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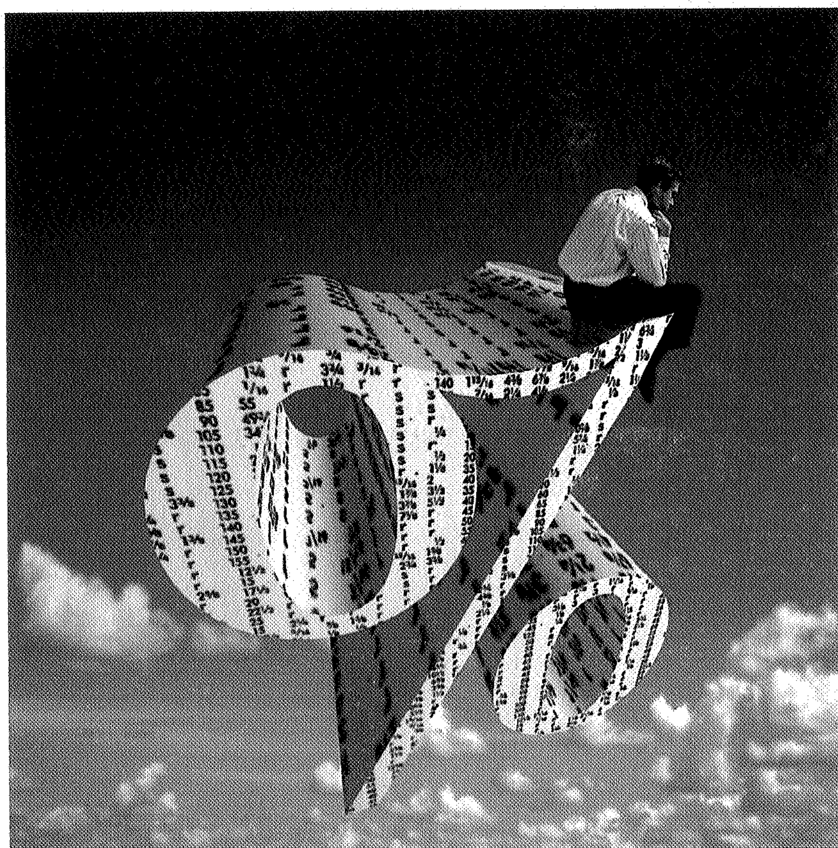
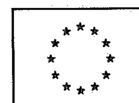
# TAXATION IN THE SINGLE MARKET





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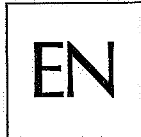


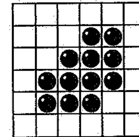

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**Community tax policy aims for tax harmonization where this contributes to the smooth functioning of the European Community's single market. Harmonization involves both direct and indirect taxes.**

Tax harmonization not only will have to facilitate freedom of movement but will also have to be accompanied by a substantial easing of the administrative burdens on firms and individuals.

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# TAXATION IN THE SINGLE MARKET

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# INTRODUCTION

## ROLE OF TAXATION IN THE SINGLE MARKET

Approval by the European Council, meeting in Milan in June 1985, of the Commission's White Paper on completing the internal market marks a turning-point in the process of European integration. The Single European Act, which came into force in 1987 following its ratification by national parliaments, incorporated the internal market objective into the European Treaties. It was the first time the Treaties setting up the European Community had been amended. Article 13 of the Single European Act introduces into the EEC Treaty a new Article 8a, which defines the internal market as 'an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured'. The date set for completion of the internal market is 31 December 1992.

However, this objective is not entirely new. The Treaties of Rome, signed in 1957, provided for the establishment of a 'common market'. But, although the customs union was completed even before the deadline set in those Treaties (1968), the initial impetus slackened. The integration process entered a phase of stagnation. This situation was even dubbed 'Eurosclerosis'.

Some 10 years then elapsed before it was realized that a new impetus was required. The Community became aware of the benefits that a large and truly integrated market of 325 million consumers could bring for firms and individuals alike: creation of new jobs, faster growth, improved competitiveness. The Single European Act not only breathed new life into the internal market objective, it also speeded up and facilitated decision-making in the Community. Most decisions could henceforth be adopted by a qualified majority. An important exception is taxation, an area in which the unanimous vote of the Member States is required. This goes some way towards explaining why the decision-making process as it affects tax matters remains slow and cumbersome.

One of the three major chapters in the White Paper, which lists the measures judged to be necessary to create the internal market, is devoted to taxation. The measures envisaged in this chapter relate solely to indirect taxation, since this is the area which gives rise to checks at frontiers between Member States. One of the principal reasons for frontier checks is the need to levy or monitor VAT and excise duties. As long as appreciable differences in VAT and excise-duty rates persist, Member States will be justified in carrying out frontier checks to ensure that the tax revenue to which they are entitled accrues to them and to prevent fraud. The abolition of tax frontiers, which plague both firms and individuals alike, is therefore a key element in the moves to complete the internal market.

Direct taxation (taxation of company profits, income tax, etc.) does not necessitate frontier checks. Nevertheless, national provisions exist which erect, as it were, invisible frontiers that hamper cooperation between firms from different Member States. Take in particular double taxation, which impedes, for example, mergers between firms established in different Member States. Elimination of such double taxation is therefore an integral part of the programme for completing the internal market.

## LEGAL BASES FOR TAX HARMONIZATION IN THE TREATY

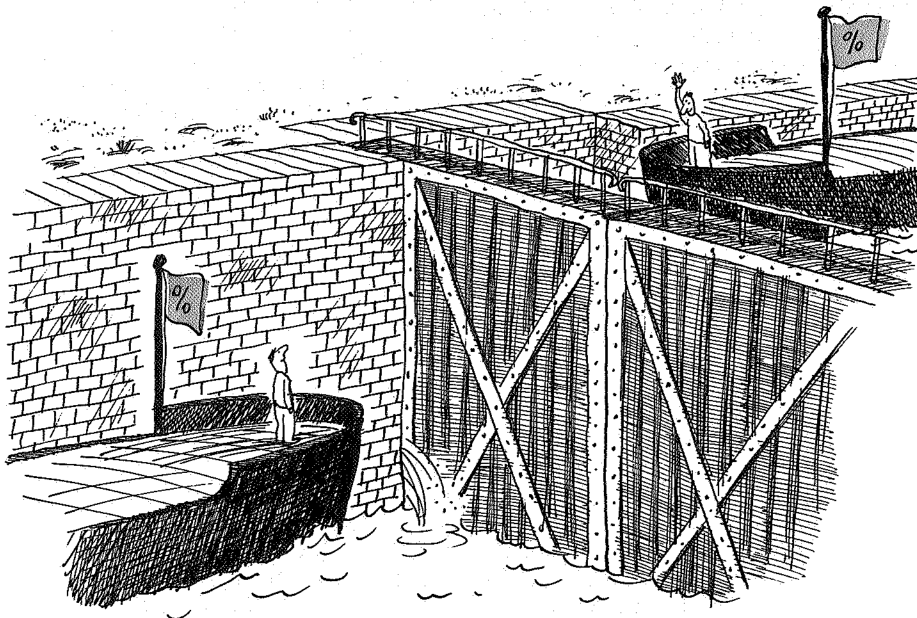
The 1957 Treaty of Rome provides for the establishment of the common market and for the progressive approximation of the economic policies of Member States. Articles 95 to 99 concern taxation, with Articles 95 to 98 being designed primarily to

supplement the rules concerning the removal of obstacles to the free movement of goods.

They prohibit discrimination in the tax treatment of similar domestic and imported products as well as any repayment of 'internal' (i.e. domestic) taxation in excess of that charged. It should also be noted that these articles are concerned simply with the taxation of products. In other words, they do not cover taxes imposed on the producing enterprise itself or, more especially, on individuals (i.e. what are generally called 'direct taxes').

Article 99 was, in its initial version, more general in scope, providing for the harmonization of indirect taxes in the interest of the common market. It constitutes the basis for the Community VAT system. It was amended by the Single European Act to reflect the needs of the internal market: 'The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions for the harmonization of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonization is necessary to ensure the establishment and the functioning of the internal market within the time-limit laid down in Article 8a'. This condition of necessity underlies the Commission's measures to abolish tax frontiers.

The legal basis for the harmonization measures in the field of direct taxation is Article 100 of the EEC Treaty, which is very general in nature and provides as follows: 'The Council shall, acting unanimously on a proposal from the Commission, issue directives for the approximation of such provisions laid down by law, regulation or administrative action in Member States as directly affect the establishment or functioning of the common market'.

