DECISION No 210/97/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 December 1996

adopting an action programme for customs in the Community (Customs 2000)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189b of the Treaty (3) in the light of the joint text approved on 10 October 1996 by the Conciliation Committee,

(1) Whereas the completion of the internal market on 1 Janaury 1993, the entry into force of the Treaty on European Union, the enlargement of the Community to incude new States, the extension of the Community Transit System to include Poland, the Czech Republic, Slovakia and Hungary 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;

(2) 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 internal market; whereas the continuing development of the internal market towards a genuine 'home market' must therefore be encouraged;

(3) Whereas the Member States and the Commission take all the measures necessary to enable customs services to discharge their responsibilities under the provisions for enforcement of common policies, in particular in the context of monitoring implementation of the common commercial policy, the common agricultural policy and the common fisheries policy, as efficiently as possible;

(4) Whereas the fact that there are no internal borders, while enabling goods to move freely throughout Community customs territory without any customs formalities, makes it necessary to carry out procedures and controls of equivalent effectiveness at every point of that territory on entry or exit in order to safeguard the application of Community policies and to protect the legitimate interests of citizens and economic operators as well as the Community's financial interests, while respecting the need for speed and fluidity in external trade;

(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 clearance is 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, in cases where it is necessary to ensure, inter alia, a high degree of protection of the Community's financal interests, criteria agreed at Community level shall determine the nature of the controls to be carried out;

(6) Whereas, for the protection of the financial interests of the European Community, cooperation should be strengthened so that the customs administrations of the Member States may operate as efficiently and effectively as would one single administration;

(7) Whereas equivalent results can be obtained from customs action in the application of Community law only by strengthening cooperation and collaboration among the customs administrations of the Member States and between them and the Commission; whereas the development of such cooperation can only strengthen the effectiveness of instruments for

(1) OJ No C 346, 23. 12. 1995, p. 4 and OJ No C 23, 27. 1. 1996, p. 7.
(2) OJ No C 301, 13. 11. 1995, p. 5.
(3) Opinion of the European Parliament of 25 October 1995 (OJ No C 308, 20. 11. 1995, p. 46), common position of the Council of 22 December 1995 (OJ No C 37, 9. 2. 1996 p. 11) and Decision of the European Parliament of 16 April 1996 (OJ No C 141, 13. 5. 1996, p. 36). Decision of the European Parliament of 10 December 1996 and Decision of the Council of 19 December 1996.

the management of the borders of the single market such as Council Regulation (EEC) No 339/93 of 8 February 1993 on checks for conformity with the rules on product safety in the case of products imported from third countries [1];

(8) Whereas, in its communication of 16 February 1994 to the European Parliament and the Council on the development of administrative cooperation in the implementation and enforcement of Community legislation in the internal market, the Commission identified customs as one of the various fields to be covered by the Community; whereas, in its Resolution of 16 June 1994 on the same subject [2], the Council invited the Commission and the Member States to pursue work actively in this field;

(9) Whereas the need for customs action with regard to the fight against the growth of illicit trafficking and fraud should be emphasized; whereas the Community must be able, within the framework of its own powers, to support the action of its Member States; whereas, without prejudice to the obligations arising from Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the rules on customs or agricultural matters [3], or from any other regulation that may replace it, full advantage should be taken of every possibility for administrative cooperation that Community rules provide;

(10) Whereas individual action by each administration is incapable of achieving such as result; whereas it is essential for customs provisions to be applied in such a way as to ensure the proper functioning of the internal market; whereas a Community framework is therefore necessary to establish plans and priorities in order to arrive at coordinated action by the Community and the Member States to ensure that customs administrations are fitted to the tasks entrusted to them in the framework of a market with no internal borders;

(11) Whereas the implementation of a Community action programme constitutes one of the most suitable ways of achieving these objectives; whereas, in the interim and final reports to be submitted, the Commission will consider whether establishing a customs academy would be an effective way of improving the training of Member States' customs officers in Community law;

(12) Whereas Article 127 of the Treaty makes clear that Community action in the field of vocational training shall fully respect the responsibility of the Member States for the content and organization of vocational training;

(13) Whereas the objectives of this action programme must be grounded in a framework of objectives common to the Community and the Member States, in order to guide their action;

