

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (80) 69 final

Brussels, 27 June 1980

PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE
72/464/EEC ON TAXES OTHER THAN TURNOVER TAXES WHICH
AFFECT THE CONSUMPTION OF MANUFACTURED TOBACCO

(Submitted by the Commission to the Council)

COM (80) 69 final

Explanatory memorandum

I. Introduction

1. One of the general principles laid down by Council Directive 72/464/EEC of 19 December 1972 is that the excise duty on cigarettes shall be made up of two components: a specific component and a proportional component. The Directive also stipulates that the amount of the specific excise duty and the rate of the proportional excise duty must be the same for all cigarettes. Although it does not fix the ratio between these two components, the Directive does, however, provide that, at the final stage of harmonisation, that ratio must be such that the range of retail selling prices reflects fairly the difference in the manufacturers' delivery prices (Articles 4 and 5 of the Directive).

In view of the substantial differences between Member States as regards the fixing of this ratio, the Council decided that the excise duty was to be harmonised in several stages and that the transition from one stage of harmonisation to the next was to be decided on by the Council, acting on a proposal from the Commission and taking into account the effects produced by the measures introduced by the Member States during each stage (Article 1(4) of the Directive).

2. The first stage began on 1 July 1973 and was initially to last two years. After four extensions, it was completed on 30 June 1978. During this stage, the specific component of the excise duty was, in each Member State, to be brought within a bracket of between 5% and 75% of the total excise duty levied on cigarettes in the most popular price category.

3. The second stage of harmonisation, instituted by Directive 77/805/EEC of 19 December 1977, which supplemented the basic Directive of 19 December 1972, took effect on 1 July 1978 and will run until 31 December 1980. During this stage, the amount of the specific excise duty levied on cigarettes in the most popular price category must be not less than 5% and not more than 55% of the total tax charged (excise duty + VAT).

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II. Effects of the second stage

4. The structure on 1 January 1980 of the prices of the "most popular" cigarettes and the charges levied on them are given for the different Member States in Table 1, annexed hereto. The table shows that five Member States (the Benelux countries, France and Italy) apply specific components close to the authorised minimum of 5%⁽¹⁾, while the remaining four Member States (Federal Republic of Germany, Denmark, United Kingdom and Ireland) apply a specific component close to the authorised maximum of 55%⁽²⁾.

5. Data on the pattern of cigarette imports in the period 1976-78 are given in Table 2.

6. Table 3 gives for each Member State a breakdown of retail prices into the non-tax portion (producer price plus manufacturing and distribution margins) and the tax portion (VAT and excise duty) for the period July 1973 to July 1979.

7. Judging by the information received by the Commission from the Member States, the effects of the measures introduced by them during the second stage have been very limited. These measures:

(a) have had no substantial impact on national cigarette markets or tax revenue;

(b) have, in most cases, affected market interpenetration only very slightly;

(c) have not substantially affected the ranges of retail prices.

(1) On 1 January 1980, the Netherlands raised the specific component from 5% to 10% of total tax.

Since Italy continues to apply a specific component of less than 5%, the Commission has decided to initiate infringement proceedings against this Member State. The Italian Government has prepared a draft law providing for the introduction of a specific component of 5%.

(2) On 1 January 1980, the Federal Republic of Germany reduced its specific component from 51% to 40% of total tax.

8. This is not to ignore the significant changes which have taken place in the structure of both the United Kingdom and Irish markets. However, it should be noted that these changes, which have in both cases considerably compressed the price range, arose from the substitution of end-product taxation for taxation of the raw tobacco, a step which was accepted in principle in 1972 but which, owing to the five-year derogation that was granted for its implementation, coincided with the changeover to the second stage or was still affecting the market at that time.

9. Also, the increase in imports has been particularly noticeable in France and Italy. As there are State monopolies in both countries, it is difficult to compare this trend with the trend of imports in the other Member States, where foreign manufacturers are allowed to set up manufacturing units instead of having to export to these markets.

III. Further harmonisation

10. Experience has shown that the approach of advancing by modest steps is very laborious and gives rise to at least as much, if not more, difficulty in negotiations than the alternative approach of defining the final objective in advance. Both approaches require compromise solutions, whether on the intermediate or the final objective.

11. The uncertainty attaching to this process is of particular concern to producers. Given the very high proportion of tax in the aggregate cigarette price and the long lead-times necessary for investment and for changes in marketing policy, lack of certainty as to the final stage of harmonisation is rightly a source of concern for the industry. Since 1973, the private producer associations have, on more than one occasion, called for a decision on the final stage.

12. In addition, although it has been possible until now - owing to the wide differences in the specific component which are still permitted - not to prejudge the importance of the specific component at the final stage, the margin for manoeuvre will be progressively reduced and the need for

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agreement on the final stage will become increasingly pressing in the stages ahead. Since 1975, all the Member States' delegations, although unable to indicate a figure to which they could have agreed, have stressed the need to fix the final objective.

13. For these reasons, the Commission has considered whether this approach could be significantly improved. Ideally, a decision on the final stage, taken now, would remove uncertainty and would certainly speed up the process. But it has to be recognised that there is a certain contradiction between the fixing in advance of the final objective, and a process of moving to the next stage in the light of experience during the stage in force. Moreover, notwithstanding the first two stages, price ranges still differ considerably, and the degree of market interpenetration overall is not great. Even if the final objective were fixed now, experience with the first two stages has shown that a lengthy period of adaptation will be required before that objective can be attained. Finally, the cigarette markets in a number of Member States are in a process of rapid change, due in particular to changes in consumer tastes and to measures arising from concern over health. These processes are bound to interact with changes in the tax structure. Consequently, to fix the final objective definitively at this stage could prove to be premature.

14. The Commission has therefore concentrated on calculating the specific element to apply at the final stage, but which should at present serve only as a reference point. At this stage, the Council is not invited formally to adopt this final stage figure. This approach avoids the risk of fixing the final objective prematurely, but serves considerably to reduce the uncertainty which has so far obtained.

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15. Finally, on a more general level, the presentation of this proposal, which responds to a specific legal and political obligation to extend the "acquis Communautaire", in no way implies the accordance by the Commission of a priority for harmonising the excises on tobacco above that accorded to excises on alcoholic drinks, in particular those on wine and alcohol. If excise harmonisation helps to strengthen the common market in tobacco products, it will do the same for drinks and, so far as wine is concerned, will help in securing improved outlets. To this end, the Commission has utilised, since the presentation in 1972 of its harmonisation proposals, all the political and juridical means at its disposal. In particular, in June 1979, it submitted to the Council a proposal for a global compromise (Doc. COM(79) 261 final) and, on another level, has brought before the European Court actions against five Member States for breach of Article 95 of the Treaty. The decisions given by the Court on these actions on 27 February confirm the soundness of the Commission's approach.

IV. Structure of the excise duty on cigarettes at the final stage

16. Article 4(3) of Directive 72/464/EEC stipulates that, at the final stage, the ratio between the proportional excise duty and the specific excise duty shall be established in such a way that "the range of retail selling prices reflects fairly the difference in the manufacturers' delivery prices".

17. The interpretation to be placed on the word "fairly" can only be a matter of judgment. The first two stages were decided on not only in the absence of any final objective but also without agreement on the precise interpretation to be given to the guiding principle embodied in Article 4(3) of the First Directive. Under the circumstances, it is hardly surprising that the agreement reached during each of the two stages to date was arrived at by reference to the points of departure rather than to a point of arrival. It is implicit in such an approach that the moves made at each stage by Member States starting from opposite extremes of the specific component range will require broadly comparable degrees of adaptation.

18. The obvious drawback of this approach is that the final system will by and large turn out to be the point at which all Member States will have made changes of more or less equal importance in their original systems, rather than the result of agreement as to what would constitute an optimum Community system for taxing cigarettes. However, the original system in each Member State was - presumably - optimum for its individual needs. Moreover, a wide range of factors other than the excise system - such as the level of taxation, whether the market is dominated by State or private manufacturers, whether or not prices are controlled, the limitations imposed

on advertising -- are also key determinants in the structure of a given market, and all vary from one Member State to another. Consequently, since these factors are not harmonised, the only possible basis is the same as in the past -- that is, a process of broadly equal efforts of adaptation by the Member States.