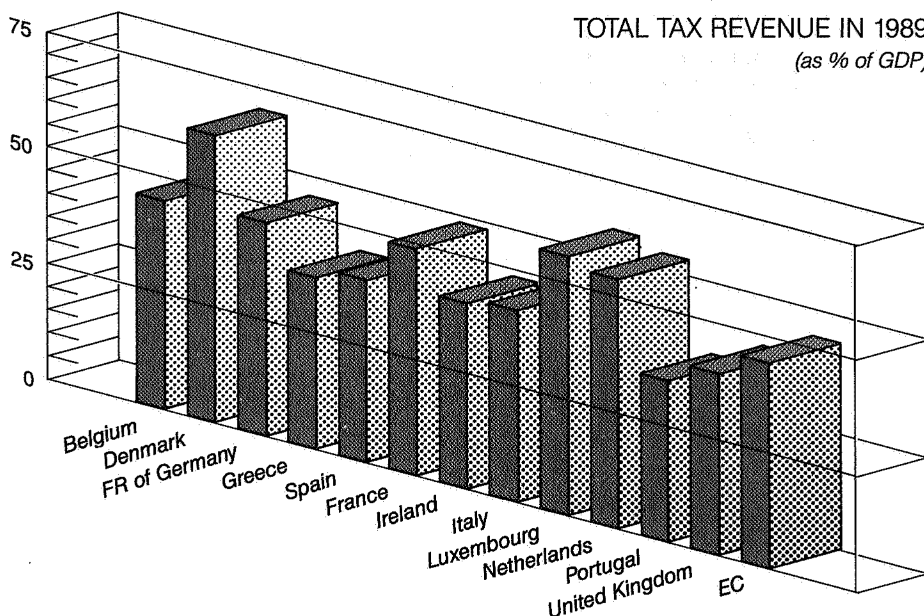


It is this concept of 'direct effect' in particular which, until now, has limited the Commission's scope for action.

The emphasis, therefore, has been on the harmonization and approximation of indirect taxes, the idea being that these directly and visibly affect trade between Member States and can distort competition. Though perhaps less visible, direct taxes on a firm's profits, capital, etc. are also important for competitiveness. Aware of this situation, the Commission has launched a number of initiatives to harmonize or at least to bring more closely into line the structures of company taxation. As yet, these initiatives have not borne fruit. The question which has still to be examined concerns the extent to which the harmonization or approximation of direct taxation is necessary.

Pending completion of the internal market, we are therefore faced with a situation in which the common tax base is fairly broad for indirect taxation but very narrow for direct taxation. If tax frontiers in the internal market are to be abolished, indirect tax measures are essential. Abolition of the double taxation of firms is also important. Even so, progressive integration in the Community might lead to an approximation of direct tax systems.

# TAXATION IN THE COMMUNITY




Before analysing the Commission's proposals in the tax field, it would be useful to take a general look at the current structure of taxation in the Member States.

## TAX RATIO

In order to be able to make any judgment about the tax structure in Member States, we need first to take account of tax revenue expressed as a proportion of gross domestic product, i.e. the tax ratio.

The tax ratio in the Community has increased on average by some five percentage points per decade, rising from 34.9% for the period 1961-70 to 39.4% for the period 1971-80 and to 43.6% by 1989.

The tax ratio is highest in Denmark, Luxembourg, the Netherlands and France. Luxembourg is a special case in that, as a major financial centre, a large proportion of its tax revenue is not derived from Luxembourg residents.

## DIRECT AND INDIRECT TAXATION

In assessing the Community's tax problems, it is important to examine not only the level but also the composition of total taxation, i.e. the relative weights of direct and indirect taxation.

'Direct taxation' refers to the taxes which are imposed directly on individuals or firms, with the requirement that they transfer the corresponding amounts to the Treasury. It covers, for example, personal income tax, corporation tax, inheritance tax, etc.

In the case of indirect taxation, the taxes are included in the price of goods or services and

are therefore borne by the final consumer. However, it is the enterprise selling the goods or services which transfers the corresponding amount of tax to the Treasury. The person liable to pay the tax is not therefore the same as the person who bears the tax charge. The most common indirect taxes are VAT (value-added tax) and excise duties (special taxes on the consumption of certain goods such as tobacco, alcoholic beverages and mineral oils).

The breakdown of the tax burden as between direct and indirect taxes varies fairly widely from one country to another, and this clearly has an important bearing on tax harmonization.

In the case of direct taxes in 1986, the tax burden measured as a proportion of GDP was highest in Denmark at 28.4%, followed by Belgium and Luxembourg (18.3%), a number of other countries (between 13% and 15%) and then a group made up of the three Mediterranean countries that joined the Community on the occasion of its most recent enlargement and France (8%), with Greece in last position with 6.4%. The Community average was 13.6%, with the Federal Republic of Germany, Italy, the Netherlands, Ireland and the United Kingdom all around that level. The gap between the lowest and highest figures (22 percentage points) was much wider than in 1965 (11.7 percentage points) (see Table 2).

In the case of indirect taxation, the average for the Community of Twelve was 12.8%. The figure was above 15% in four countries (Greece, Portugal, Ireland and Denmark, with the latter recording the highest figure — 17.9%). The United Kingdom, France, the Netherlands, Belgium and Luxembourg

## TREND OF DIRECT TAXES

TAXES ON INCOME AND PROFITS *(as % of GDP)*

| | 1965 | 1980 | 1986 |
|---|---|---|---|
| Belgium | 8.5 | 17.8 | 18.3 |
| Denmark | 13.7 | 25.0 | 28.4 |
| France | 5.6 | 7.6 | 8.0 |
| FR of Germany | 10.7 | 13.3 | 13.0 |
| Greece | 2.0 | 5.5 | 6.4 |
| Ireland | 6.7 | 12.4 | 14.5 |
| Italy | 4.2 | 9.3 | 13.7 |
| Luxembourg | 10.9 | 17.7 | 18.3 |
| Netherlands | 11.9 | 15.1 | 12.6 |
| Portugal | 4.5 | 5.7 | 6.9 |
| Spain | 3.6 | 6.3 | 7.6 |
| United Kingdom | 11.3 | 13.3 | 14.9 |
| EC | 7.8 | 12.4 | 13.6 |

*Source: OECD.*

## TREND OF INDIRECT TAXES

TAXES ON GOODS AND SERVICES *(as % of GDP)*

| | 1965 | 1980 | 1986 | 1987 |
|---|---|---|---|---|
| Belgium | 11.4 | 11.4 | 10.9 | 11.4 |
| Denmark | 12.1 | 17.0 | 17.9 | 17.6 |
| France | 13.4 | 12.7 | 13.0 | 13.1 |
| FR of Germany | 10.4 | 10.3 | 9.5 | 9.6 |
| Greece | 10.7 | 11.5 | 17.7 | 18.3 |
| Ireland | 13.7 | 14.9 | 17.7 | 16.7 |
| Italy | 9.3 | 7.9 | 8.9 | 9.6 |
| Luxembourg | 7.5 | 8.6 | 10.4 | 12.3 |
| Netherlands | 9.5 | 11.6 | 11.8 | 12.6 |
| Portugal | 8.1 | 12.9 | 15.6 | 15.5 |
| Spain | 6.0 | 5.0 | 9.7 | 10.0 |
| United Kingdom | 10.1 | 10.4 | 12.1 | 11.6 |
| EC | 10.2 | 11.2 | 12.8 | 11.3 |

*Source: OECD.*

were close to the average, while three countries (Spain, Italy and Germany) recorded levels below 10% (see Table 3).

Tax structures thus differ a great deal within the Community. On the one hand, there are the countries in which the weight of direct taxation is predominant and, on the other, there are those in which indirect taxes predominate (Greece, France, Ireland and Portugal). Denmark is unique in having very high levels of both direct and indirect taxation. Taking the Community average, the respective shares of direct and indirect taxes are the same.

Approximating the structures of indirect taxation, as proposed by the Commission with a view to abolishing tax frontiers, would entail a considerable effort on the part of some Member States, in particular Denmark and Ireland. Any tax shortfall would have to be offset in one way or another, but this would generally be done through direct taxes. Measures to harmonize indirect taxation implicitly influence direct taxation and hence tax structures as a whole.

The more national budgets are in deficit, the more problematic changes in tax structures become.

## COST OF TAX FRONTIERS

The Cecchini Report, a study published in May 1988, estimates the costs of non-Europe, i.e. the costs of the obstacles that currently exist, and the potentialities of a genuine internal market. The costs associated with physical obstacles (delays and expenses at frontiers) and with administrative formalities loom large in the estimate made.

These costs are closely linked to the existence of tax frontiers, which are themselves largely the result of disparities between the rates and structures of indirect taxes, notably VAT and excise duties. The differences in rates and the current rule whereby tax is

remitted on exports and charged on imports are among the main reasons for the existence of administrative formalities and frontier checks.

In the assessment of the costs of non-Europe, the costs of customs procedures were estimated on the basis of sample surveys of 11 000 firms. It emerged that the largest cost item for firms was administrative costs, which were put at ECU 7 500 million or 1.5% of the value of all intra-Community trade. In addition, the cost of road haulage delays was estimated at between ECU 400 million and ECU 800 million. Total costs for firms thus amount to between ECU 7 900 million and ECU 8 300 million, equivalent to some 1.6 to 1.7% of the total value of Community trade.