(14) Whereas a first initiative has been taken with the implementation of the Community action programme for the vocational training of officials from the customs administrations (Matthaeus), established by Decision 91/341/EEC [4];

(15) 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 the Member States may provide that their uniformed officials at the point of entry to and exit from the customs territory of the Community visibly wear the twelve-star symbol of the European Community;

(16) Whereas the Community and the Member States contribute to the financing of the action programme and the contribution paid out of the general budget of the European Communites will appear in Section III (Commission); whereas this Decision lays down, for the entire duration of the programme, a financial framework constituting the principal point of reference, within the meaning of point 1 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, for the budgetary authority during the annual budgetary procedure;

(17) Whereas a programme of five years' duration should be laid down;

(18) Whereas this programme establishes the principles by which customs policy will be guided over the next five years; whereas implementation of this programme is coordinated and organized in partnership between the Commission and the Member States in the Customs Policy Committee, made up of Directors-General of Customs Administrations from the Commission and the Member States, or their representatives;

(19) Whereas this action programme is based on the experience acquired during the pilot project launched by the Commission 1994 and takes into account the findings set out in its communication of 29 March 1995 entitled 'Fraud in the transit procedure — solutions foreseen and perspectives for the future';

(20) Whereas this programme comes within the scope of the powers laid down by the Treaty and takes the principles of subsidiary and proportionality into account,

[1] OJ No L 40, 17. 2. 1993, p. 1. Regulation as amended by the 1994 Act of Accession.
[2] OJ No C 179, 1. 7. 1994, p. 1.
[3] OJ No L 144, 2. 6. 1981, p. 1. Regulation as amended by Regulation (EEC) No 945/87 (OJ No L 90, 2. 4. 1987, p. 3).
[4] OJ No L 187, 13. 7. 1991, p. 41.

HAVE ADOPTED THIS DECISION:

Article 1

Establishment of the programme

1. This Decision establishes a Community action programme supporting and complementing the action undertaken by Member States in the customs field.

2. The action programme shall be called the 'Customs 2000 Programme' and shall be implemented for the period 1 January 1996 to 31 December 2000.

3. For the implementation of this programme, Community action shall be based on the common framework of objectives referred to in Article 4.

4. The procedure for implementing and evaluating this programme shall be as laid down in Articles 3 and 17 respectively.

5. For the purposes of this Decision, 'customs administration' shall mean the public administration which is empowered to enforce customs legislation.

Article 2

Measures contributing to awareness of customs in the Community

The Member States may provide that their uniformed officials at the point of entry to and exit from the customs territory of the Community visibly wear the twelve-star symbol of the European Community.

Article 3

Implementation of the programme

The implementation of this programme shall be coordinated and organized in partnership between the Commission and the Member States in the Customs Policy Committee, made up of Directors-General of Customs Administrations from the Commission and the Member States or their representatives, who shall adopt the necessary provisions for the purpose in accordance with their respective powers.

Article 4

Common framework of objectives

The common framework of objectives provided for in Article 1 (3), within which the Commission and the Member States shall establish plans and priorities in order to define and carry out coordinated action to ensure that customs action matches the needs of the Community's internal market, shall aim to:

1) guarantee that Community law is applied in such a way as to achieve equivalent results at every point of Community customs territory in order to:

   — avoid distortions likely to prejudice the proper functioning of the internal market which might arise owing to variations in the way customs procedures are applied in the various parts of the Community;

   — protect the Community's interests, particularly its financial interests;

   — afford an equivalent level of protection to the Community's citizens and economic operators, at whatever point in Community customs territory customs clearance formalities are carried out, while ensuring the fluidity required for international trade operations;

2) provide a framework for considering the Community dimension in the organization of services and in the provision of infrastructures and equipment, and promote the joint use of operational material contributing to the implementation of Community rules;

3) foster initiatives that Member States may propose to implement, singly or jointly, to improve the overall efficiency of customs administrations in carrying out their tasks;

4) help Member States develop training for customs administration officials by adapting it to their changing role in the implementation of Community customs rules and common policies at external borders;

5) contribute, by appropriate actions in the fields of training and technical assistance and cooperation, to the establishment or the development of high-quality customs services in third countries that so request under agreements which the Community has concluded or may conclude with those third countries, and by this means encourage the development of Community trade;

