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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
CONCERNING THE MAJOR PROBLEMS RELATING TO THE
PROPOSED COUNCIL DIRECTIVES TO HARMONISE THE STRUCTURES OF
CONSUMER TAXES, OTHER THAN VAT, ON BEER, WINE AND ALCOHOL

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BACKGROUND

Following the communication from the Commission to the Council, dated 27 July 1977, on problems posed by excise harmonisation (COM (77) 338 FIN), the Council recommenced examination of the proposed directives for harmonising excises on beer, wine and alcohol, originally submitted on 7 March 1972 and on which the Council had suspended work at the end of 1974.

The Commission communication had originally proposed that the Council should give priority to the proposals to harmonise the excises on alcohol and beer, the divergent views in the Council on the wine excise being such that agreement on this proposal seemed unlikely for some time to come.

Notwithstanding this suggested approach, the Council elected to examine all three proposals together. Moreover, during the subsequent discussions, a number of Member States made it clear, for a variety of reasons, that they were not prepared to disassociate these three proposals. It follows that these proposals must now be adopted as a package.

The present communication is intended as a compromise solution to the main issues of principle posed by the three proposals, and set out in Section 1 of the report made in December 1978 to the Committee of Permanent Representatives.

It does not deal with a range of more detailed - and largely technical - issues, since the position to be taken on these subsidiary points seems likely to be determined by a satisfactory solution to the problems of principle.

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PROPOSED SOLUTIONS

Harmonised excise on wine

The Commission's original proposal for an excise on wine was a logical consequence of its proposal that the Community excise system should include excises on beer and alcohol. Excises on these drinks already generate in all Member States considerable tax revenues and are in any case justified on social grounds. As, in the Commission's view, all alcoholic drinks are more or less in competition, an excise on wine is a necessary complement to excises on beer and alcohol both from the standpoint of competitive neutrality and for the protection of tax revenue from excises on beer and alcohol, which are often subject to high excise rates.

Any compromise proposal on this question must safeguard the ultimate objective of tax harmonisation, which is the abolition of fiscal frontiers. A harmonised excise system is a precondition for the achievement of that objective. The question is whether a wine excise is or is not an essential part of such a common excise system. On the one hand, there is great political pressure against the introduction of a wine excise at the present time in those countries where it does not yet apply. In addition, given the continuing wine surplus, the Community's policy must be to secure some reduction in the overall level of taxes levied on wine, in order to improve outlets for wine production. On the other hand, the abolition of the excise in those countries at present taxing wine would itself be politically delicate but would in addition - and more importantly - involve massive reductions in the taxes levied by those countries on beer and alcohol.

The basic choice for the Community therefore lies between an excise system based on the taxation of all alcoholic drinks, including wine, with the level of wine taxes rather lower in some Member States than at present, or a system without an excise on wine and in consequence with beer and alcohol taxed only at modest levels. At the present time, the first course presents serious political difficulties for certain Member States. The

second course is however simply inconceivable, whether now or in the long term.

The Commission therefore proposes the immediate adoption of the draft directive on a harmonised wine excise. However, derogations should be foreseen whereby, until the abolition of fiscal frontiers at the latest, Italy may defer introduction of an excise on table and sparkling wines, Germany may defer introduction of an excise on table wines, and Luxembourg, Belgium and the Netherlands may apply the regime foreseen in Article 1, first paragraph, second subparagraph of the protocol concerning the Grand Duchy of Luxembourg to wine of category (C) of Article 3 which is of Luxembourg origin, subject to the conditions set out in Article 1 of Regulation (EEC) No. 3310/75 of the Council of 16 December 1975.

Linking of beer and wine excise rates

Italy has made acceptance of the principle of a wine excise conditional upon some overall relationship between the levels of taxation of beer and wine. The Commission shares the Italian concern to reduce the highest rates of wine excises: In December 1975, excise cuts were recommended to certain Member States; in the report for the progressive establishment of balance on the market in wine, substantial reductions of excise duties were proposed.

