

# COMMISSION OF THE EUROPEAN COMMUNITIES

REVISED VERSION

COM(87) 328 final/2

Brussels, 21 August 1987

PROPOSAL FOR A COUNCIL DIRECTIVE  
ON APPROXIMATION OF THE RATES OF EXCISE DUTY ON  
ALCOHOLIC BEVERAGES AND ON THE ALCOHOL CONTAINED IN OTHER  
PRODUCTS

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(presented by the Commission)

COM(87) 328 final/2

# COMMISSION OF THE EUROPEAN COMMUNITIES

AMENDMENT

COM(87) 328 final/3

CONCERNS ALL THE  
LANGUAGE VERSIONS

Brussels, 10 November 1987

Proposal for a

COUNCIL DIRECTIVE

on approximation of the rates of excise duty on alcoholic beverages  
and on the alcohol contained in other products

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(presented by the Commission)

COM(87)328 final/2, 21.8.87

Proposal for a Council Directive, Article 7. Delete "1.32" ECU and  
substitute : " 1.36 ECU "

COM(87) 328 final/3

EXPLANATORY MEMORANDUMI. INTRODUCTION

The overall approach towards completing the internal market as far as indirect taxation is concerned is described in the Global Communication to the Council (1). That communication sets out the reasons underlying the proposals which the Commission is making and deploys the arguments in their support. It is particularly important therefore that the present document should be read in conjunction with the Global Communication.

This proposal is for a Directive concerning excise duties on alcoholic beverages and other products containing alcohol.

II. GENERAL CONSIDERATIONS

1. The Commission's proposals to harmonize the structure of excise duties on alcoholic beverages and other products containing alcohol (2) are already before the Council. These provide that the tax on wine is to be determined by its volume alone, spirits are to be taxed according to their alcohol content and beers according to their original gravity.
2. Turning to the rates of duties, there is at present within the Community a great diversity in the levels of taxation reflecting various fiscal and social considerations and no valid pattern for the Community as a whole is discernible.
3. The jurisprudence of the Court in this field under Article 95 of the EEC Treaty is helpful and can be broadly paraphrased as laying down that where a Member State cannot be regarded as a producer of a given drink it may not tax that drink in such a way as to protect its closest domestic competitors.

(1) COM(87)320

(2) O.J. N° C 43 of 29.4.72

On that basis, the Court has ruled, inter alia, that Member States which do not produce particular types of spirits may not tax such goods more highly than spirits which they do produce, and that Member States which do not produce wine may not tax it more highly than beer, or more highly than fruit wine.

At the same time, however, the numerous cases under Article 95 of the Treaty demonstrate that there is no abstract requirement to tax similar or competing products equally : provided that Member States do not so arrange their tax systems as to protect national products against imports, they may tax products at such rates as they think fit.

### III. TAX APPROXIMATION OF SPIRITS, WINE AND BEER

1. Recognizing that the taxation of the different families of alcoholic drinks could not be examined in isolation, the Commission has examined the feasibility of fixing the rates of taxation for all alcoholic drinks by reference to a single criterion, for example, alcoholic strength, volume or value. It found that while the simple logic of a consistent system is attractive, the rates which result are invariably extremely disruptive both as regards the revenue of individual Member States and the distribution of the Community-wide tax burden on the categories of drinks concerned.

As a result the Commission discarded this approach and turned next to the general approach in other excise fields, namely that of applying the arithmetic average of existing rates. As indicated in the Global Communication (1), that approach is the most equitable since it gives equal weight to each Member State regardless of its size. For the major categories of alcoholic drinks the arithmetic averages of the rates applicable at 1 April 1987 are:

- for spirits, 1271.14 ECU per hl of pure alcohol ;
- for wine, 57.83 ECU per hl ;
- for average beer 22.5 ECU per hl.

(1) COM(87)320

2. As applied to spirits, the arithmetic average gives a rate which would produce a modest increase in Community revenue - not taking into account elasticities of demand. It has the advantage of minimising revenue disruption for the three Member States which would be obliged to reduce significantly their current levels of taxation. Four Member States will be virtually unaffected by these proposals. Those Member States which currently apply very low rates of tax on spirits will of course be required to raise their rates considerably. However, the Commission considers that this result is consistent with the general practice of the majority of Member States in taxing spirits highly. The Commission accordingly proposes a rate of 1271 ECU per hl of pure alcohol for spirits.

3. However, for wine, because the arithmetic average gives equal significance to the rates of all Member States, the very high rates applied in three Member States (where consumption is low and where there is little or no domestic production), dramatically inflate the Community arithmetic average rate. The effect, assuming unchanged consumption, would be to produce an increase of over 450%, or 7 billion ECU, in revenue from wine within the Community as a whole. At the same time, the rate which emerges for beer - taken here as containing 5% alcohol - would, if applied together with the wine rate, be in conflict with the principles set out at point II(3) above. The arithmetic average is thus clearly an unacceptable basis for the approximation of excise duty on wine and beer.