19. During work on the second stage, much energy was devoted to attempts to measure and to balance the efforts required of each Member State. It should be noted here that there is no single "ad valorem market" and no single "specific market", but five markets, each different, operating primarily under the ad valorem system and four other markets, also different from one another, operating systems characterised by a proportionately high specific excise duty. Each of these nine markets has its own peculiarities, not least where tax levels and the price range are concerned. Bearing in mind Article 4(3) of the First Directive, the ideal approach to fixing the final stage would be to measure the efforts required of each Member State by the actual changes made to the retail selling price range, as compared with the range of prices exclusive of tax if tax structures and levels are changed.

20. Unfortunately, as mentioned above, the markets concerned differ considerably as regards tax levels, retail price ranges, prices exclusive of tax (even for the same brand of cigarettes), etc. It is impossible to predict with any degree of certainty the actual effects that a change in tax structure will have on the markets without knowing how manufacturers will react when determining retail selling prices or delivery prices exclusive of tax and how the Governments will react when fixing the absolute level of taxation.

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21. The assessment of the balanced efforts to be required of each Member State should be determined in the light of all the factors that may influence the markets. However, during the previous stages of harmonisation, it proved impossible to measure the impact of all these factors. Such an assessment also meets with the difficulty that the major parties involved (manufacturers and governments) are themselves not in a position to provide precise information regarding future developments.

Accordingly, the Commission is obliged to adopt a partial approach based on general assumptions, notably concerning the constant tax burden of the most popular price brand.

22. For each Member State, the Commission has calculated, on the basis of the multiplier effect of the taxes, the partial changes in the retail price ranges implied by the different tax structures. The calculations were based on the assumption that the total tax burden on cigarettes in the most popular price category remains unchanged in each Member State, with the only change considered being a change in the ratio of specific tax to proportional tax in the total tax burden. Changes in the "multiplier" can be calculated by using the formula $\frac{1}{1 - \frac{x}{100}}$ (where x is the sum of the proportional components.)

The total multiplier⁽¹⁾ reflects the following ratio:

retail selling price of cigarette x - retail selling price of cigarette y
price exclusive of tax of cigarette x - price exclusive of tax of cigarette y
or, to use the words of Article 4(3) of Directive 72/464/EEC, the ratio of the differences (range) in retail selling prices to the differences in the delivery prices of cigarettes.

(1) The total multiplier takes into account all the proportional components, including the proportional component representing the distributor's margin, whereas the tax multiplier takes into account only the proportional component of the excise duty and VAT.

As a result, the figure given for the tax multiplier is always lower than that given for the corresponding total multiplier.

The multiplier can also be used to work out for each Member State the percentages of specific taxation and ad valorem taxation in the total tax burden that would produce a theoretical mean price range mid-way between the two extreme ranges that can be applied at present.

Graphs for the nine Member States are given in the Annex.

23. The graphs were drawn, for each Member State, on the basis of retail selling prices on 1 January 1980. The distributor's margin used in the calculations was obtained either explicitly from information supplied by the Member States or implicitly by difference. The prices in the graphs are not weighted by market share since a fair reflection of the difference in manufacturers' delivery prices in the retail selling price range (as required by Article 4(3) of the First Directive) should, in the Commission's view, attach equal weight to each price category on the market.

For the purpose of comparing the effects on the price range, each graph gives the average variation for initial specific tax parameters ranging from 5% to 55% of total tax.

24. The graphs show that:

- (a) the effect of an increase in the specific component on a "proportional" market (France, Italy, Benelux) should be to compress the retail selling price range and that the effect of an increase in the proportional component on a "specific" market (United Kingdom, Ireland, Federal Republic of Germany, Denmark) should be to widen the retail selling price range;
- (b) the simple arithmetical identity of the changes in the threshold (5%) and ceiling (55%) parameters for the specific component does not in all cases entail identical efforts on the part of the Member States, since these differ according to whether the changes are made close to the threshold figure or the ceiling figure; the effect in changing the price range as the specific component is changed is much more marked between 5% and 20% than between 55% and 20%;

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(c) taking the present 5-55% spread for the specific component as the starting point for determining the final ratio between the specific element and the total tax burden, the mean price range corresponds to the specific components and multipliers given below:

Mean price range produced by:

	<u>a specific component* of:</u>		<u>a multiplier* of:</u>	
Belgium	19%	(20.8 %)	3.07	(2.29)
Denmark	12.9%	(15.5%)	5.81	(3.97)
Federal Republic of Germany	19.2%	(21.3%)	3.02	(2.24)
France	19%	(20.8%)	3.02	(2.36)
Ireland	21.4%	(23 %)	2.47	(1.94)
Italy	18.2%	(20.6%)	3.34	(2.39)
Luxembourg	21.6%	(23.2%)	2.45	(1.88)
Netherlands	18.8%	(21%)	3.15	(2.30)
United Kingdom	19.4%	(21.5%)	2.96	(2.21)

*The figures in brackets do not appear in the graphs at Annex. They are obtained by taking only the proportional tax components (tax multiplier).

(d) the specific component that, in theory, makes for the most balanced efforts with regard to the price ranges is equal to around 20 % of total tax.

25. Accordingly, the Commission concludes that the ratio between the specific component of the excise duty and the total tax burden to apply at the final stage should be 20 %.

26. By way of comparison, the average total multiplier (in Table 4), based on a tax incidence of 70%, a distribution margin of 10% and parameters of 0% to 100% for the specific component, gives a specific component of 18.2% for an average multiplier of 3.055. Using the range 5 to 55% as starting parameters, the average total multiplier is almost identical (2.98) to that obtained using parameters of 0% to 100% for the specific component.

It should be noted in this case, that, if the 10% distribution margin is disregarded, the purely tax multiplier is equal to 2.27.

27. During work on the second stage of harmonisation, the Economic and Social Committee had suggested the possibility, for the final stage, of fixing the incidence (i.e. the rate) of the proportional tax component on retail selling prices rather than the ratio of the specific to the proportional component. This suggestion was taken up recently by the associations representing tobacco manufacturers in seven Member States. If this solution were adopted, it would be possible to retain differing tax burdens but not to apply different tax multipliers.

The Commission notes that an approach of this kind is not consistent with the method laid down by the Council in Article 4 of Directive 72/464/EEC: and it is this method that is still the keystone of the harmonisation process. In any case, while a solution along these lines could be attractive for tobacco manufacturers, provided the tax multiplier was small (less than 2, i.e. with the sum of the proportional components being less than 50 %), it would hardly smooth the way to agreement between the Member States, who hold quite different views as to what the common multiplier should be.

28. As stated in paragraph 14, the Commission does not intend at this stage to propose formal adoption by the Council of the 20 % figure. Nevertheless, this figure has been used as the reference point in drawing up the parameters for the specific component during the third stage. Ranges of 7.5% - 42.5 % and 10% - 35% lie precisely on the curves linking the present 5 - 55% range with the single 20% figure, and these are the ranges which have been proposed for the third stage.

V. Length of the third stage

29. The first stage covered a period of five years, running from 1 July 1973 to 30 June 1978. The second stage is planned for a period of two and a half years, running from 1 July 1978 to 31 December 1980.

One Member State (Holland) has already attained the 10 % - 35 % range set for the third stage. Another (Germany) is already within the intermediate range of 7.5 % - 42.5%. It might therefore be suggested that the move to a 10% - 35 % range could be achieved fairly quickly.

30. However, looking to the Member States as a whole, a range of 10 % - 35% represents a considerable change from the present situation. Two factors should be borne in mind. First, the adaptation to a 5 % - 55% specific, expressed as a percentage of the total tax including VAT, has already required 7 years. Secondly, the movement required to arrive within a range of 10 % - 35 % cannot be regarded in simple arithmetic terms. The effect of the move, at the lower end, from 5 % - 10 % specific, is comparable to the effects of the move in the first two stages from a wholly ad valorem tax to a specific component of 5 % of total tax. The effect of the move from 55 % down to 35 % is also close to the effects of the move from a wholly specific tax down to a specific component of 55 % of total tax. The Commission therefore proposes that the third stage should run from 1.1.1981 to 31.12.1986. Moreover, in view of the relative amplitude of this stage and of their widely differing situations, it is desirable to leave to the Member States a considerable degree of flexibility in the timing of the move from their present position to the 10 % - 35% range.