6) encourage openness and efficiency of customs action for the benefit of legitimate trade by strengthening relations between the Community's customs administrations, business, legal and scientific circles, and operators engaged in foreign trade;

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

Article 5

Customs controls

In accordance with the objectives defined in point 1 of Article 4, the Member States and the Commission shall:

1) make sure that the customs controls which are carried out protect the interests, particularly the financial interests, of the Community, ensure an effective, efficient and homogeneous application of Community rules and common policies, provide an equivalent level of

protection and make it possible to check that procedures relating to conformity with technical standards, to the safety of imported products and to dangerous products have been complied with, at whatever point in Community customs territory customs clearance formalities are carried out, while ensuring the smooth flow of trade;

2) take special care that customs administrations can intervene efficiently for the purposes of the proper application of other Community provisions affecting controls at the point of entry into, or exit from, Community customs territory or the point in Community customs territory where customs clearance formalities are carried out. This applies especially to provisions relating to common policies, to development cooperation and to the protection of intellectual property, of the environment, of consumers and of the cultural heritage;

3) work in collaboration to obtain equivalent results with regard to both controls on and simplification of trade in order to avoid distrotions of competition which could lead to deflection of trade, and to ensure equal treatment between operators;

4) in order to achieve these objectives, adjust working methods, equipment and materials so as to reinforce the effectiveness of controls; foster in particular the development of targeting, risk analysis and a posteriori auditing techniques and, where necessary, determine the nature of controls in order to achieve equivalent results;

5) ensure that administrative penalties for breaches of Community rules are of an effective, proportionate and deterrent character;

6) take full advantage of all the possibilities provided by Community legislation setting up administrative cooperation as well as by agreements on mutual assistance concluded with third countries;

7) have recourse to the appropriate facilities for analysing and evaluating the implementation of controls and procedures put into operation;

8) examine the powers of Member States' customs administration officials and take care to promote the best possible use of available resources.

Article 6

Monitoring and adjustment of Community rules and procedures

1. The Commission, in partnership with the Member States and in close consultation with the economic partners, shall arange for the continuous monitoring of Community rules and procedures, in particular as they arise from the Community Customs Code established by Regulation (EEC) No 2913/92 [1] and its implementing provisions.

2. The aim of such monitoring shall be to ensure that these rules and procedures are adjusted to:

— protecting the interests of the Community and of Member States;

— the needs of operators engaged in foreign trade, particularly through simplification of the said rules and procedures.

3. By carrying out specific joint actions, as described in Article 10, the Commission and the Member States shall endeavour to identify any difficulties in implementing these rules as well as any possible malfunctioning of the internal market that divergent practices might entail.

Article 7

Recovery

To improve the results obtained in the post-clearance collection of duties unpaid or evaded on 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.

Within the framework of its powers, the Commission shall do its utmost to coordinate the measures taken in this field by the Member States and shall propose appropriate amendments to safeguard the interests of the Community.

Article 8

The fight against fraud

1. For the purpose of fulfilling the objectives set out in points 1 and 2 of Article 4 and points 2 and 5 of Article 5, the Commission and the Member States shall make every effort to use as rationally and efficiently as possible the means by which they act to combat fraud and illicit trafficking. This action is to be interpreted as covering any Community rules or provisions applicable to any trade in goods between the Community and third countries, including the presence or transit of goods in connection with such trade.

2. To this end, the Commission and the Member States shall draw up, carry out and further develop a policy of combating customs fraud at Community level in order to take account of the progress of European integration, the Community's international commitments and developments in the customs situation in this regard, by using their resources in the best possible and complementary manner.

[1] OJ No L 302, 19. 10. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.

This policy shall aim in particular at:

1) taking maximum advantage of existing legislative provisions and, where necessary, amending them;

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; this includes:

   — the need for the Commission and the Member States to take the action required, within the framework of the TIR Convention, with a view to the computerized control of the use of TIR carnets;

   — the computerization of the Community Transit System by 1998;

3) indentifying obstacles which impede efficient action and cooperation in the fight against fraud, in order to eliminate them as far as possible, in particular with regard to the role and powers of customs administration officials;

4) ensuring that effective penalties are applied;

5) pursuing and developing coordinated actions, in particular Community investigative or control missions in third countries;

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;

7) making greater use, for the benefit of the whole Community, of the capacities of Commission and Member State staff in third countries;

8) ensuring that irregularities are followed up.