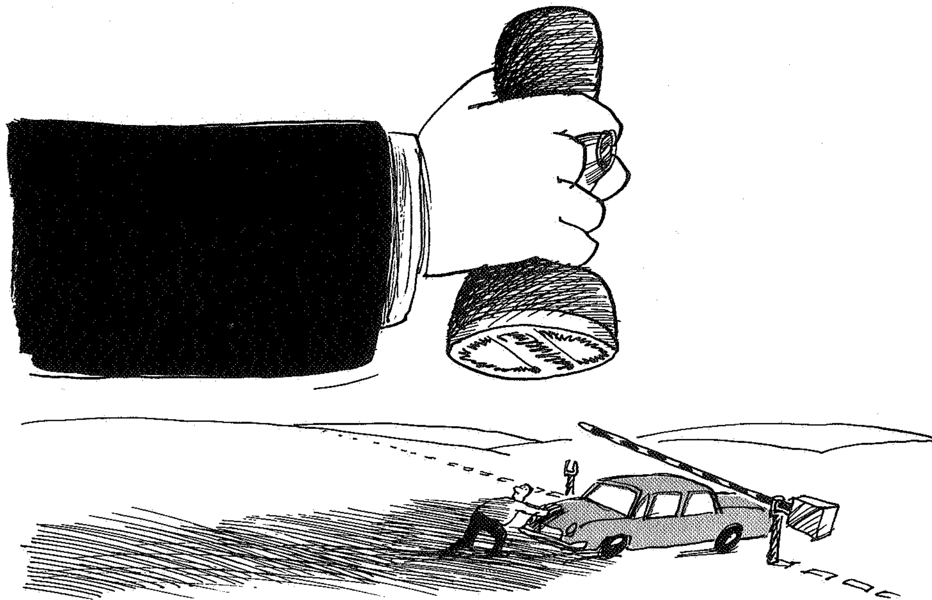
The report also estimated the extent to which trading activities might increase if customs formalities were abolished.

While importers are anticipating that trade will grow on average by 1%, exporters are predicting a figure as high as 3.2%. These findings take no account of any expansion in trade between firms not currently involved in intra-Community trade or of the increase in trade between small traders and private individuals in frontier regions.

The abolition of tax frontiers and of the corresponding formalities will therefore make life much easier for firms and will contribute to the growth in intra-Community trade.

Naturally, the abolition of tax frontiers must be accompanied by the removal of other barriers in the common market. The various obstacles encountered are self-reinforcing and contribute to the compartmentalization of markets — a situation which leads to wide price disparities between Member States.

In 1985, price disparities in the final consumption of households — including taxes



and duties — amounted to some 22% of the average price in the Community. The disparity was 19.4% for consumer goods alone (excluding services and energy).

It is clear that indirect taxes (VAT and excise duties), which vary considerably from one country to another for the same product categories, contribute to these price disparities. The coefficient of dispersion of the prices of consumer goods falls from 19.4 to 15.2% when taxes and duties are excluded. Even so, indirect taxes account for only a quarter of the price disparities between Member States.

## EUROPEAN PARLIAMENT'S POSITION ON TAX MATTERS

*The European Parliament has repeatedly underlined that it is of paramount importance to keep the 1992 deadline for the completion of the internal market and that this, therefore, implies the abolition of fiscal frontiers within the Community.*

In a resolution on tax matters adopted on 25 October 1989 (Doc. B3-397/89), it affirmed that, from 1992, physical frontiers should no longer be a juridicial or administrative point of taxation. Parallel to that, goods and services traded between Member States should be treated for VAT purposes in the same way as goods traded within Member States and differences in tax rates should be reduced to the extent necessary to prevent the distortion of competition.

The European Parliament pointed out that, whatever the system of VAT on transactions between VAT-registered traders, the system of VAT-paid allowances should be abolished by the end of 1992 and individuals able to carry goods freely between all Member States, once VAT had been paid in a Member State. Reduced VAT rates should apply to cultural goods, with exemptions for press and books. The European Parliament stressed that social and environmental considerations should play a role in fixing the rates of indirect taxation.

In the same resolution of 25 October 1989, which presented the overall opinion of the Parliament on fiscal matters, it was underlined that there is an urgent need for proposals on the movement of excisable goods between Member States after 1992. Finally, the European Parliament asked for proposals relating to the taxation of capital which should comply with the commitments made in the directive on the liberalization of capital movements.

# INDIRECT TAXATION AND THE INTERNAL MARKET

In August 1987, the Commission unveiled its proposals for abolishing tax frontiers. [1] The main idea underlying the proposals was to achieve sufficient approximation of indirect tax rates and structures and to introduce for intra-Community trade a new system for levying tax that would guarantee access for products to the Community market under the same conditions as on domestic markets.

## VAT — CURRENT SITUATION

When the Treaty of Rome was signed, all the Member States, with the exception of France, applied cumulative taxes on firms' turnover. These taxes had the major disadvantage of being cumulative from one stage to the next, making it impossible to determine the amount of tax actually included in the price of a product. The amount of tax depended on the number of stages in the production chain. Articles 95 and 96 of the EEC Treaty stipulate, on the one hand, that imported products may not be taxed more highly than similar domestic products and, on the other, that any repayments of tax on exportation may not exceed the taxes actually paid on the product in question.

Calculation of the taxes included in the price of an exported product is extremely difficult under a cumulative tax system, and this gave rise to numerous lengthy discussions between Member States, which accused each other of subsidizing their exports by overestimating the taxes refundable on exportation.

Steps to introduce a neutral and transparent turnover tax system date as far back as to the beginning of the 1960s. They led to the adoption, on 11 April 1967, of the first two VAT Directives establishing a general multi-stage and non-cumulative turnover tax which was called value-added tax and which was to replace all other turnover taxes in Member States. These two directives were implemented in France and Germany in 1968, in the Netherlands in 1969, in Luxembourg in 1970, in Belgium in 1972 and in Italy in 1973. VAT was introduced in the new Member States on their accession to the Community.

However, the first two VAT Directives laid down only the general structures of the system and left it to the Member States to determine the basis of assessment (VAT base) and the rate structure. A further 10 years were to elapse before a uniform VAT base was established by the sixth VAT Directive, which was adopted on 17 May 1977 and entered into force in the Member States in 1979.

The real reason for the adoption of a uniform VAT base was a decision unrelated to taxation as such. This was the Council decision to finance the Community budget through own resources, a proportion of which was to be made up of a given percentage of the common VAT base. VAT own resources are not therefore, as is frequently stated, calculated on the basis of national VAT receipts but on the VAT base. It is clear, therefore, that the VAT base must be the same in all Member States if each of them is to make an equitable contribution to the Community budget.

It is fair to say, therefore, that VAT is now levied throughout the Community on the basis of common structures. A few exceptions and possible derogations still exist, such as the treatment of small and medium-sized firms, the rules for exempting certain goods and services, the treatment of second-hand goods and the rules governing deductions. The sixth Directive does not lay down the actual VAT rates to be applied in Member States, with the result that these differ widely (see Table).

[1] *Documents COM(87) 320 to 328.*

## Commission's VAT proposals

### *1. Basic principles*

The prime objective is to abolish tax frontiers, in other words to eliminate the need for checks at internal borders. The Commission's proposals are not therefore designed to achieve tax harmonization for the sake of harmonization or to introduce an ideal tax system. The aim is more modest. It is limited to what is strictly necessary to remove tax frontiers. To that end, the Commission has concluded that, where VAT is concerned, measures are necessary on two fronts: VAT rates and the VAT arrangements applicable to intra-Community trade.

### *2. 1987 proposals*

Because of the current differences in indirect taxation between Member States, the risks of fraud, distortion of competition and income transfers would be considerable if tax frontiers were abolished overnight without any accompanying measures.

Consequently, as long as the wide differences in VAT and excise-duty rates persist, Member States will be reluctant to dispense with the frontier checks which ensure that they collect the tax revenue due to them.

Abolishing tax frontiers altogether is the only means of guaranteeing unhindered access to the Community market under the same conditions as on the various domestic markets. Starting from the principle that frontier formalities had to be abolished (and not simplified), the Commission concluded that the harmonization, or at least the approximation, of indirect taxes was unavoidable.

The Commission took as its starting point the existing spread of indirect tax rates and structures in the Community. It then confined itself to setting out the minimum changes needed to achieve a sufficient degree of tax approximation. It took the view that the maintenance of a differential of a few percentage points between rates was not likely to cause unacceptable distortions of competition following the abolition of tax frontiers.

It is in this spirit that the Commission has attempted to find pragmatic solutions to the challenge of 1992. And it is in the same spirit and with due regard being had to possible problems of adjustment that its proposals should be studied and assessed.

*(a) Approximation of VAT rates*

The Commission has proposed that, not later than 1 January 1993, all Member States should apply only two VAT rates: a standard rate and a reduced rate. Each Member State would be free to choose the level of those rates within a band of five to six percentage points.

It was proposed that the standard rate should lie between 14 and 20%.