31. The Commission therefore proposes as a derogation that, until 31.12.84, Member States may retain a specific component outside the 10% - 35 % range, on condition that, between 1.1.1981 and 31.12.1982, the component falls within the present 5% - 55 % range, and between 1.1.1983 and 31.12.1984, the component falls within a range of 7.5 % - 42.5 %. For the remaining two years of the third stage, from 1.1.1985 to 31.12.1986, the 10 % - 35 % range will apply without exception. These proposals combine the maximum possible degree of flexibility for the Member States with the guarantee of a progressive convergence.

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32. It goes without saying that a Member State should not jeopardise the process of smooth adjustment by deviating temporarily from the final objective. For this reason, the proposal for a Directive prohibits any backward steps.

VI. Other matters

33. Although the main problem to be resolved for the third stage is that of the ratio of the specific to the ad valorem component, certain other technical problems should be tackled at the same time.

In this connection two questions arise:

- (a) whether the right to exclude customs duties from the basis of calculation of the ad valorem excise duty on cigarettes (Articles 9 and 10 b(4) of Directive 72/464/EEC) should continue, or should now be abolished;
- (b) the fixing of the level of the minimum excise duty to apply in the third stage (Article 4(4) of Directive 72/464/EEC).

34. As regards the exclusion of customs duties, the following observations can be made.

The customs duty on cigarettes specified in the Common Customs Tariff is currently very high (90%). It is of course calculated only on the value for customs purposes, whereas the proportional excise duty and VAT are calculated on the retail selling price, inclusive of all taxes and charges. This method of calculating excise duty and VAT which, depending on the country, account for between 61% and 88% of the retail selling price, has the effect of increasing the incidence of the customs duties (90 %) to a much higher figure that may reach 150% or more of the value for customs purposes.

On the other hand, the general rule is that customs duties on imports are taken into account in fixing the basis of assessment on which such internal taxes are charged. In the case of VAT, this rule is formally confirmed by the Sixth Directive of 17 May 1977. It is questionable whether a derogation from this rule that is confined to the proportional excise duty is still justified.

For this reason, the Commission takes the view that the right to exclude customs duties from the basis on which the ad valorem excise duty on cigarettes is calculated should not be renewed.

35. As regards the second point, Directive 72/464/EEC provides that a minimum excise duty may apply, the ceiling for which shall be fixed by the Council for each stage. For the first two stages, the ceiling was set at 90% of the aggregate amount of the proportional and specific excise duties levied on cigarettes in the most popular price category.

Only five Member States have incorporated this provision into their national legislation:

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Belgium	BFR 0.968 per cigarette	=	90%	of the normal excise duty
Luxembourg	LFR 0.42 " "	=	59%	" " " " "
Netherlands	FL 0.03948 " "	=	58%	" " " " "
France	FF 0.030 " "	=	60%	" " " " "
Federal Republic of Germany	DM 0.075 " "	=	89%	" " " " "

These figures show the position on 1 January 1980.

The imposition of a minimum excise duty guards against a fall in tax revenue as a consequence of the sale of unusually cheap cigarettes. At the same time, in fixing the ceiling for the minimum excise duty at a level below that of the excise duty levied on the most popular price category, a limit is set to the levying of excessive taxation on cheaper cigarettes.

In practice, this safeguard is of value only when the excise duty includes a high proportional component: this fact is borne out by the absence of a minimum excise duty in those Member States which still apply a predominantly specific tax. Even in those countries applying a minimum excise duty, its usefulness will tend to decline as an increasing specific component reduces the multiplier effect in their system.

36. To date, the Commission is unaware of any difficulties having been caused in trade between the Member States by the minimum excise duty, doubtless because the selling price of imported cigarettes is never fixed at a level lower than that of the most popular price category. This situation may, however, change in the future as a result of exporters' and importers' marketing strategies. For this reason, the present rules governing the minimum excise duty might prove to be a source of difficulty in the future.

Lastly, one argument advanced in favour of a system in which the ad valorem excise duty is predominant is that a system of this kind guarantees a wide range of prices for the consumer. The minimum excise duty contradicts this philosophy by artificially limiting the scope for price competition.

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37. These various arguments, which do not all point in the same direction, have prompted the Commission to propose that the ceiling of the minimum excise should be reduced to 80 % of the "normal" excise duty at the outset of the third stage.

38. In addition to the two matters discussed above, there is the problem of harmonisation of the rules for collecting the excise duty. Article 6 of Directive 72/464/EEC stipulates that harmonisation of these rules must be completed not later than the final stage.

The solution of this problem is not conditional on the fixing of the ratio between the specific component and the ad valorem component and it could therefore be left until the final stage enters into effect. However, the importance of harmonising the rules for collection of the excise should not be under-estimated. Given the generally high incidence of the excise in all Member States, small differences in collection methods - for example - different periods for payment of the excise - can have a significant impact on producers. Harmonisation of these rules could therefore considerably assist the convergence process. The Commission therefore considers that examination of this question should begin during the third stage, and proposes that a separate directive on the rules of collection should enter into force by 1.1.1985 - that is, the date on which all Member States are obliged to apply the 10 % - 35% range.

This is the purpose of Article 2.

Table 1

"Popular" cigarettes (20): Price and tax structureSituation as at 1.1.1980

	Retail selling price		TAX PORTION							NON-TAX PORTION					
	in national currency	in EUA	Excise duty		Total excise duty %	VAT %	TAX TOTAL		Spec. component of excise duty as % of total tax	TOTAL		Share accounted for by manufacturer		Share accounted for by distribution (wholesale + retail)	
			Spec. (1000 cigs.)	Ad. val (% of retail price)			%	EUA		%	EUA	%	EUA	%	EUA
BELGIUM	BFR 41(25)= BFR 32.80(20)	0.813	BFR 59	62.05	65.65	5.66	71.31	0.580	5.04	28.69	0.233	18.99	0.154	9.70	0.079
LUXEMBOURG	LFR 30(25)= LFR 24(20)	0.595	LFR 48	55.55	59.55	2.00	61.55	0.366	6.5	38.45	0.229	27.45	0.163	11.00	0.066
NETHERLANDS	HFL 3(25)= HFL 2.40(20)	0.877	HFL 8.60	49.80	56.97	14.70	71.67	0.629	10.00	28.33	0.248	18.33	0.161	±10.--	0.087
FRANCE	FF 2.50	0.431	FF 4.54	43.57	47.20	25.45	72.65	0.313	5.00	27.35	0.118	19.35	0.084	8.00	0.034
F.R. GERMANY	DM 2.85	1.146	DM 41	30.1	58.87	11.50	70.37	0.806	40.89	29.63	0.340	19.63	0.225	±10.00	0.115
ITALY	Lit 600	0.517	Lit 518	56.2	57.93	15.25	73.18	0.378	2.361)	26.82	0.139	16.67	0.086	10.15	0.053
DENMARK	DKR 16.50	2.137	DKR 401.1	23.04	71.65	16.84	88.49	1.891	54.94	11.51	0.246	5.80	0.124	5.71	0.122
UNITED KINGDOM	UK£ 0.66	1.021	UK£ 11.77	21.--	56.66	13.04	69.71	0.712	51.17	30.29	0.309	20.29	0.207	±10.00	0.102
IRELAND	IRL£ 0.54	0.804	IRL£ 9.1	20.2	53.88	9.09	62.97	0.506	53.50	37.03	0.298	27.03	0.218	±10.00	0.080

delay in implementing Directive

Table 2

Taxed cigarette consumption in the Community

(in million)

1976				1977				1978			
Total	of which imports		% imports	Total	of which imports		% imports	Total	of which imports		% imports
	EEC	other			EEC	other			EEC	other	
B. 19 630	} 2 244	} 5	11.1	18 116	} 2 559	} 1	12.9	15 980	} 2 198	} -	12.9
L. 579				1 735				1 072			
NL. 22 523	8 313	54	37.1	26 875	12 014	74	45.-	23 463	?	?	?
F. 81 268	8 405	30	10.4	83 899	10 836	14	12.9	82 478	13 241	13	16.1
I. 89 737	18 653	11	20.8	90 286	20 159	0.8	22.3	88 821	22 420	0.01	25.2
D 129 097	1 382	88	1.1	116 123	1 282	92	1.2	123 342	1 382	121	1.2
DK. 7 820	461	281	9.5	7 594	477	206	9.-	7 401	444	305	10.1
UK 135 000	1 400	600	1.5	124 920	1 315	595	1.5	125 690	2 235	600	2.3
IRL. 7 486*		388*	5.2	7 258*		281*	3.9	7 656	?	?	?
Total EEC 493 140				476 806				475 903			
World: over 4 million (estimate)											