4. The Commission also considered applying the average of existing rates for wine and beer weighted according to consumption in the Member States. However, because this approach magnifies the significance of the rates in Member States where consumption is high and where wine is subject to little or no taxation, the results move to the opposite extreme.

The rates which emerge are :

- for wine 10.25 ECU per hl ;
- for average beer 20.26 ECU per hl.

While these rates, by definition, produce no change in overall revenue within the Community from either of the two drinks, they would require Member States which for climatic reasons cannot produce wine in commercial quantities to tax it at roughly half the rate per litre which they apply to domestic beer. Such a proposal would not be realistic.

5. In view of the failure of either system of averaging to produce acceptable results for beer and wine, the Commission has sought a solution which would minimise the disruptive effects outlined above. It finds that this requirement can be met by equal taxation of liquid quantities - a solution which recognizes the competition between the two drinks - at rates which would produce the current revenue within the Community from the two drinks taken together. The effect on the individual drinks, assuming unchanged consumption, would be to decrease beer revenue within the Community as a whole by some 0.9 billion ECU and to increase by a corresponding amount the revenue from wine.

The rate which achieves these results and forms the basis of the Commission's proposal is 17 ECU per hectolitre of wine and average beer, which converts to a charge for beer expressed per hectolitre/degree Plato of 1.32 ECU.

#### IV. TAX APPROXIMATION OF SPARKLING WINES AND INTERMEDIATE PRODUCTS

1. Throughout the Community, sparkling wine is generally subject to higher taxation than still wine. There is great diversity in the levels of taxation, which follow no particular pattern. The application of the straightforward arithmetic or weighted averages for these products again produces unrealistic results and the Commission therefore proposes for these products the rate for still wines increased by the average of the current differentials (calculated in terms of proportion) in Member States which tax both drinks. The rate which results is 30 ECU per hl.

2. For intermediate products, the proposal for a directive on the harmonization of tax structures (1) currently before the Council allows Member States an unmanageably wide measure of discretion in choosing their method of taxation. Clearly, a tax structure which permits a Member State to base its taxation on the volume of the product alone or on both the volume of the product and its alcohol content is not a suitable basis on which to attempt to approximate rates of taxation. A common tax structure for intermediate products needs to be established.

(1) O.J. N° C 114 of 8.5.1985

The Commission considers on balance that for this relatively narrow band of medium strength products, it is not essential to take alcoholic strength into account in determining the tax burden, and that intermediate products should be taxed by reference to their volume alone. The Commission intends to submit a suitable amendment to the proposal on the harmonization of the tax structure of intermediate products.

The current structures and levels of Member States' taxes on intermediate products differ widely. The arithmetic average of the existing rates again produces unrealistic results. However, the weighted average, the calculation which has a neutral effect on total revenue within the Community, produces a realistic rate which - assuming an average strength for these products of 18% - is equivalent to some 37% of the proposed Community rate on spirits. That rate - rounded to 85 ECU per hectolitre - also represents the rough equivalent of the rate which would result if typical intermediate products were taxed according to their constituent fermented and distilled alcohols.

#### V. TAX APPROXIMATION OF PERFUMES TOILETRIES AND COSMETICS

1. There are at present within the Community no common conditions governing the denaturing of alcohol for use in perfumes, toiletries and cosmetics. There is considerable diversity in the systems of taxation applied to such products in the Member States. The Commission's proposal for the harmonization of the structures of excise duty on alcohol will be amended as soon as possible to provide common conditions for denaturing and to exempt denatured alcohol from excise duty.

In certain Member States undenatured alcohol is currently used to produce perfumes, toiletries and cosmetics, and the structure proposal does not seek to prohibit such use. For reasons of revenue protection, however, it is necessary to apply a duty to such undenatured alcohol.





## 2. Effect

In the Commission's view, when set against the complexity and diversity of Member States' current treatment of alcohol products, the rates which it proposes represent a reasonable and even-handed solution.

It is to be expected that, assuming unchanged consumption, the rates proposed by the Commission will produce significant increases in revenue in four Member States (GR, I, SP, P) partly because they do not at present tax wine and partly because their current systems of spirits taxation apply very low rates to certain popular products. More moderate increases in revenue are to be expected in four Member States (B, D, F, L). In three Member States (DK, IRL, U.K.), where current rates of tax on all alcoholic beverages are very high, significant reductions in revenue are to be expected and a moderate reduction is to be expected in one Member State (NL).

### 3) Detailed commentary

The following comments are called for on the individual articles of the proposal for a directive.