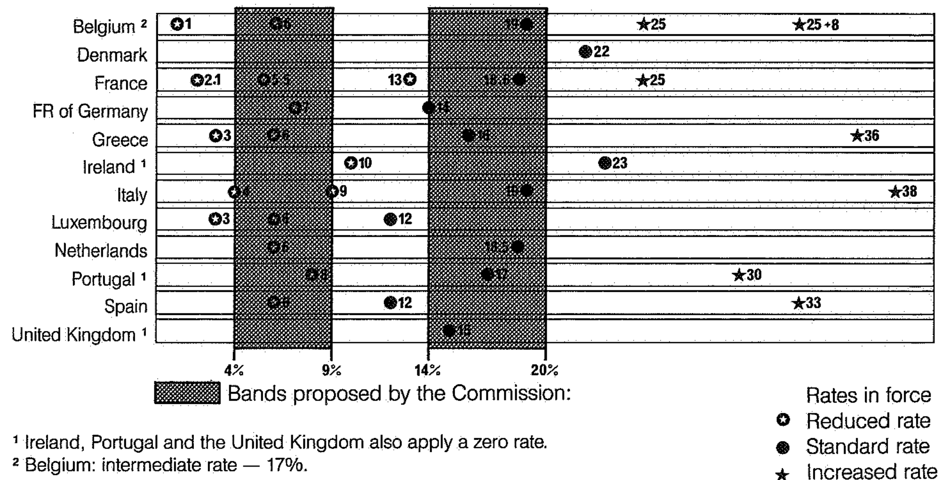
The reduced rate would range from 4 to 9%. It would apply to the following goods, which make up about one-third of the common VAT base:

(i) foodstuffs (excluding alcoholic beverages);
(ii) energy products for heating and lighting;
(iii) water supplies;
(iv) pharmaceutical products;
(v) books, newspapers and periodicals;
(vi) passenger transport.

While a VAT system consisting of a single rate is, in theory, the simplest and most efficient structure, such an approach would have unfortunate consequences for all the Member States, with the exception of Denmark and the United Kingdom, and would probably not be acceptable to the Community as a whole. This is why a multi-rate system was proposed.

As to the question of how many rates there should be, it was clear that a three-rate system would create more complications for taxpayers and national administrations and that it would, therefore, be simpler and more efficient to opt for a two-rate system rather than to require those Member States which did not apply an increased rate to introduce one. Furthermore, as the existing increased rates apply to a relatively small proportion of the tax base in each Member State (less than 10% on average), their abolition would not be expected to create major budgetary problems. Finally, since the range of goods and

## VAT RATES IN FORCE IN MEMBER STATES ON 1 MARCH 1990 AND COMMISSION PROPOSALS




[1] Ireland, Portugal and the United Kingdom also apply a zero rate.
[2] Belgium: intermediate rate — 17%.

services chargeable at the increased rates is not particularly homogeneous, it would be difficult to draw up in an objective manner a common list of goods and services that would be subject to an increased rate. For all those reasons, the Commission concluded that a two-rate system comprising a standard rate and a reduced rate would be preferable.

The Commission proposed rate bands that would allow Member States to choose rates which would necessitate in terms of the existing tax burdens a minimum number of changes for as many of them as possible. The maximum price difference which might result from rate differentials of the order of five and six percentage points respectively would not entail unacceptable distortions of competition. The example of the United States, where disparities in local taxes are as much as nine percentage points in some States, shows that a large internal market can accomodate variations in taxation within certain limits.

As to consumer prices, since taxation is only one of the constituent elements of price, the price differential, inclusive of all taxes, would not necessarily be 5%. Many studies have shown that price differentials within a particular country or in a particular town frequently exceed the maximum spread of five percentage points proposed by the Commission for VAT. Any experienced consumer knows perfectly well that the price of a record, a refrigerator or even a car can sometimes vary widely within the same urban area.

### *(b) New arrangements for intra-Community trade*

At the present time, goods and services circulating within a Member State are taxed differently from those that are exported. There is full remission of tax when a product is exported but VAT then is charged when the product enters the country of importation. This system guarantees neutrality of taxation in intra-Community trade: all products circulating within a Member State are subject to the same tax, whether imported or not.

Hence the need for specific export formalities involving compulsory frontier checks designed to ascertain that goods not taxed in the country of exportation are in fact exported. Although, under simplified

arrangements, such formalities can be carried out not at the frontier but within the country, tax frontiers still exist.

The Commission proposed that, in the run-up to 1992, this distinction in intra-Community trade should be removed. Zero-rating of exports would also be abolished for intra-Community trade.

The general VAT arrangements currently applied in national trade would be extended to cover the whole of the single market. As a result, intra-Community transactions would be treated in the same way as transactions within a country, and this would entail the abolition of a series of administrative formalities.

Whether they were firms or consumers, buyers would pay the tax applicable in the country of supply [1] without having to comply with any formalities linked to the existence of frontiers.

The only difference compared with the prevailing situation is that the taxable person in the country in which the product is consumed, who will have to pay VAT in the country of supply, will be able, when submitting his regular tax returns, to deduct the VAT paid — irrespective of the Member State in which it was paid. This is what happens at the moment under national arrangements.

*(c) Clearing system for tax revenue*

In its proposals, the Commission adhered to the principle that tax revenue should accrue to the Member State in which the final consumption of a product takes place. This necessitates a clearing system under which Member States' treasuries would receive the taxes paid in another Member State in respect of a product consumed on their territory. The Commission explained in a working paper how such a clearing system might operate.

## Reactions to 1987 proposals

Since 1987 when the Commission's proposals were presented, the Council has discussed them many times. Although most Member States were prepared to agree in principle to the basic ideas put forward by the Commission (approximation of rates, abolition of the system of remission of tax on exportation and taxation on importation — also referred to as the 'Community principle'), they were not yet willing to suffer the consequences. These are, firstly, budgetary: for example, Denmark and Ireland in particular would face a substantial budgetary shortfall due to the need to lower their VAT rates. Secondly, the new VAT arrangements for intra-Community transactions would deprive Member States of direct control over imports into their national territories and over the corresponding taxes. They felt that, in this respect, the clearing system proposed by the Commission was either too complex or too unreliable and open to fraud.

Conflicting views were expressed as to the need for an approximation of VAT rates. While some Member States recommended that market forces should be allowed to determine each Member State's choice as to its rates, others argued that a differential of five or six percentage points of VAT was still excessive. It is clear that, in the absence of any prior approximation of rates, market forces alone could stimulate competition between Member States in the matter of VAT rates, with incalculable consequences for their budgets and economic policies.

## More flexible approach by the Commission

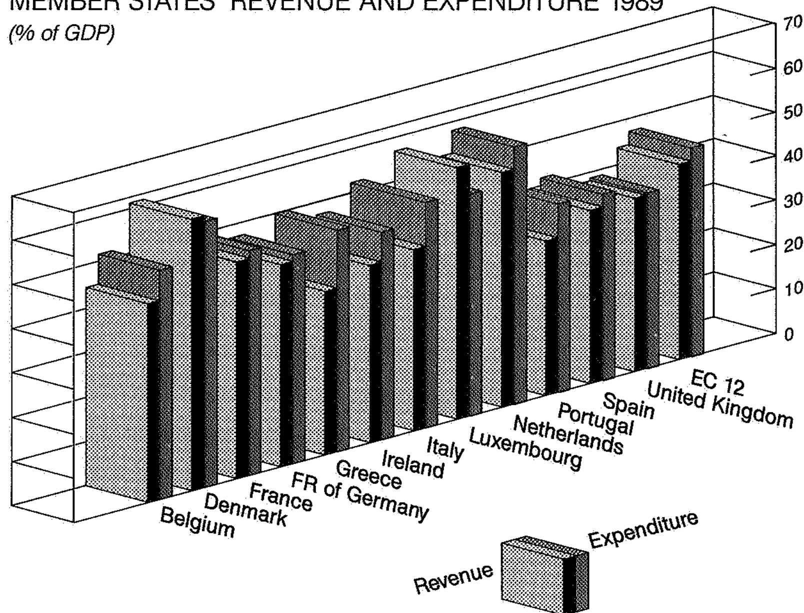
In order to resolve the stalemate, the Commission tabled a more flexible approach in June 1989. For the standard rate of VAT, it would be sufficient to set a minimum rate above which Member States would be free to choose their own rate. The clearing system could be based on macroeconomic data, and this might simplify procedures.

As a transitional arrangement, and purely with a view to encouraging the countries

1 *'Country of supply' means the Member State in which the product is purchased before being transported to another Member State for resale and/or consumption there.*

MEMBER STATES' REVENUE AND EXPENDITURE 1989

*(% of GDP)*




most directly concerned to accept a final compromise on taxation, the Commission did not rule out the possibility, as part of a general agreement, of authorizing the retention of zero-rating for a limited number of goods included in the list of products subject to the reduced rate, provided that there is no risk of competition being distorted.

It proposed a differentiated approach to deal with the problems likely to arise in connection with the purchase of cars, mail-order sales and purchases made by non-taxable persons or exempt taxable persons.

In the case of private cars, for example, the chargeable event could be defined as registration of the vehicle in the country in which the owner was resident, it being assumed that the place of supply was the same as the place of registration. In order to prevent tax evasion, the conditions governing a change of residence would be those already laid down by Community law.