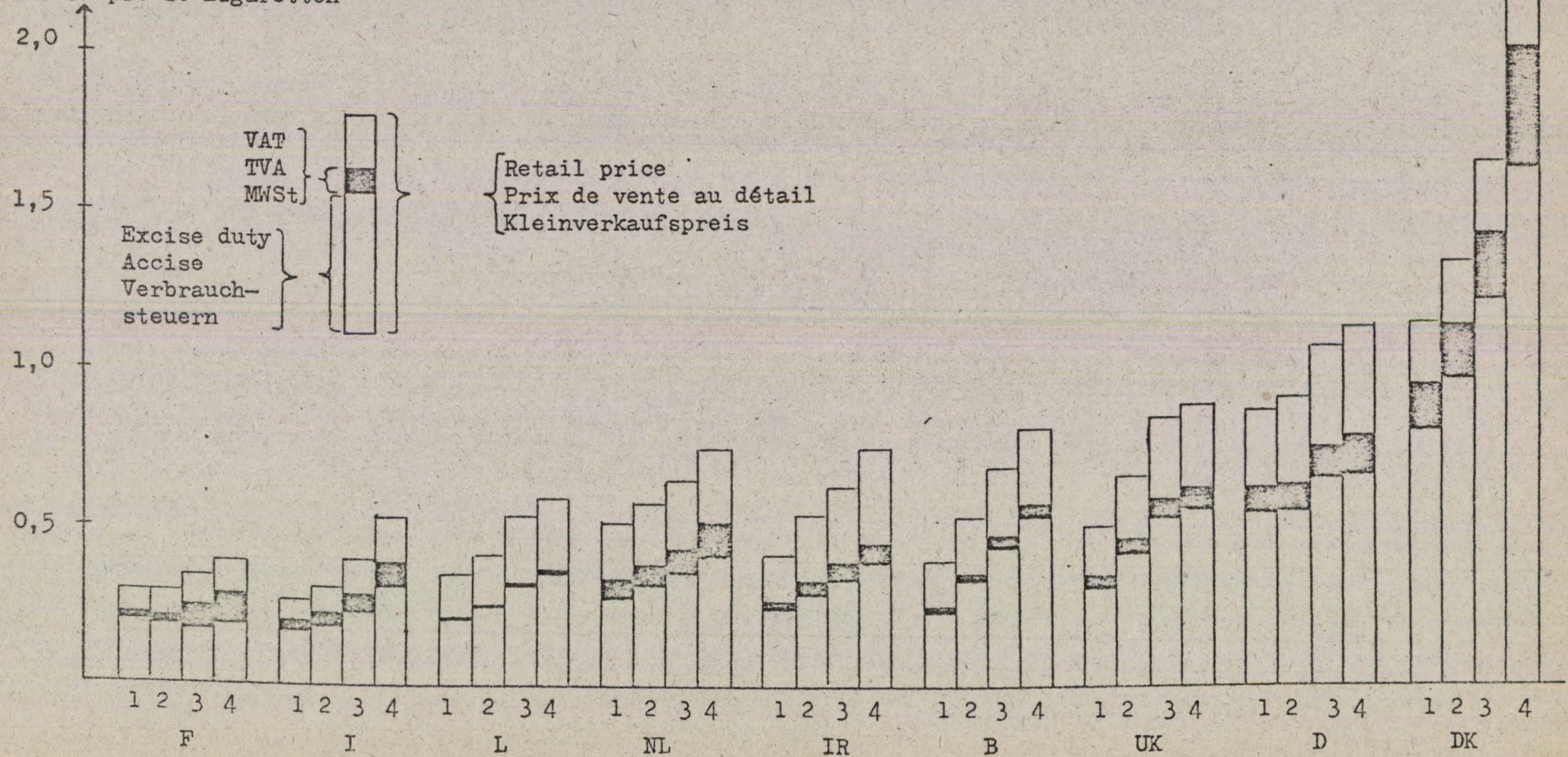
*Commission estimates

Retail price on cigarettes in the most popular price category

Prix de vente au détail des cigarettes de la catégorie de prix la plus demandée

Kleinverkaufspreis für Zigaretten in der meistgefragten Preisklasse

EUA* per 20 cigarettes
 U.C.E.* per 20 cigarettes
 E.R.E.* pro 20 Zigaretten



1 : 1.7.1973 2 : 1.7.1975 3 : 1.7.1977 4 : 1.7.1979

*Currency 2 July 1979 of No. C 166/5; Parité 2 juillet 1979 JO No. C 166/5; Währung 2 Juli 1979 Abl. Nr. C 166/5

EEC Multiplier

Based on tax incidence of 70 % and distribution margin of 10 % of retail price.

Table 4

Multiplicateur CEE

Basé sur charge fiscale de 70 % et marge de distribution de 10 % du prix de vente au détail.

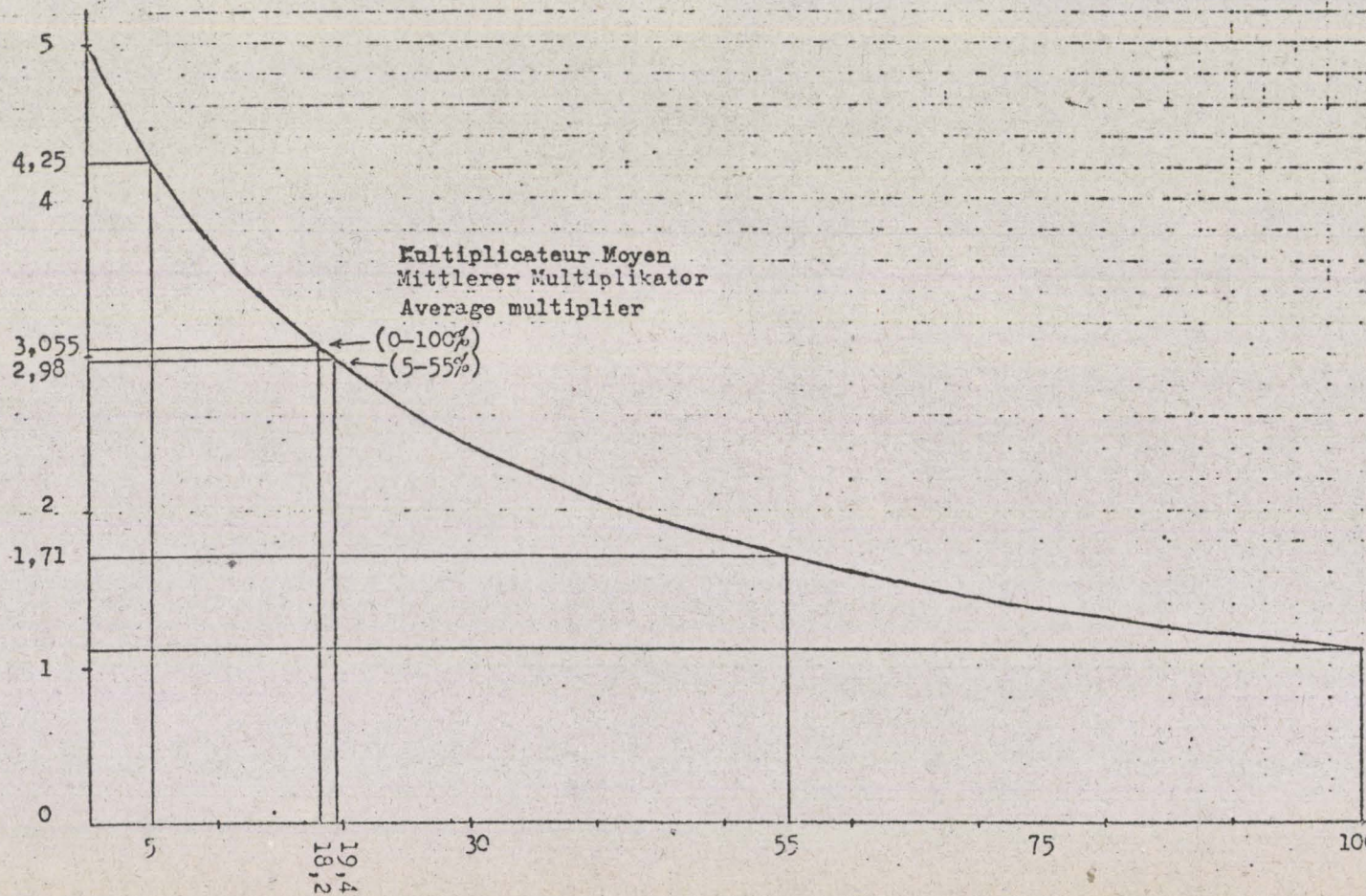
Tableau 4

EWG-Multiplikator

Gestützt auf eine Steuerinzidenz von 70 % und eine Handelsspanne von 10 % des Kleinhandelspreises