#### Article 1

This Article lays down the principle that common rates of excise duty shall apply to alcoholic beverages and the alcohol contained in other products by 31 December 1992.

#### Article 2

This Article lays down the scope of the Directive and defines its terms. The common rates shall apply to all alcohol products other than those specifically exempted from excise duties under the directives cited in this Article.

#### Article 3

This Article provides for the periodic adjustment of the common rates. Such a provision is considered a necessity for duties expressed in specific terms. The Article simply lays down that the system of adjustment shall be established by a subsequent directive.

#### Article 4

This Article lays down the common rate of excise duty for alcohol contained in alcoholic beverages other than beer, wine and intermediate products and the common rate for undenatured alcohol contained in perfumes, toiletries and cosmetics. The rates are expressed per hectolitre of pure alcohol.

#### Article 5

This Article lays down the common rate of excise duty, expressed per hectolitre of product, for intermediate products.

#### Article 6

This Article lays down the common rates of excise duty, expressed per hectolitre of product, for wine and sparkling wine.

Article 7

This Article lays down the common rate of excise duty for beer expressed per hectolitre and degree Plato.

Article 8

This Article lays down the deadline for compliance with the Directive and requires Member States to inform the Commission immediately of any changes made in national law in the field covered by the Directive.

Proposal for a  
Council Directive  
on approximation of the rates  
of excise duty on alcoholic beverages and on  
the alcohol contained in other products

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

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

Whereas Council Directives ..... (3) lay down provisions relating to the structures of excise duties applicable respectively to alcohol, wine, beer and intermediate products,

Whereas for the purpose of establishing an internal market without frontiers it is necessary to apply common rates of excise duty to each of these products,

Whereas it is necessary to provide for the periodic adjustment of those common rates;

Whereas a reduced rate should be applied to undenatured alcohol used in the preparation of perfumes, toiletries and cosmetics;

Whereas the excise duty on intermediate products should be charged by reference to their volume;

Whereas different rates of excise duty should be applied to still wine and sparkling wine;

Whereas the excise duty on beer should be charged by reference to the original gravity of the product,

HAS ADOPTED THIS DIRECTIVE:

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(1)

(2)

(3)

### Article 1

Not later than 31 December 1992 Member States shall apply common rates of excise duty on alcoholic beverages and on the alcohol contained in other products in accordance with this Directive.

### Article 2

The products covered by this Directive are

- alcohol and alcoholic beverages as defined in Directive .....
- intermediate products as defined in Directive ...;
- wine as defined in Directive .....
- beer as defined in Directive .....

### Article 3

The common rates of excise duty laid down in this Directive shall be adjusted periodically in accordance with provisions to be established before 1 January 1989 in a Directive adopted by the Council acting on a proposal from the Commission.

### Article 4

1. The common rate of excise duty on alcohol contained in alcoholic beverages other than those referred to in Articles 5 to 7 below and on the alcohol contained in foodstuffs shall be 1271 ECU per hectolitre of pure alcohol.

2. A reduced rate of 424 ECU per hectolitre of pure alcohol shall be applied to undenatured ethyl alcohol contained in perfumes, toiletries and cosmetics.

Article 5

The common rate of excise duty on intermediate products shall be 85 ECU per hectolitre of product.

Article 6

The common rate of excise duty on wine shall be

- as regards still wine, 17 ECU per hectolitre of product;
- as regards sparkling wine, 30 ECU per hectolitre of product.

Article 7

The common rate of excise duty on beer shall be 1.32 ECU per hectolitre/degree Plato of finished product at a temperature of 15°C.

Article 8

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

Article 9

This Directive is addressed to the Member States.

Done at Brussels,

For the Council  
The President

## Statement of impact on SME

Proposal for a Council Directive approximating the rates of excise duty on alcoholic beverages and on the alcohol contained in other products.

The approximation of indirect taxes (excises and VAT) is necessary if fiscal frontiers are to be abolished. The proposal for a directive on rates of alcohol duty is an integral part of the Commission's programme for completion of the internal market.

### 1) Contraintes administratives

None

### 2) Allègements pour les entreprises

The White Paper on completing the internal market explains that the approximation of excise rates is a necessary pre-condition for the elimination of fiscal frontiers; the aim of the programme is to enable businesses to dispense with frontier formalities.

### 3) Inconvénients pour les entreprises

The Commission proposes Community rates for the various groups of alcoholic drinks. The adoption of these rates will mean for each group a fall in taxation in currently high taxing countries and an increase in low taxing countries, with consequent results for the sectors and countries concerned.

### 4) Effets sur l'emploi

Direct effects on employment should be negligible.

### 5) Y-a-t-il eu concertation avec les partenaires sociaux ?

No, they have not been consulted.

### 6) No easier alternative exists.