Article 9

Improvements in working methods

The Commission 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:

1) risk-analysis, in order to determine whether goods subject to customs control must undergo a documentary or a physical examination before release is granted;

2) the use of audit techniques to check undertakings' accounts;

3) simplified procedures for assigning goods to, and discharging them from, a customs-approved treatment;

4) the use of computerized handling of customs procedures, including use of the most up-to-date techniques for electronic data exchange, taking into account the current state of computerization of national administrations and the interests of Community economic operators, as well as relevant developments in the international sphere; in partnership with the Member States, the Commission will study the possibilities of developing computerized means suited to facilitating the exchange of information between customs administrations;

5) the conclusion of memoranda of understanding with economic operators in order to establish appropriate facilities for controlling, checking and exchanging information or data which may help to protect the Community's interests.

Article 10

Specific joint actions

1. For the purposes, in particular, of implementing the actions specified in this programme, the Commission shall decide each year, in partnership with the Member States, which specific sectors of Community customs legislation will be subject to monitoring.

Such monitoring shall be carried out by joint teams made up of customs experts from the Member States and the Commission.

The teams thus made up shall, on the basis of a theme-by-theme approach, visit particular points in Community customs territory. At the end of these visits, they shall draw up a report identifying and analysing the best working methods as well as any difficulties in implementing the rules observed at the various sites studied and, where appropriate, including suggestions for the adaptation of both Community rules and working methods in order to improve the efficiency of customs actions as a whole. These experts reports shall be communicated to the relevant departments of the Member States and of the Commission.

2. In addition to such monitoring, the Commission, in partnership with the Member States, shall also have recourse, *inter alia*, to:

(a) complementary studies intended to show the points of view of the various operators engaged in foreign trade;

(b) the organization of working parties and of seminars charged with studying ways of effecting a coordinated improvement in the operation of customs administrations.

Article 11

Role and powers of officials of customs administrations

The powers of officials of Member States' customs administrations shall be examined, within the framework of Article 3, with regard to the role they are required to play in implementing Community law.

Article 12

Rational and coordinated use of resources

1. For the purposes of implementing point 2 of Article 4, the Commission shall set up a Community framework for consultation and coordination in order to ensure that account is taken of the requirements of the internal market and of the needs of Member States.

2. Within this Community framework for consultation and coordination, the Commission, in partnership with the Member States, shall identify the means necessary for customs action and the resources enabling it to be carried out, in particular through the use of any available instruments of Community finance, through joint operations and through other arrangements or actions which might prove necessary in order to attain the objectives of this programme.

3. To help identify such possibilities for action, the Commission shall organize meetings of experts, as well as seminars, bringing together, as necessary, representatives of the business circles concerned.

4. The Commission, in partnership with the Member States, shall take care to promote the best possible use of resources by simplified customs rules and procedures and by the use of information technologies.

Article 13

Administrative customs penalties

1. In order to ensure that penalties are such that Community legislation is enforced with equal effect and to protect the Community's financial interests effectively, the Commission, in partnership with the Member States, and with due regard for

— the principles set out in point 5 of Article 5;

— the respective powers of the Community and the Member States and the principles of Member States' national law, in the light of the principles of subsidiarity and proportionality,

shall identify irregularities in the customs sector, on the basis of the obligations resulting from the Community Customs Code and from its implementing provisions and on the basis of a comparative study of their importance and ranking in the legal order of the Member States in the light of their degree of gravity. The Commission shall submit any proposals it considers necessary to achieve these objectives.

2. The Commission shall inform the budgetary authority of the content of the measures which it has adopted.

Article 14

Training actions

1. The Member States and the Commission shall implement the measures necessary to attain the objectives defined in point 4 of Article 4, bearing in mind Decision 91/341/EEC and respective responsibilities for training policy.

2. Special attention shall be paid to the development of training for instructors and to the initial training given to customs office in order that common teaching modules relating to the full range of customs rules and procedures and common policies may be drawn up and provided. Specific actions must be introduced and carried through in support of Member States' efforts in the field of continuing training so as to provide staff of customs administrations with the level of training necessary to carry out their tasks.