Tabelle 4

Multiplieur



Multiplicateur Moyen
Mittlerer Multiplikator
Average multiplier

(0-100%)
(5-55%)

Spécifique Steuer
in % der Gesamtsteuer
Specific tax as
% of total tax
% de taxe spécifique
par rapport à taxe
totale.

ANNEXE

ANLAGE

Price ranges implied by different specific elements
as a proportion of total tax

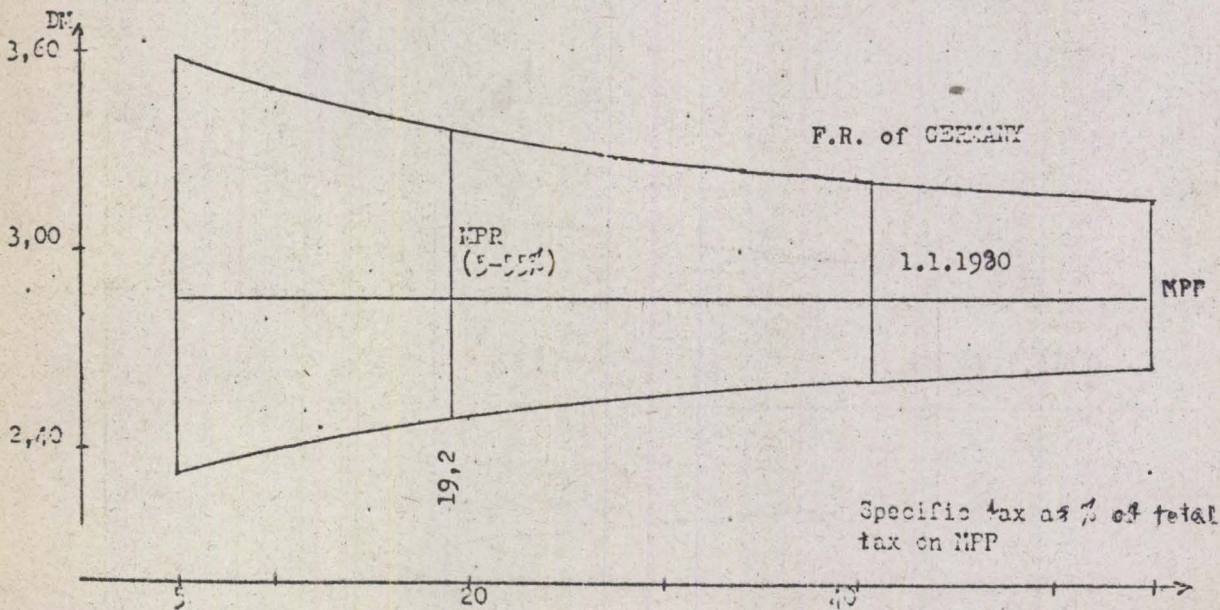
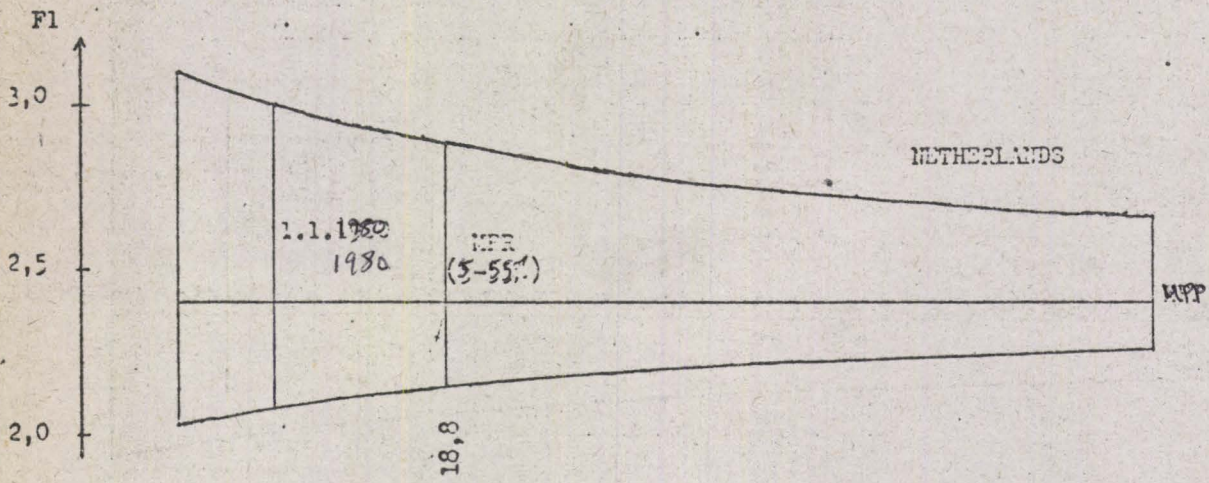
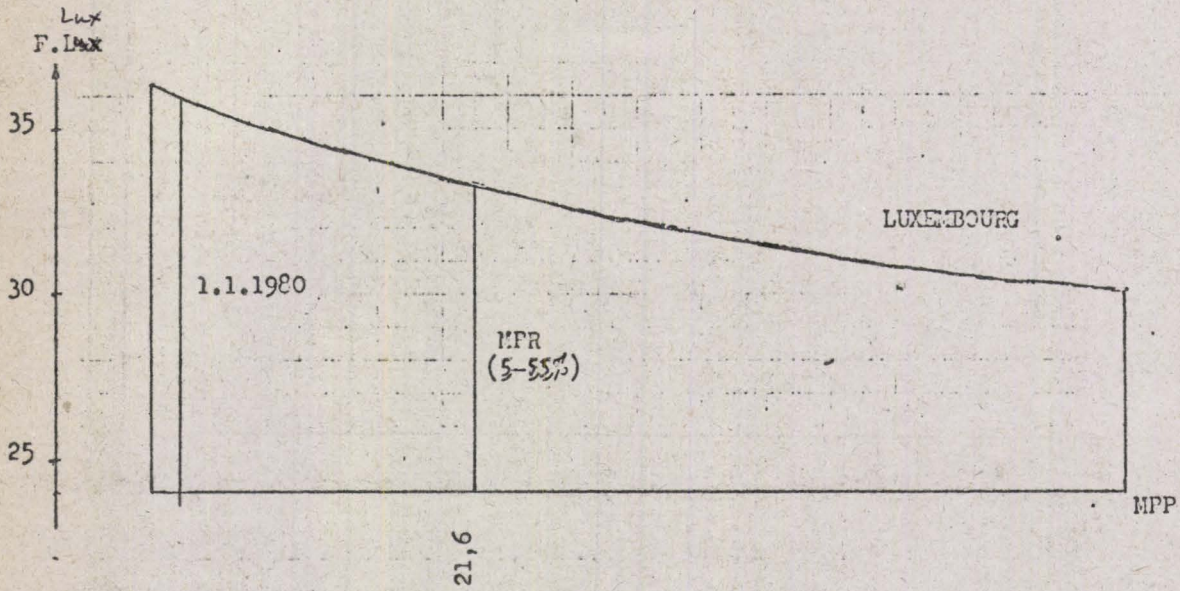
Eventails de prix résultant de différents éléments spécifiques
par rapport à la charge fiscale totale