The Commission therefore invites the Council to adopt the attached draft resolution which provides that, first, each Member State will apply the same VAT rate to both beer and to wine, and secondly, the ratio of the excise levied on a given quantity of typical wine to the excise levied on a given quantity of typical beer shall not exceed the ratio (roughly wine 3 : beer 1) between the alcoholic strength of these drinks.

Treatment of special wines and other fermented beverages of CCT 22.05, 22.06 and 22.07

Article 6 of the original Commission proposal for the alcohol excise provided that liqueur wines and aromatised wines (e.g. Vermouth) should be taxed by reference to their alcoholic strength and at a rate of from 20% to 50% of the full alcohol rate.

The great majority of the Member States have expressed strong reservations on this proposal. Most of these Member States treat such beverages as wine and subject them to the wine taxation regime, which is frequently levied in volume terms and not by reference to alcoholic strength.

The Commission proposes that all these products, together with those fermented beverages of CCT 22.07 which are generally regarded as being competitive with them, should now be transferred from the alcohol to the wine directive, where they would constitute a third category for taxation (the other two being table wines and sparkling wines). All three categories would be subject to taxation by volume. However, Member States would have the possibility of taxing each of these three categories at a different rate. Member States would also have the possibility of subdividing the third category by reference to alcoholic strength. Finally, the rate applied, expressed in terms of alcoholic strength, should not exceed 60% of the full alcohol rate.

Taxation of beer

The Commission has proposed that beer excise should be levied on the finished product. The Commission maintains this proposal and believes that it offers the only satisfactory means for the taxation of beer in international trade.

Taxation of alcohol

The Commission maintains its proposal that the alcohol excise should be levied exclusively by reference to alcoholic strength and at a single rate per hectolitre of pure alcohol.

Application of indirect taxes, other than harmonised excises and VAT

The Commission originally proposed, in each of the harmonisation directives, that no indirect taxes, other than a harmonised excise and VAT, could be applied, whether to wine, beer or alcohol, or to wine, beer or alcohol contained in other products. This has in general proved too restrictive an approach, particularly in the case of alcohol and wine, which are frequently contained in other products subject to separate excises (e.g. chocolates, including liqueur chocolates, are subject to special excise in Denmark).

The Commission is of the opinion that a more flexible interpretation of the relevant provisions could be adopted. Corresponding draft for insertion in the Council minutes is included in Annex IV.

To summarise, the Commission proposes, with regard to the questions set out in Section I of the report to the Committee of Permanent Representatives.

Question 1

- that the Council adopt a resolution providing that the VAT rates for beer and wine should be identical and that a relationship should be established between the excise rates for beer and wine.

Question 2

- that Article 6 be deleted from the alcohol directive and that liqueur wines, fortified wines and similar 22.07 products be included in a special category in the wine directive.

Question 4

- that derogations from the application of the wine directive in respect of certain wines should be granted in favour of Germany, Italy, Luxembourg, Belgium and the Netherlands, until at the latest the date of the abolition of the charging of tax on imports and the remission of tax on exports in trade between the Member States.

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Question 7

- that a more flexible interpretation of the provisions relating to other taxes should be agreed upon.

Attached are a number of amendments to the drafts which are intended to implement the above solutions.

With regard to questions 3, 5 and 6 and as essential elements of the compromise solution, the Commission maintains its existing proposals.

This communication has been prepared for consideration at a forthcoming Council meeting on fiscal questions. In the light of discussions at that meeting of the Council, the Commission is prepared to put forward further proposals on the remaining problems covered by Section 2 of the report to the Permanent Representatives Committee.

Council Resolution of
concerning taxes on the consumption of
wine and beer

Whereas, without prejudice to the level of tax on alcoholic beverages or to the solution to be adopted for the subsequent harmonisation of excise duties on such beverages, application of the taxes on the consumption of wine and beer must not distort the conditions of competition between the two products,

Whereas, the measures to achieve this objective are likely to facilitate convergence of the national systems of taxation,

Whereas such measures may help gradually to achieve balance on the wine market,

the Council of the European Communities has agreed as follows:

1. Value added tax applied in any Member State to wine and beer must be charged at the same rate for the two beverages. Member States which, at the date of adoption of this Resolution, apply different rates to imports or supplies of wine and beer shall take the measures necessary to comply with this principle;
2. Member States which levy an excise duty on wine shall
take the measures necessary
to ensure that the ratio of the excise duty levied on a given quantity of ordinary wine to the excise duty levied on the same quantity of ordinary beer does not exceed the ratio obtained by comparing the alcoholic strengths of the two beverages.

