officers as provided for in the Matthaeus programme shall be extended to the associated countries of Central and Eastern Europe which have recently begun to participate actively in free international trade, as it is primarily with regard to the transit of goods from these countries that many customs irregularities have been observed.

Reject.

COUNCIL'S POSITION

FALLBACK POSITION

Accept the Commission's amended proposal to add a new point 6 replacing "shall be" by "should be":

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

21. Article 16 (2) and (3) Introduction and 1st indent

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 21)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
<p>2. Member States shall forward to the Commission:</p> <ul style="list-style-type: none">– by 31 December 1997 at the latest, an interim report, and– by 31 December 2000 at the latest, a final report <p>on the implementation and the impact of this programme.</p> <p>3. The Commission shall submit to the European Parliament and to the Council:</p> <ul style="list-style-type: none">– by 31 December 1998 at the latest, an interim report on the implementation of this programme;	<p>2. Member States shall forward to the Commission:</p> <ul style="list-style-type: none">– by 31 December 1997 at the latest, an interim report, and– by <u>30 June 1999</u> at the latest, a final report <p>on the implementation and the impact of this programme.</p> <p>3. The Commission shall submit to the European Parliament and to the Council:</p> <ul style="list-style-type: none">– by <u>30 June</u> 1998 at the latest, an interim report on the implementation of this programme;	<p>Acceptable.</p>	

22. Article 17 (1)

COMMON POSITION

1. Without prejudice to actions for which funding is provided under other Community programmes, the financial framework for the implementation of this programme for the period 1 January 1996 to 31 December 2000 is hereby set at ECU 50 million in accordance with the detailed procedures annexed hereto.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

E.P. AMENDMENT (N° 22)

1. The financing of the actions making up this programme shall be shared between the Community and the Member States.

Without prejudice to actions for which funding is provided under other Community programmes, the financial framework for the implementation of this programme for the period 1 January 1996 to 31 December 2000 is hereby set at ECU 50 million including administrative costs in accordance with the detailed procedures annexed hereto.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective. Revenue derived from penalties imposed in respect of irregularities as regards the application of Community law shall be entered in the statement of revenue in Section III of the budget (Commission).

COUNCIL'S POSITION

Reject. The Council shares the Commission's views as set out in 7425/96 under item 2.10.

None.

FALLBACK POSITION

23. Article 17 (2) new subparagraph b

<u>COMMON POSITION</u>	<u>E.P. AMENDMENT (N° 23)</u>	<u>COUNCIL'S POSITION</u>	<u>FALLBACK POSITION</u>
	<p>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 ⁽¹⁾ takes the fullest account of the objectives of this Decision.</p> <p>⁽¹⁾ OJ L 185, 15.7.1988, p. 24.</p>	<p>Reject. The use of the sums in question is the sole responsibility of the Member States.</p>	<p>None.</p>