Preisfächer als Ergebnis verschiedener spezifischer Steuerelemente
im Verhältnis zur Gesamtsteuerbelastung

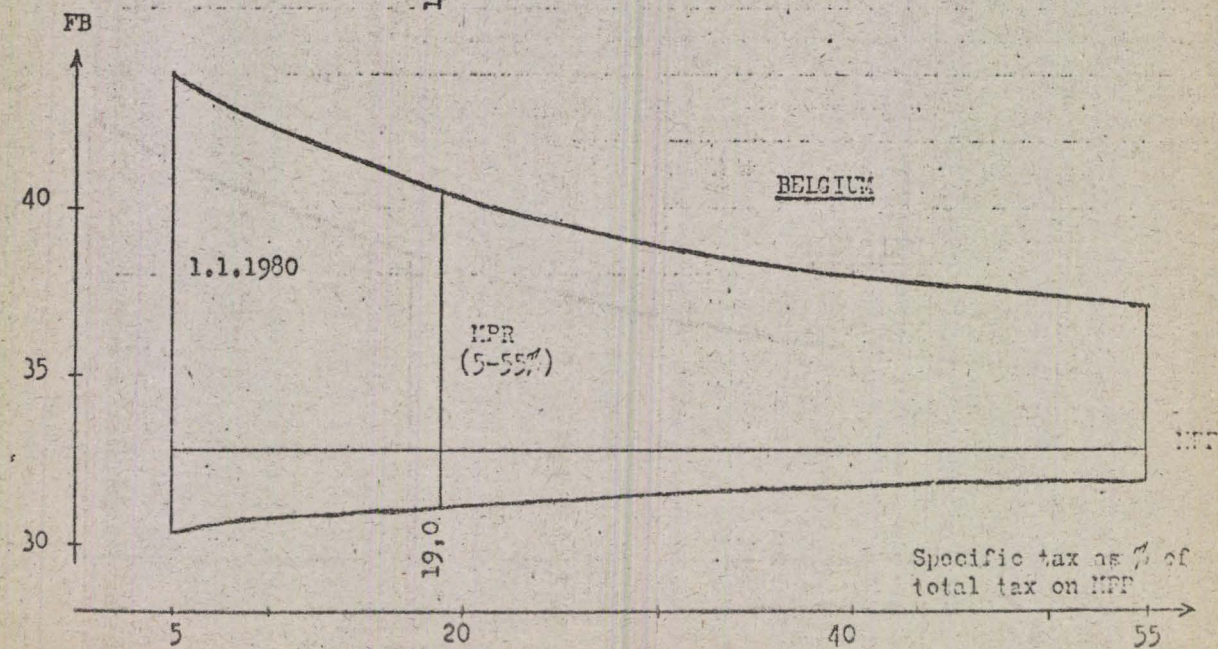
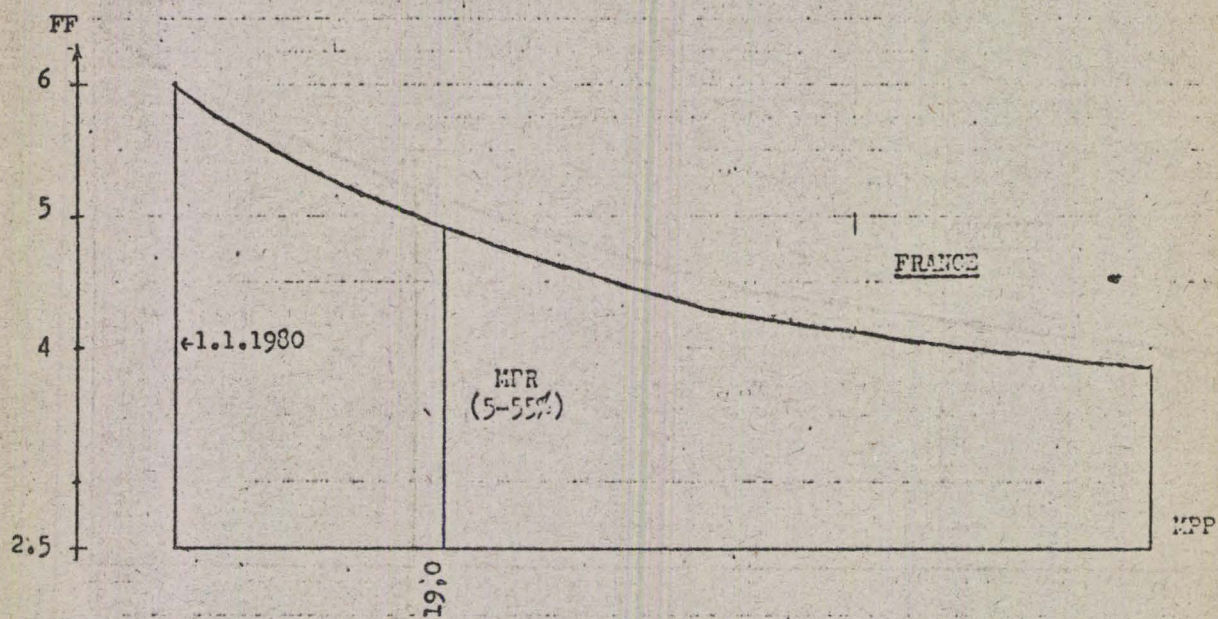
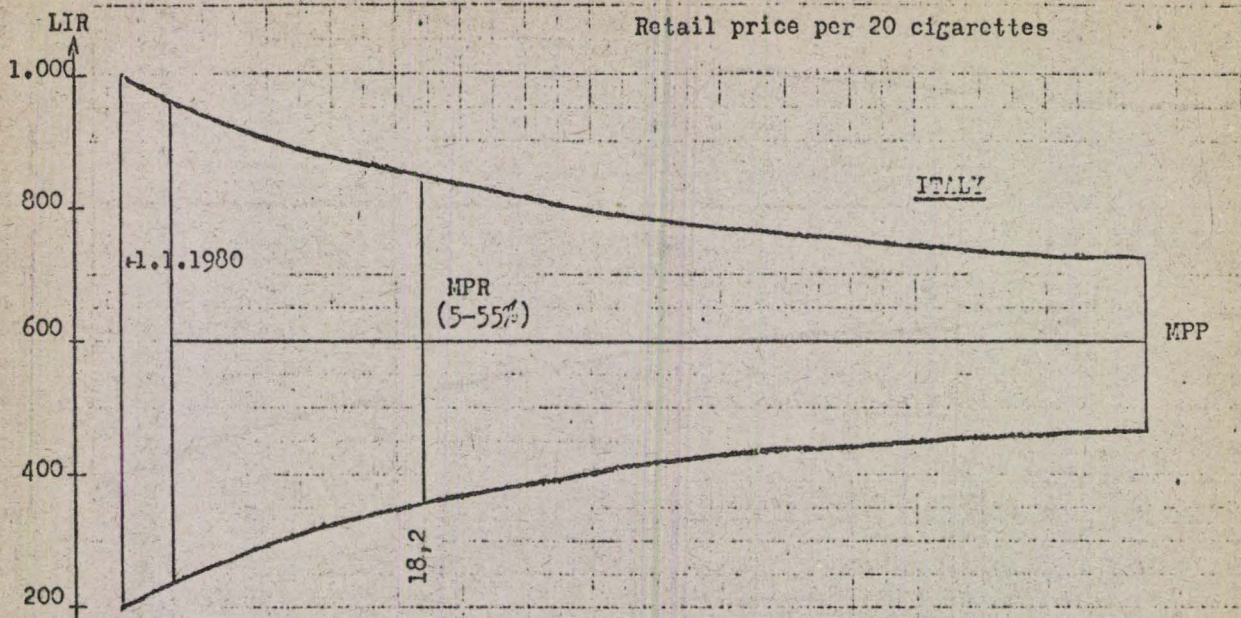
MPP = Most popular price category
Populaereste prisklasse
Caégorie de prix la plus demandée
Classe del prezzo più richiesta
Meest gevraagde prijsklasse
Meistgefragte preisklasse