Annex II (relating to Question 2)

WINE DIRECTIVE - PROPOSED CHANGES

Article 2

For the purposes of this Directive the term "wine" means:

- (a) Products which come under heading No. 22.05 of the Common Customs Tariff.
- (b) Products which come under heading No. 22.06 of the Common Customs Tariff and which have a maximum actual alcoholic strength of 22% by volume.
- (c) Products which come under heading No. 22.07 of the Common Customs Tariff and which have a maximum actual alcoholic strength of 22% and a minimum actual alcoholic strength of 6% by volume.

Article 3

Wine within the meaning of Article 2 shall include:

- (a) Existing text of Article 2(2)(a).
- (b) Other wines which are either:-
 - (i) liqueur wines produced in the Community and imported liqueur wines as defined by Council Regulation No. 816/70 of 28 April 1970 and No. 948/70 of 26 May 1970 respectively;
 - (ii) Quality wines produced in specified regions - other than liqueur wines - as defined by Council Regulation No. 817/70 with a total alcoholic strength of more than 15% by volume, derived from the following wine varieties: Muscat, Grenache, Maccabeo, Vermentino and Tourbat;

Annex II (contd.)

- (iii) Products coming within heading No. 22.06 of the Common Customs Tariff;
- (iv) Products coming within heading No. 22.07 of the Common Customs Tariff, which have an actual alcoholic strength greater than 12% by volume.

(c) Other wine.

Article 5

1. Member States shall fix the rate of excise duty per hectolitre of the product. All products within each of the three categories in Article 3 shall be liable to the same rate of duty. However, Member States may sub-divide the products in category (b) by reference to the actual alcohol content provided that products of the same actual alcohol content by volume belonging to that category shall be subject to the same rate of duty.
2. The incidence of excise duty on the pure alcohol content of any products in category (b) of Article 3 of this Directive shall not exceed 60% of the rate of excise duty on alcohol provided for in Article 5 of the Directive on the harmonisation of excise duties on alcohol.

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Annex III (relating to Question 4)

Wine Directive

New Article 27

1. In derogation from the provisions of this directive and until a date which shall be fixed by the Council on the basis of a proposal from the Commission, but which shall not be later than that on which the charging of tax on imports and the remission of tax on exports in trade between Member States are abolished, the Federal Republic of Germany is authorised not to apply excise duties to wine of category (c) of Article 3; Italy is authorised not to apply excise duties to wine of categories (a) and (b) of Article 3, and Belgium, the Grand Duchy of Luxembourg and the Netherlands are authorised to apply the regime set out in Article 1, first paragraph, second sub-paragraph, of the protocol concerning the Grand Duchy of Luxembourg, to wine of category (c) of Article 3 which is of Luxembourg origin, subject to the conditions set out in Article 1 of Regulation (EEC) No. 3310/75 of the Council of 16 December 1975.

2. On the basis of a report from the Commission, the Council shall review the situation concerning the derogations mentioned in paragraph 1 every 5 years and, acting on a proposal from the Commission, shall decide whether they shall be abolished.

Annex IV (relating to Question 7)

The following interpretation of the word "indirectly" in Article 35 (alcohol), Article 25 (wine) and Article 18 (beer) would be inserted in the minutes of the Council:

"Where the field of application of a tax makes no reference to alcohol (wine) (beer) and the tax is not expressed in terms of the content of alcohol (wine) (beer) then, notwithstanding that the products subject to such a tax may contain alcohol (wine) (beer), such a tax shall not be considered as indirect taxation of alcohol (wine) (beer) in the sense of these Articles".