3. This training shall be complemented by actions aimed at making Community customs receptive to the best working methods and techniques developed in third-country customs administrations and, more generally, by increased cooperation with these countries.

To this end, according to the needs identified and on a reciprocal basis, exchanges of officials with these administrations, as well as training seminars, may be organized, with the Community budget taking responsibility for that share of the cost of these operations relating to officials from Community administrations as well as contribution, to be determined on a case-by-case basis, to the costs linked to the organization of the seminars. In accordance with the principle of sound financial management, the Commission shall finance the operations and the organization of seminars which are the most cost-effective.

4. The Commission will examine, in partnership with the Member States, the possibilities of introducing customs training measures, including common core training programmes for implementation by national administrations, directed firstly towards joint training of senior officials of the customs administrations of the Member States and the Commission or other Community institutions and secondly towards in-service training for such officials, inter alia by means of exchanges of experience and the organization of seminars on Community territory.

5. 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, if the experience gained with the pilot projects currently under way so justifies.

Article 15

Training and technical assistance actions for the customs administrations of third countries

Within the framework of the implementation of point 5 of Article 4, the Commission shall ensure, in partnership with the Member States, the coordination of the training and technical assistance and cooperation actions carried out by the Community and the Member States for the benefit of third countries' customs administrations, to ensure the consistency of Community action on training, both external and internal. The Commission shall also, in partnership with the Member States and as far as available resources allow, ensure the implementation of training and technical assistance and cooperation actions for the benefit of third-country administrations. In the framework of these actions, it shall bear the expenses that arise.

Article 16

Relations with operators engaged in external trade

1. Within the framework of the implementation of point 6 of Article 4, the Commission shall set up actions, or give support to initiatives taken by the Member States, aimed at improving and strengthening relations between the customs administrations of the Community and operators engaged in foreign trade. The Commission shall take particular account of findings and information provided by operators engaged in foreign trade.

2. These actions may take the form, in particular, of:

— the development, publication and distribution of information media intended to make operators more familiar with customs procedures, and in particular with simplified customs clearance procedures, which aim to strengthen the competitiveness of the Community economy;

— an in-depth dialogue between business circles, the Commission and the Member States, in particular on proposed customs measures which may have a significant influence on economic activity, on the simplification of customs rules and procedures and on the subjects referred to in point 1 of Article 4;

— training activities aimed at making the various foreign trade operators more familiar with Community law.

Article 17

Evaluation and reports

1. This programme shall be subject to continuous evaluation, carried out in partnership between the Commission and the Member States.

The evaluation shall be pursued by means of the reports referred to in paragraph 2 and by means of specific activities.

2. Member States shall forward to the Commission:

— by 31 December 1997 at the latest, an interim report, and

— by 30 June 1999 at the latest, a final report

on the implementation and the impact of this programme.

3. The Commission shall submit to the European Parliament and to the Council:

— by 30 June 1998 at the latest, and interim report on the implementation of this programme;

— by 30 June 1999 at the latest, a communication on the desirability of continuing this programme, accompanied, if necessary, by a suitable proposal;

— by 30 June 2001 at the latest, a final report on the implementation of this programme.

These reports shall also be forwarded to the Economic and Social Committee and to the Committee of the Regions for information.

Article 18

Financing

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.

2. Each Member State shall, to the extent of its involvement, participate in the achievement of the aims of the programme in compliance with its budgetary procedures and plans.

Article 19

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 January 1996.

Article 20

This Decision is addressed to the Member States.

Done at Brussels, 19 December 1996.

For the European Parliament	*For the Council*
The President	*The President*
K. HÄNSCH	S. BARRETT

ANNEX

Breakdown of the financial framework referred to in Article 18

(in ECU millions)

	1996	1997	1998	1999	2000	Total
Internal policies						
1. Redeployment of internal market appropriations	2	2,3	2,6	2,9	3,2	13
2. 'Customs 2000' computerization	1	4	6,5	6,5	5	23
3. Improvement of means of combating fraud	1	1,5	1,5	1,5	1,5	7
External action	1	1,5	1,5	1,5	1,5	7
TOTAL	5	9,3	12,1	12,4	11,2	50