MPR = Mean price range
Middel vaerdi for detailprisomraadet
Eventail moyen de prix de vente au détail
Gamma media dei prezzi di vendita al minuto
Gemiddelde kleinhandelsprijzengamma
Mittelwert des Kleinverkaufspreisfächers

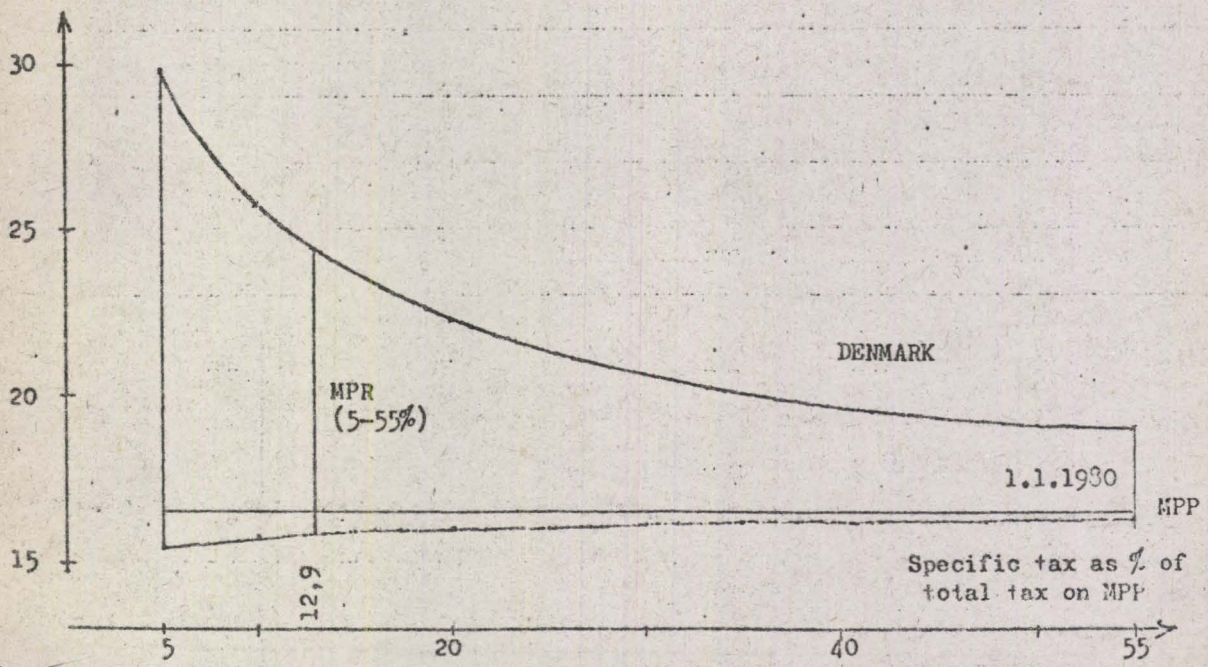
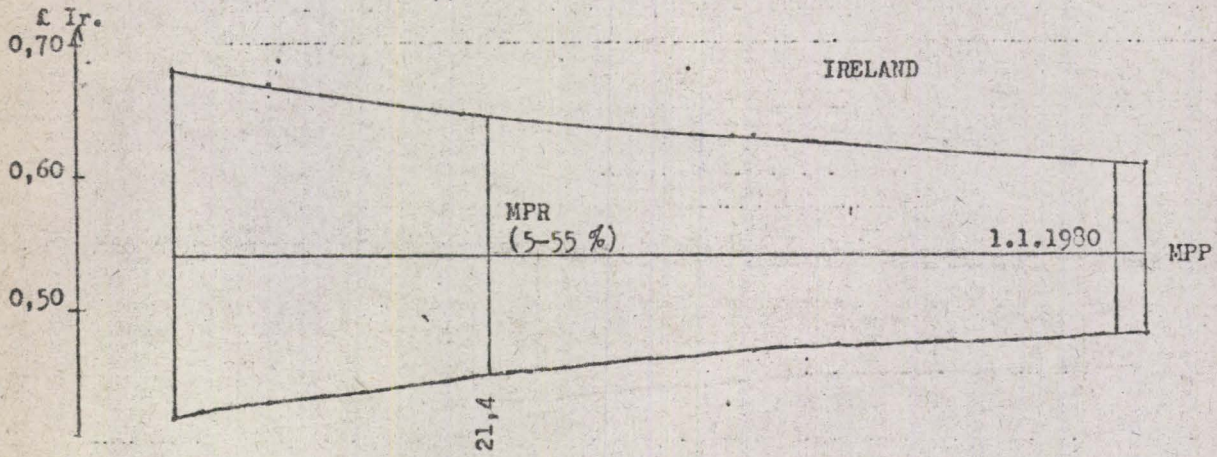
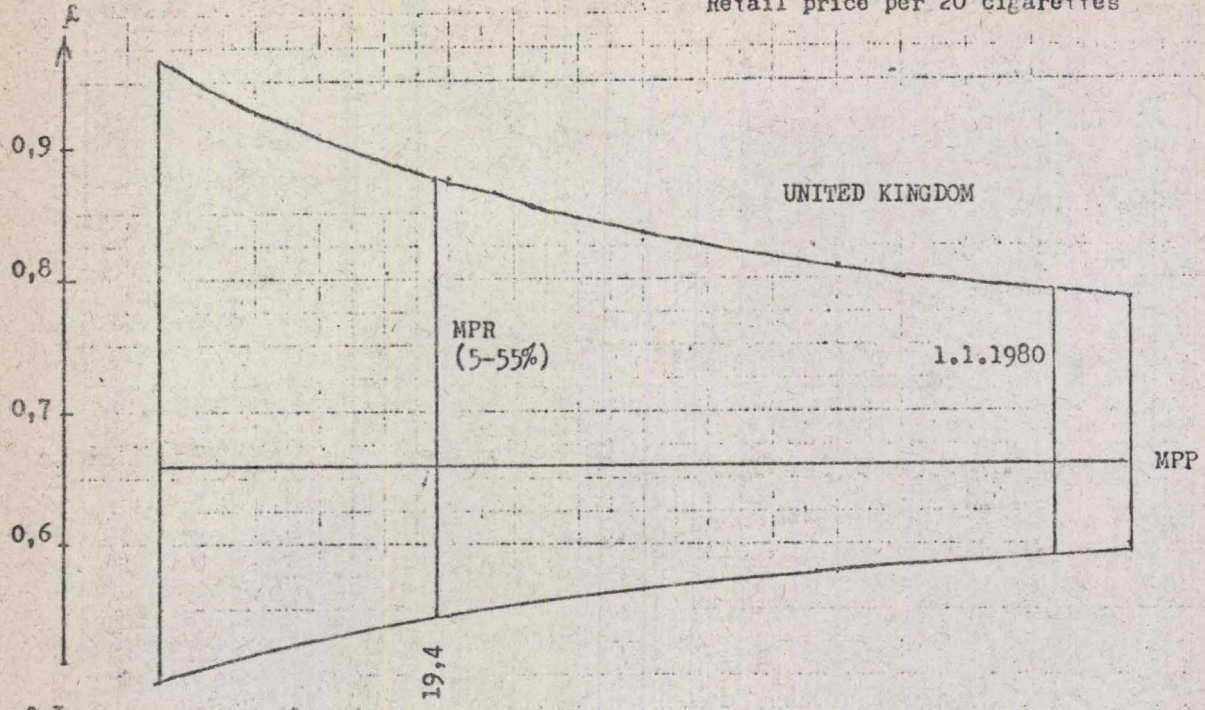
Retail price per 20 cigarettes



Retail price per 20 cigarettes



Retail price per 20 cigarettes



22

Proposal for a Council Directive
of
amending Directive 72/464/EEC on taxes other than
turnover taxes which affect the consumption of
manufactured tobacco

The Council of the European Communities,

Having regard to the Treaty establishing the European Economic Community,
and in particular Articles 99 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, in accordance with Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco⁽¹⁾, as last amended by Directive 77/805/EEC⁽²⁾, the transition from one stage of harmonisation to the next shall be decided on by the Council on a proposal from the Commission, taking into account the effects produced during the stage in progress;

Whereas the special criteria applicable during the second stage, which expires on 31 December 1980, have made possible a further approximation of the structures of the excise duties levied by Member States on cigarettes, without the tax revenue of the Member States or the conditions obtaining on their markets being significantly affected;

Whereas, in these circumstances, it is possible to adopt the provisions applicable during the third stage so as to move towards a common structure of the excise duties on cigarettes.