At the same time, the Commission called for a significant increase in the tax-free allowances for tax-paid products purchased in another Member State by persons travelling within the Community. These allowances were introduced with a view to easing frontier tax checks and promoting integration of the Community. The proposal was designed to bring home more clearly to the general public the progress being made towards the goal of completing the internal market by foreshadowing the situation in which, as of 1 January 1993, all travellers in the unified market would be entitled to unlimited allowances and would be free to choose where they purchased goods. The Commission proposed that the monetary ceiling be increased gradually from ECU 390 to ECU 800 in 1991 and ECU 1 600 in 1992 before being abolished altogether by the beginning of 1993. It was also proposed that, in parallel, the quantitative limits applicable to certain products, such as cigarettes and spirits, should be doubled.

The Commission's initiative succeeded in resolving the stalemate within the Council of Ministers. The Member States showed themselves to be more cooperative and con-

ciliatory. At the Council meetings on economic and financial affairs in November and December 1989, they endorsed the Community principle regarding the charging of VAT as proposed by the Commission. However, they did not think they could implement it by 31 December 1992. Their main conclusions were as follows:

(i) transition to a system of taxation in the country of origin remained the medium-term objective but, for a transitional period, taxation would have to take place in the country of destination;

(ii) the transitional system to be introduced would have to abolish frontier formalities, reduce the burdens on firms and administrations and provide an effective means of combating evasion;

(iii) mail-order sales and vehicle purchases would have to be subject to specific arrangements;

(iv) the limits on travellers' purchases would be abolished on 1 January 1993 as rates were brought more closely into line (reservation entered by one Member State);

(v) any further widening of differences in VAT rates should be avoided, while the standard rate would be allowed to move only towards or within the 14 to 20% band; the Council would decide on the convergence of rates before 31 December 1991.

## Transitional arrangements up to 31 December 1996

On the basis of these conclusions, the European Council, at its meeting in Strasbourg in December 1989, asked the Commission to draw up proposals for a transitional system. On 8 May 1990, the Commission presented its plan. This consisted of three proposals: the first concerning the transitional taxation arrangements, the second introducing a new instrument of administrative cooperation and the third relating to the statistical burden on firms.

### *1. Transitional arrangements proposed by the Commission*

The proposal provides for the abolition of all customs procedures relating to the movement of goods between Member States as from 1 January 1993. The concepts of importation and exportation in intra-Community trade would therefore be scrapped and the crossing of a frontier would no longer give rise to a tax obligation, as in the case at the moment.

(a) For individuals, this would mean that they would be free to purchase goods in the Member State of their choice (with the goods being taxed according to the conditions applicable there) and to use them freely in their Member State of residence. For this, travellers' allowances would have to be abolished.

However, in order to limit the main risks of distortion of competition arising from differences in VAT rates during the transitional period, the rate to be charged would be that applicable in the country of destination in the case of:

(i) purchases of new private vehicles (cars and motorcycles), which would be taxed in the country of registration;

(ii) purchases made from companies specializing in mail-order sales, which would be taxed in the country of destination.

(b) For transactions between taxable persons (generally firms), the transitional arrangements would be as follows:

(i) delivery of goods to another Member State would be exempt from VAT;

(ii) purchase of goods in the country of destination would be liable to VAT and the tax would be payable by the purchaser.

Purchases by institutional non-taxable persons and exempt taxable persons (banks, insurance companies, public administrations) would, where they exceeded the ceiling of ECU 35 000 annually, be subject to the same arrangements as those applying between taxable persons, in order to avoid the risks of distortion of competition linked to differences in VAT rates.

The transitional arrangements, which are consistent with the Council's guidelines for maintaining the principle of taxation in the country of destination, would expire on 31 December 1996 at the latest. Before that

date, Member States would take stock of how the system was operating and would, on a proposal from the Commission, lay down the arrangements for the switch-over to the definitive system of taxation in the country of origin.

### *2. Cooperation between tax administrations*

Checks would be carried out retrospectively, mainly on the basis of the normal commercial documents (invoices, etc.), which would have to be retained by traders and made available to the authorities if required.

In addition, since the abolition of frontier checks, to be effective, must be matched by a satisfactory exchange of information between Member States' tax administrations, the Commission is proposing a system designed to ensure a rapid and compulsory exchange of the necessary information.

This would permit effective monitoring of transactions, while at the same time limiting the burden on firms, and could promote mutual trust between tax administrations — a key element in the smooth functioning of the internal market. In this connection, the Commission is looking into the possibility of a programme of exchanges between tax officials, along the lines of the 'Matthaeus' programme for customs officials.

### *3. Statistical aspects and easing of burdens on firms*

(a) *Easing of administrative burden*

All customs documents and prior checks (single administrative document) would be abolished in intra-Community trade. This would ease the administrative burden on firms considerably, since it would mean that each year 50 to 60 million forms (each with 50 boxes to be completed) could be dispensed with.

The figures for intra-Community transactions would be attached to the regular VAT returns already used for the movement of goods within a Member State.

(b) *Easing of statistical burden*

Since statistical requirements impose a burden on firms, steps must be taken to alleviate that burden. The new proposal provides for a substantial easing of requirements on all firms, many of which will be totally exempt, in particular small and medium-sized firms.

Only 20% or so of Community firms (the larger ones) would be required to complete the new simplified statistical forms (seven compulsory boxes and three optional ones for Member States' statistical needs).

The vast majority of firms either would be exempt from any need to make statistical returns or would be required to indicate only the value of intra-Community imports and exports in two extra boxes on the regular VAT returns, which would be used for both tax and statistical purposes.

Swift adoption of the proposed system by the Council and its implementation by Member States would enable crucial progress to be made towards completion of the internal market. We should not forget that efficient administration of firms and tax systems calls for decisions to be taken in good time, and 1 January 1993 is fast approaching. Each of the Community institutions must, therefore, face up to its responsibilities in the matter.

## EXCISE DUTIES

Excise duties are specific indirect taxes traditionally levied on the consumption of certain products, such as alcohol, tobacco, etc., in all the Member States of the Community.

Excise-duty rates may be *ad valorem* (percentage of value) or 'specific' (a certain rate being fixed for a given volume, quantity or weight of the product to be taxed). In the case of cigarettes, for example, the excise duty introduced by a Council directive is both specific (chargeable per 1 000 cigarettes) and *ad valorem* (calculated as a percentage of the retail price). It is to be noted that the two excise-duty components are cumulative since the *ad valorem* component is calculated on the retail price inclusive of the specific component. VAT, of course, comes on top and is calculated on the price ob-

tained after adding the excise duties to the price exclusive of tax.

Besides budgetary reasons, excise duties are frequently justified by reasons not pertaining to the tax field, such as hygiene, health protection and economic or social factors. Nevertheless, from the viewpoint of the abolition of frontiers in a large internal market, excise duties should be seen as consumption taxes and, as such, they should be 'neutralized' as a step towards that end. This is the aim underlying the Commission's proposals for aligning excise-duty rates.

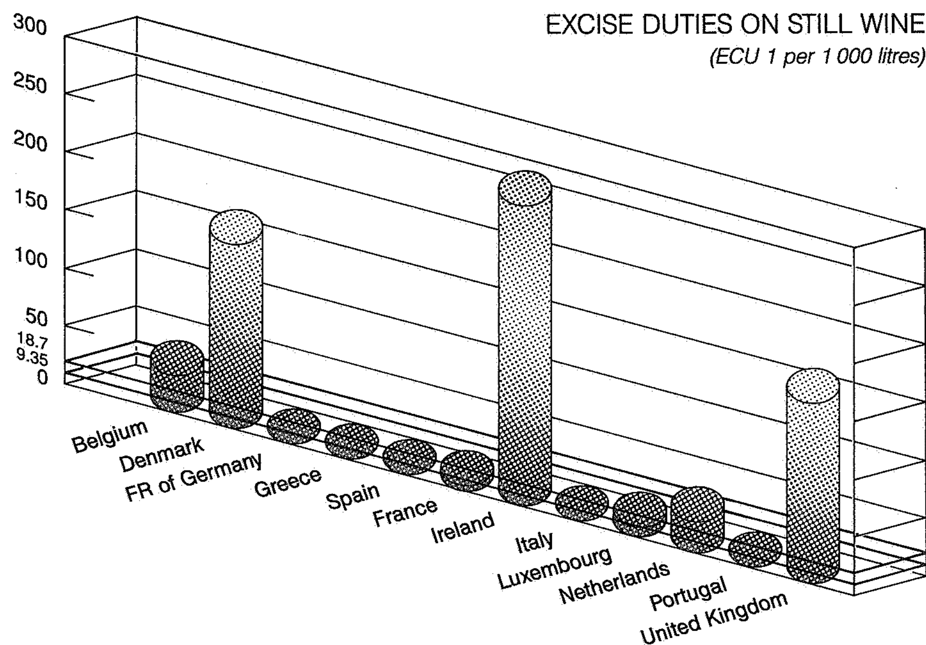
### Current situation

Far less progress has been made in harmonizing excise-duty structures than VAT structures. In 1972, the Commission presented its first proposals for harmonizing the structures of the special taxes on consumption. These proposals have never been adopted (except for cigarettes, to which all the Member States apply an *ad valorem* and a specific component)

The current situation is characterized, therefore, by wide disparities, not only in terms of tax levels but also in terms of coverage and the arrangements for taxing dutiable products.

### Commission's proposals

As distinct from its VAT proposals, the Commission opted at the outset to retain for excise duties the system of taxation in the country of destination, applied of course in such a way as to ensure abolition of tax frontiers. The main reason is that, unlike VAT, excise duty is levied at one stage only, i.e. generally




*This table gives the situation regarding excise duties on wine in the Member States. The differences between Member States are extremely wide. Whereas Denmark, Ireland and the United Kingdom charge very high excise duties, Germany, Greece, Spain and Portugal charge no duty. The Commission is proposing an excise duty of ECU 9.35 per 1 000 litres as from 1 January 1993. It envisages a target rate of ECU 18.7 per 1 000 litres.*

when the product in question is released onto the market. Prior to that, the products in question are covered by an arrangement whereby the collection of duty is suspended.

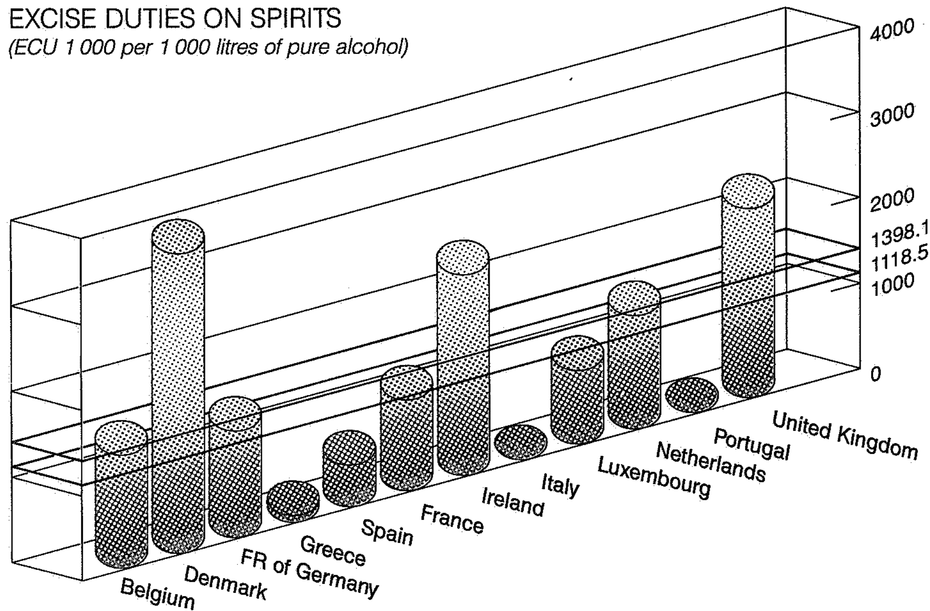
The Commission is proposing that tax formalities at frontiers be abolished through the integration of national duty-suspension arrangements and the adoption of a Community system of warehouses.

To that end, it would seem essential to bring rates more closely into line. At the present time, excise duties vary widely from one Member State to another and such disparities would encourage fraud if they were to persist. Assuming that tax frontiers were abolished, goods could move freely within the single market once they had been removed from the warehouse. Clearly, producers would in that case choose to pay tax in the country in which the rate of duty was lowest and then to market the products in the countries in which the rates of duty were highest.

The four Commission proposals relating to excise duties supplement the 1972 proposals on tax structures. They envisage harmonized rates for the five 'major' excise duties, i.e. those on tobacco, mineral oils, alcoholic beverages, wine and beer. The 1972 proposals already provided for the abolition of the 'minor' excise duties, for which the costs of collection were disproportionate to their yield. These were taxes on such highly disparate products as tea, coffee, salt and playing cards. Moreover, they were in many cases applied in only a few countries and had no discernible common structure. For that reason, minor excise duties may be retained

EXCISE DUTIES ON SPIRITS

*(ECU 1 000 per 1 000 litres of pure alcohol)*




*This table reflects the situation existing in the Member States and the Commission's proposals. The rates vary widely between Member States. Italy and Portugal apply minimum excise duties on spirits, whereas Denmark, Ireland and the United Kingdom charge very high duties.*
*The Commission is proposing an excise duty of ECU 1 118.5 per 1 000 litres as from 1 January 1993. It envisages a target rate of ECU 1 398.1 per 1 000 litres.*

after 1992 only if they do not entail any checks of formalities at internal frontiers.

In determining the rates, the Commission's general approach has been to secure equity between Member States and to create minimum disruption in each sector. The method for achieving this has varied according to the particular circumstances or characteristics of each sector in question.

### *1. Tobacco products*

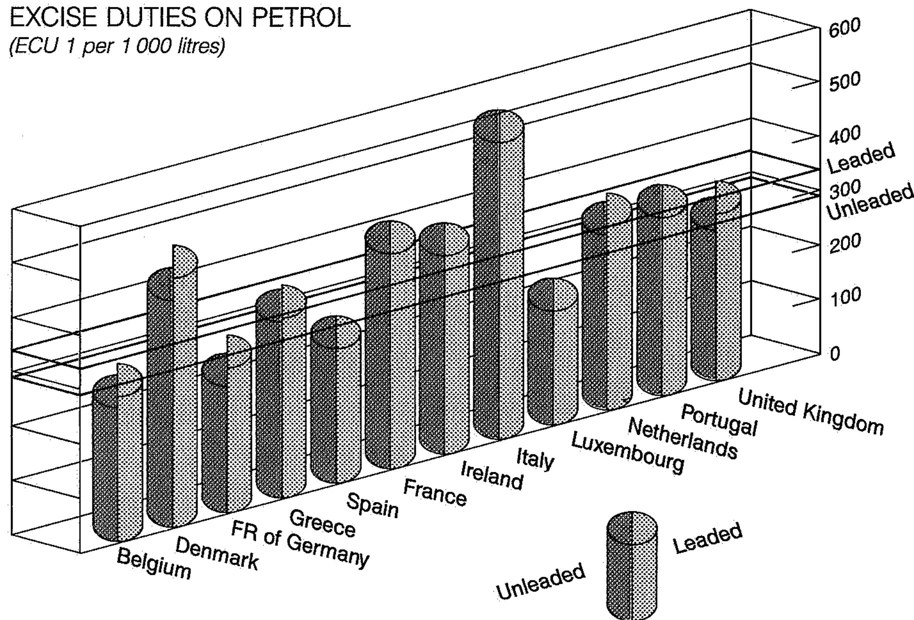
The rates were calculated on the basis of the arithmetic mean for the Community, which gives equal weight to the rates applied by each Member State. The resulting rate produced an increase in the overall taxation of manufactured tobacco at Community level and this is consistent with the Community's policy on health matters set out in a 1982 report to Parliament and in the 1986 action programme 'Europe against Cancer'.

### *2. Alcoholic beverages*

The alcoholic beverages sector is composed of two broad categories: distilled and fermented beverages. For the former, the Commission took the arithmetic mean for the Community. However, in the case of fermented beverages (wine and beer), it was found that the effect of the arithmetic mean, and also of an average weighted by consumption, would be highly disruptive. Therefore, the solution proposed for these products, which are in competition with one another, is to tax them equally per litre of product in such a way that revenue is not affected.

### *3. Mineral oils*

For each main product category, the Commission proposed a rate which would minimize disruption of national tax revenues or industrial cost patterns. Thus, for petrol,




*This table shows the excise-duty rates for petrol in the Member States. The Commission is proposing a minimum rate of ECU 337 per 1 000 litres for leaded petrol as from 1 January 1993; in the case of unleaded petrol, it is proposing a rate which would be ECU 50 lower than that for leaded petrol.*

which is by far the most important source of revenue in this sector, a rate based on the arithmetic mean of the existing rates was chosen. For diesel, heating oil and heavy fuel oil, on the other hand, whose use is predominantly commercial, the Commission considered that a rate weighted by consumption would be more appropriate, as it would minimize the effects on industrial costs.

### Current state of play

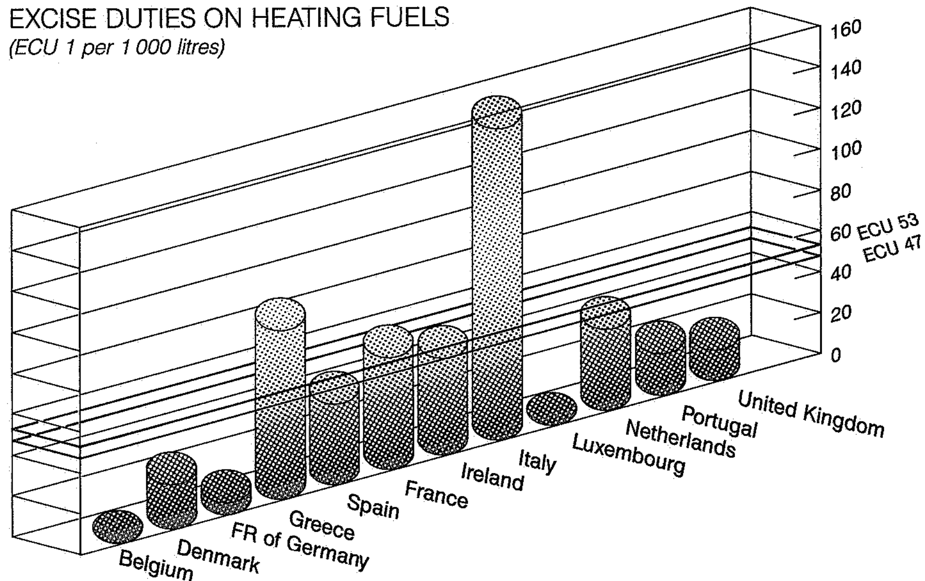
Little progress has been made in the matter of excise duties within the Council of Ministers. Even if discussion is limited to the five major excise duties referred to above, the differences are so great that a common basis or even a harmonization of rates seems an extremely remote possibility. While it is normal in the United Kingdom and Denmark for spirits and tobacco to attract high excise duties, southern countries such as Greece, Portugal, Spain and Italy traditionally impose very low excise duties on such products. How is one to explain to an Italian that the table wine he drinks every day must suddenly be taxed in the interests of creating the internal market?

Here again, the Commission has adopted a more flexible approach.

The Commission's new plan retains the principle of taxation in the country of destination through a Community system of interconnected warehouses. But at the same time, in response to the wishes of the European Parliament and the Member States, it envisages some flexibility of rates according to the product in question, provided that the principle of the abolition of tax frontiers is not put at risk.

In determining the permissible limits of flexibility, account will have to be taken of regional disparities in the consumption of dutiable goods and, at the same time, of the requirements of other sectoral policies (for

EXCISE DUTIES ON HEATING FUELS
*(ECU 1 per 1 000 litres)*




*This table shows the excise duties applied by Member States on heating fuels. The duties charged in Italy and Greece are well above the average. The Commission is proposing a range of ECU 47 to 53 per 1 000 litres as from 1 January 1993.*

example, those relating to health, the environment, energy, etc.).

In the case of alcohol and tobacco, the Commission is proposing that minimum rates, which would vary according to product, should be compulsory from the end of the transitional period, i. e. from 1 January 1993. Target rates would be established which those Member States currently applying different rates would have to take into account to ensure convergence towards those levels in the medium term.

However, since these goods are, as a general rule, intended mainly for final consumption, the risks of distortion of competition are limited to trade taking place in frontier regions.

More rigid arrangements will have to be adopted for mineral oils, which present greater risks of distortion of competition in that they constitute significant cost factors for industry and commerce. Accordingly, the Commission is envisaging, depending on the product, a uniform minimum rate for mineral oils intended for final consumption or a rate band for mineral oils used in the production process. It will at all events take account of the links between the taxation of mineral oils and other sectoral policies (transport, environment and energy) by setting target rates, which will be the subject of an additional proposal.

Every two years, the rates in question would be re-examined and, where appropriate, adjusted. The new proposals also contain an element of rate approximation: in adjusting their national rates, Member States would be required to bring them closer to the target rates.

# DIRECT TAXATION AND THE INTERNAL MARKET

As already pointed out, Community tax law is much more limited in the field of direct taxation than indirect taxation. Article 100 of the Treaty, which is the legal basis for measures relating to direct taxes, is confined to measures having a direct impact on the functioning of the common market. In the context of the programme for completing the internal market, there are essentially three proposals for directives dealing with the tax treatment of firms involved in cross-frontier cooperation; they are designed primarily to prevent double taxation. There is also the problem of the taxation of savings in the context of the liberalization of capital movements.

But the internal impetus provided by Article 100 should not be underestimated: the more economic integration in Europe progresses towards a true internal market, the more the impact of direct taxes on the functioning of the internal market is likely to increase and to bring about harmonization initiatives.

## ■ THREE PROPOSALS DEALING WITH TRANSNATIONAL COOPERATION BETWEEN FIRMS [1]

### 1. Common system of taxation applicable to parent companies and subsidiaries from different Member States

The first proposal for a directive, dated 15 January 1969, concerns the adoption of a

*BUSINESSES HOLD THE KEY TO THE CONSTRUCTION OF EUROPE*

If the single market is to play to the full its role as an instrument of economic progress and optimum allocation of resources, action on the company taxation front is needed. It must ensure that firms operating across frontiers are not subject to less favourable tax conditions than those applicable to their activities in the Member State in which they are established. The elimination of double taxation of companies must therefore be the priority objective of the Community.

But, beyond that priority objective, which must be achieved before the 1 January 1993 deadline, the Commission has to consider the general approach to be adopted in the run-up to economic and monetary union with a view to creating a tax environment for companies which is both more uniform and more conducive to the growth of their investment and to the development of their activities.

*Christiane Scrivener*
*Member of the European Commission*
*Paris, 2 February 1990*

[1] *In July 1990 the Council of Ministers reached agreement, after many years of discussion, on these three proposals. This agreement can be termed historic, since it is the first one in the tax field that relates to the internal market.*

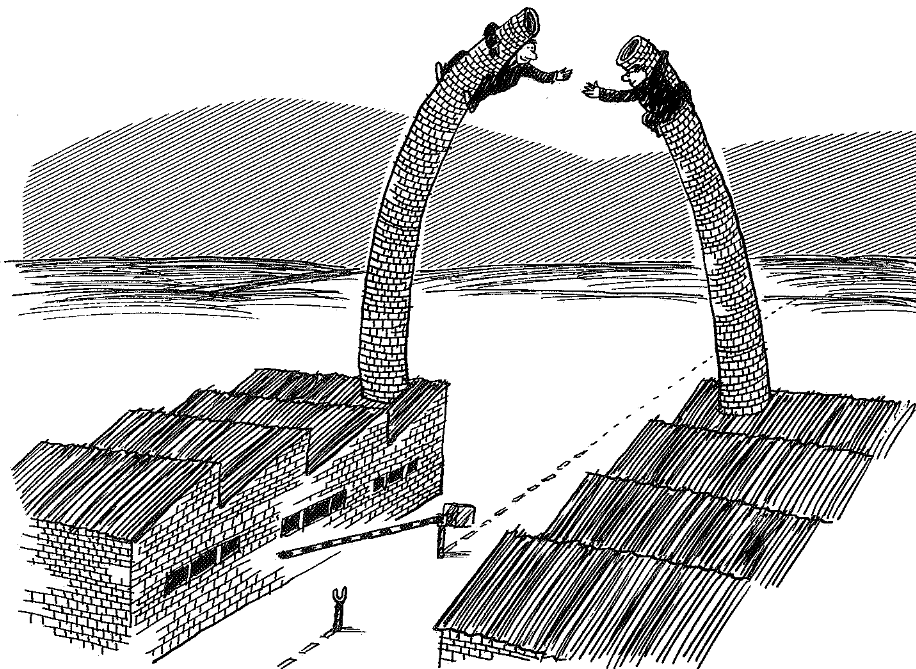
common system of taxation applicable to parent companies and subsidiaries from different Member States.

It is clear that a firm's decision to set up a subsidiary in another Member State is greatly complicated by the fact that the dividends it is likely to receive will be subject both to corporation tax in the country in which it has its tax domicile and to a non-recoverable withholding tax in the Member State in which the subsidiary has its tax domicile. And so, in order to guarantee the neutrality of taxation in respect of investment decisions, the proposed directive provides for the abolition of such double taxation and of withholding taxes levied on profits distributed by a subsidiary to a parent company resident in another Member State in cases where that company has a substantial holding in the capital of the subsidiary. The participation threshold has been the source of much disagreement between Member States, which apply differing thresholds in order to grant preferential treatment to parent companies and subsidiaries.

In order to eliminate double taxation, the Member State of the parent company would be able to choose one of two methods: it could either exempt the dividends from corporation tax or deduct from national tax the tax already paid in the country in which the subsidiary is established. This would permit the introduction at Community level of the arrangements in force in almost all Member States, i.e. exemption of dividends distributed by a subsidiary to its parent company.

### 2. Common system of taxation applicable to mergers, divisions and contributions of assets involving companies from different Member States

The second proposal for a directive, dated 16 January 1969, provides for the adoption of a



common system of taxation applicable to mergers, divisions and contributions of assets involving companies from different Member States. The scope of this proposal has since been extended to cover exchanges of shares.

In order to achieve the objective of neutrality of taxation, the Community solution is based on the principle of deferring taxation of any capital gains resulting from a merger until they are actually realized. In the case of merger by absorption, the absorbed company from one Member State would become an establishment of the absorbing company in another Member State.

Adoption of this directive would also play a major part in promoting implementation of the Statute for a European Company, the updated version of which was approved by the Commission in August 1989. Clearly, tax obstacles to mergers may seriously impede the chances of 'European companies' being set up, in that these will generally be created as a result of mergers of companies originally located in different Member States.

### 3. Arbitration procedure

The third proposal for a directive, dated 27 December 1977, provides for an arbitration procedure designed to eliminate the double taxation that occurs when an adjustment made in an enterprise's profits by the tax authority in one Member State is not accompanied by a corresponding adjustment in the profits of an associated enterprise in another Member State. Here too, transnational cooperation within the Community would be penalized as compared with what happens within a national market.

Each Member State has its own rules relating to transfer pricing, and the procedure for the exchange of information as part of the cooperation between tax authorities in the different Member States will invevitably add to the number of cases of unilateral adjustment of profits, and this will lead to double taxation. Experience has shown that the optional provisions of bilateral agreements are not sufficient to prevent such double taxation.

The Commission proposal provides for the setting-up of arbitration commissions made up of representatives from the tax authorities concerned and of independent experts. A dispute would have to be referred to such a commission where the authorities involved failed to reach agreement.

### 4. Other initiatives

The first initiative concerns the possibility of enterprises deducting the losses of establishments and subsidiaries set up in other Member States. This provision — of major benefit to the development of cooperation between firms within the internal market — was initially envisaged only for 'European companies'. The Commission is currently working on a proposal for a directive which would extend this facility to all firms. To complete these arrangements, it expects to present within the next few months two new proposals still necessary for the abolition of all cases of double taxation.

The first proposal will require all firms engaged in cross-frontier activities to take account of foreign profits or losses.

The other proposal provides for the abolition of withholding taxes on interest and royalties paid to a company by companies belonging to the same group and established in other Member States.

## COMPANY TAXATION

The Commission set out its guidelines on company taxation in its communication of 20 April 1990 to the European Parliament and the Council. In the communication, it outlined the measures which it considers should be taken at Community level to create a company tax environment tailored to the establishment and further development of the internal market.

The priority objective to be achieved before 1 January 1993 is, as has already been pointed out, to remove tax obstacles to the cross-frontier activities of firms. For this, the three proposals for directives described

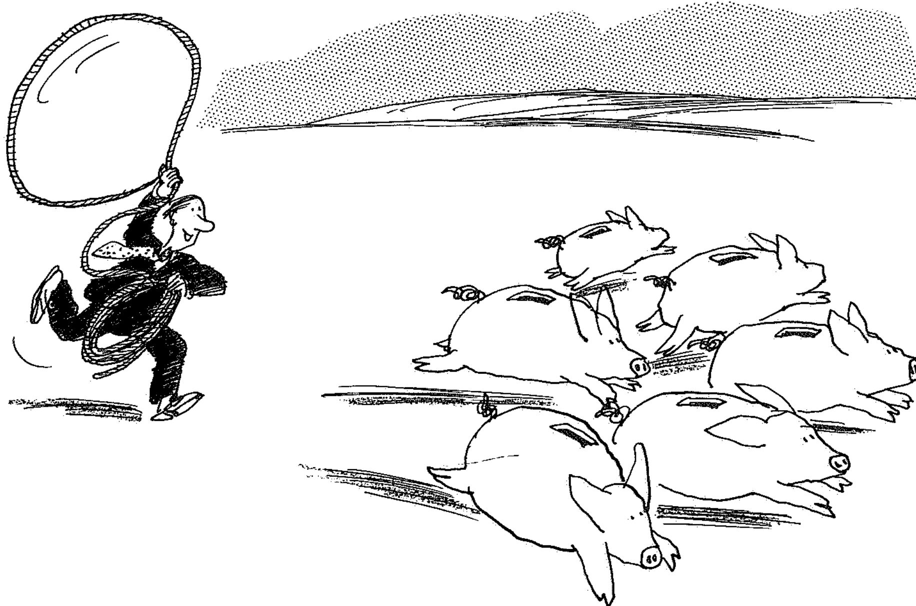
above and the two new proposals still to be presented by the Commission will need to be adopted as rapidly as possible.

For the second phase after 1992, which can be termed the further development of the single market, a new approach has been drawn up. This lays stress on the coordination and alignment of national policies rather than on systematic recourse to harmonization. It is thus consistent with, and reinforces, the principle of subsidiarity, dovetailing with the spirit of the new approach to Community integration underlying the Single Act and the Delors Report on economic and monetary union. The Commission has accordingly withdrawn its 1975 proposal for a directive on the harmonization of systems of company taxation, since that proposal no longer corresponds to current circumstances and prospects.

However, the Commission takes the view that any proposals for practical measures aimed at approximating the overall burden on firms should be preceded by a study which will take account of the current state of, and prospects for, Community integration. This study will have to examine *inter alia* whether the present disparities between taxes on companies create distortions both as regards investment decisions and the extent to which harmonization or approximation of national taxation is necessary. It will be entrusted to a committee made up of independent persons of standing.

## TAXATION OF SAVINGS

The creation of a European financial area as from 1 July 1990 brings to the fore the problem of the taxation of savings. Under Article



6(5) of Directive 88/361/EEC of 24 June 1988 on the liberalization of capital movements, the Commission was required to present to the Council, by 31 December 1988 at the latest, proposals aimed at eliminating or reducing risks of distortion, tax evasion and tax avoidance linked to the diversity of national systems for the taxation of savings. The Commission proposals, presented on 8 February 1989, provided for the introduction of a common system of withholding tax (minimum rate of 15%) on interest paid to residents and non-residents and for a strengthening of cooperation between national tax authorities.

The withholding tax proposal was designed to achieve two objectives simultaneously: first, to avoid 'tax competition' between Member States wishing to attract to their respective markets the savings built up in the European financial area following the liberalization of capital movements and, second, to prevent a flight of capital from the European market by allowing Member States to retain the option of not applying the withholding tax to interest paid to residents of third countries.

It should also be pointed out that, under the proposal, Member States would retain the right to choose between a withholding tax in full discharge of liability and one which would be a payment on account of general income tax. In the latter case, withholding tax would be deductible from the total tax payable by the taxpayer.

In fact, this proposal has not succeeded politically — even though the Commission has not formally withdrawn it — since it has encountered marked opposition from a number of Member States. This is as a result of the wide differences between Member States as to the arrangements to be applied. While some would like to have direct and close control over the interest paid to their residents and so argue in favour of an obligation on banks to provide their tax authorities with information on interest received by Community residents, others prefer the withholding-tax arrangement. A few are unwilling to accept either system, arguing that both would provoke a major flight of capital to third countries and thus be prejudicial to the interests of the major financial centres in Europe.

Faced with this difficulty, the Commission has concentrated its efforts on the third solution, which consists in strengthening cooperation between Member States' tax authorities in order to prevent possible tax evasion and hence tax-induced distortions in the allocation of savings.

Particular emphasis is being placed on measures to encourage taxpayers to declare their income from savings, notably through the cooperation of credit institutions when interest payments are made. But the key aspect remains the strengthening of cooperation between tax authorities in the different countries — an approach already incorporated in the Commission's initial proposals, which provided for the development of facilities for exchanging information.

At the Council meeting on 18 December 1989, a large majority of Member States reached agreement on this point. However, a final decision on the matter is still needed because of requirement of unanimity on tax issues.

Nevertheless, there is a tendency for Member States to reduce their withholding taxes with a view to preventing evasion when capital movements are liberalized. These measures are increasing the chances of achieving a solution satisfactory to all.

# CONCLUSIONS

Taxation is an important and, at the same time, difficult aspect of the programme for completing the internal market: important because, without proper rules governing the tax treatment of cross-frontier transactions, tax barriers would remain in place, and difficult because any decision relating to taxation has immediate repercussions for national budgets. The unanimity required in the Council of Ministers compounds the difficulties.

With the deadline of 31 December 1992 fast approaching, decisions have to be taken promptly in order not to jeopardize the internal market objective. In April 1990, Mrs Scrivener, the Member of the Commission with special responsibility for taxation, stressed the need for Member States to endeavour to provide individuals and businesses with tangible evidence of the existence of a true internal market.

A major step has since been taken towards achieving a 'Europe for businesses'. In July 1990, the Finance Ministers reached agreement on the three proposals concerning the tax arrangements for transnational cooperation between firms. That agreement has been described as historic, since it is the first decision by Finance Ministers on a tax measure essential to establishment of the internal market.

There are, therefore, grounds for hope that an agreement will be reached soon in the field of indirect taxation, where three issues have still to be settled: VAT, excise duties and tax-free allowances. The Commission has already shown itself to be very flexible. It has proposed transitional arrangements for VAT and has revised its approach to excise duties. It is now for Member States to provide proof of their determination to complete all aspects of the internal market. The people of Europe must themselves be able to experience the impact of the single market in their daily lives. It is regrettable that the Council has not yet taken any decision on tax-free allowances.

Such a decision which, while having only modest tax and economic consequences, would have had a major political impact on public opinion.

Now that the Community is already discussing arrangements for monetary union and is progessing towards political union, it should be capable of rounding off the programme for completing the internal market with an agreement on indirect taxation.

# FURTHER READING

## EC PUBLICATIONS

- ☐ ***Completing the internal market.*** White Paper from the Commission to the European Council (Milan, 28 and 29 June 1985). Brussels: EC, Commission 1985. COM(85) 310 final

- ☐ ***Completion of the internal market: approximation of indirect tax rates and harmonization of indirect tax structure.*** Brussels: EC, Commission 1987. COM(87) 320 final

- ☐ ***Completing the internal market: the introduction of a VAT-clearing mechanism for intra-Community sales.*** Brussels: EC, Commission 1987. COM(87) 323 final

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