(1) OJ No L 303, 31.12.1972, p. 1

(2) OJ No L 338, 20.12.1977, p. 22.

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following Title shall be inserted in Directive 72/464/EEC:

"TITLE IIb

Special provisions applicable during the third stage
of harmonisation

"Article 10d

- 1. Without prejudice to the provisions of Article 1(4), the third stage of harmonisation of the structures of the excise duty on manufactured tobacco shall cover the period from 1 January 1981 to 31 December 1986.
- 2. With effect from 1 January 1981, Article 10e shall apply.

"Article 10e

- 1. The amount of the specific excise duty on cigarettes shall be established by reference to cigarettes in the most popular price category according to the information available at 1 July each year, beginning 1 July 1980.
- 2. The amount of the specific component of the excise duty shall not be less than 10 % nor more than 35 % of the amount of the total tax burden resulting from the aggregation of the proportional excise duty, the specific excise duty and the turnover tax levied on these cigarettes.

If the excise duty or the turnover tax is altered after 1 January 1981, the amount of the specific excise duty shall be established by reference to the new total tax burden on the cigarettes referred to in paragraph 1.

./.

3. The Member States may levy on cigarettes a minimum excise duty, the amount of which may not, however, exceed 80% of the sum of the proportional excise duty and the specific excise duty which they levy on the cigarettes referred to in paragraph 1.
4. Notwithstanding the first subparagraph of paragraph 2, the Member States may, between 1 January 1981 and 31 December 1984, apply a different specific component provided that it falls within the following limits:
 - (a) between 1 January 1981 and 31 December 1982, not less than 5% nor more than 55% of the amount of the total tax burden as defined in paragraph 2;
 - (b) between 1 January 1983 and 31 December 1984, not less than 7.5% nor more than 42.5% of the amount of the total tax burden as defined in paragraph 2.
5. If, during the period between 1 January 1981 and 31 December 1984, the excise duty or the turnover tax is altered, the ratio of the amount of the specific component of the excise duty to the amount of the total tax burden on the cigarettes referred to in paragraph 1 may be adjusted only in such a manner as to bring it closer to the ratios referred to in paragraph 2, first sub-paragraph.

Article 2

Before 31 December 1983, the Council, acting by unanimous decision on a proposal from the Commission, shall adopt common rules governing collection of the excise duty, which will enter into force not later than 1 January 1985.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

FINANCIAL RECORD

Date:

1. Budget headings: (a) Article 120 (Revenue), Customs duties
 (b) Article 700 (Expenditure), Export refunds.
 (c) Item 7011 (Expenditure), Storage

2. Title of measure:

3. Legal basis:

4. Aims of measure:

5. Financial implications	12 month period	Current fin. year	Following fin. year	
5.0 Expenditure				
- charged to the EC Budget (refunds/intervention)			0,5 m EUA	
- charged to national administrations				
- charged to other national sectors				
5.1 Revenue				
- own resources of the EC (customs duties)			0,1 m EUA	
- national				
	1982	1983	1984	1985
5.0.1 Forecasts of expenditure	1,0 m EUA	1,5 m EUA	2,2 m EUA	2,94 m EUA
5.1.1 Forecasts of revenue	0,1 m EUA	0,2 m EUA	0,3 m EUA	0,4 m EUA

5.2 Method of calculation:

See Annex

6.0

6.1

6.2

6.3 Will future budget appropriations be necessary? YES/XX

Comments:
 The estimates of expenditure show solely the effects in isolation of changes in the excise duty, and take no account of possible repercussions on other factors of decline already affecting the market for popular/dark cigarettes.

Annex to the Financial Record

A. Changes

	<u>Italy</u>	<u>France</u>
Shift in use of tobaccos:	750 t	1 300 t
of which:		
- to be offered for intervention	500 t	550 t
- for export, with refunds	250 t	-
Additional imports from non-member countries	750 t	550 t
Replacement of imported dark tobaccos by American tobaccos as imports	-	750 t

B. Costs to the EAGGF

Item 7011 costs of intervention	
500 + 550 t x 2 726 EUA/t =	2,86 m EUA
Item 7000 export refunds	
250 t x 338.5 EUA/t =	0,08 m EUA
EAGGF: Total	<u>2,94 m EUA</u>

C. Customs duties

750 + 550t of additional imports at 300 EUA/t =	0,39 m EUA
750 t of imports replaced, yielding additional duties of 300 - 280 EUA/t =	<u>0,01 m EUA</u>
	0,4 m EUA

D. Summary

Briefly, at the final stage the measure will involve additional costs of 2,94 m EUA chargeable to the EAGGF, and additional revenue will amount to 0,36 m EUA (0,4 m EUA less 10% to be reimbursed to the Member States).

For the first five years the financial implications will be as follows:

	Expenditure		Revenue
	<u>Item 7011</u>	<u>Item 7000</u>	<u>Article 120</u>
1981	0,49 m EUA	0,01 m EUA	0,1 m EUA
1982	0,98 m EUA	0,02 m EUA	0,1 m EUA
1983	1,46 m EUA	0,04 m EUA	0,2 m EUA
1984	2,14 m EUA	0,06 m EUA	0,3 m EUA
1985	2,86 m EUA	0,08 m EUA	0,4 m EUA

EXPLANATORY NOTE

Subject: Evaluation of the consequences on the European market for raw tobacco of the proposal for a Council Directive amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco (third stage)

The analysis is based solely on the situation in Italy and France, the two main producers of raw tobacco in the Community (almost 95% of total production) and takes account of the fact that these two countries use the greatest percentage of Community tobacco in the manufacture of home-produced cigarettes: Italy about 60%, France about 50%. These two countries are also those which at present apply the lowest rate for the specific component of the excise duty and for which an increase in that rate would mean changes in the present price range for cigarettes.

EXPENDITURE

A. Italy

The analysis of the consequences of the Directive is based upon the assumption that the manufacturer's price and the retail price will remain unchanged for cigarettes of the brand M.S., which is the most popular brand on the Italian market and whose price falls in the middle of the present price range.

1. Retail prices¹: the following changes may be expected during the third stage of harmonization.

- (a) the spread between the maximum and minimum prices would be much narrower: the present ratio of 4.04:1 would fall to 3.17 : 1;
- (b) cigarettes produced by the "Nazionali" group (65-100% of home-grown tobacco) would become less competitive against the brand M.S. (50% home-grown tobacco);
- (c) M.S. cigarettes (the national brand with the highest sales in Italy) would lose some of their competitive advantage over Marlboro cigarettes (the foreign brand with the highest sales on the market); the present price ratio between these two brands would increase from 1:1.32 to 1:1.21.

¹ Assuming an initial specific component of 5%.

2. Raw tobacco market: the following consequences may be expected:

- (a) a fall in the consumption of Nazionali group cigarettes, which is already declining (down by 15% from 1978 to 1979); this consumption represents about 17 000 t of home-grown tobacco and the fall would therefore give rise to disposal difficulties for Italian producers, particularly for oriental-type varieties (about 6 000 t used at present), Burley (about 3 500 t) and dark tobaccos (about 3 000 t);
- (b) the M.S. brand would keep its market share, with both a gain at the expense of Nazionali group cigarettes and a loss of ground to the foreign brand Marlboro. The amount of home-grown tobacco used (about 19 000 t) would therefore remain at much the same level, together with the normal disposal rate of the Virginia Bright and Burley varieties in particular;
- (c) consumption of foreign cigarettes (about 35 000 t in 1979, mainly Marlboro) would rise; this would come about both through manufacture under licence and through imports from other Community countries, the result being a corresponding increase in Community imports of raw tobacco of the American type from non-member countries.

3. Common organization of the markets in the raw tobacco sector: the financial consequences may be calculated from the assumption that by the end of the third stage of harmonization (compared with the situation that would follow from the application of a specific component of 5%) there would be a shift in consumption of about 750 t from the Nazionali group to foreign cigarette brands. The annual rate of decline would speed up by 4 - 5%. In view of the quantities of different varieties of tobacco used in manufacture which would be affected by this decline, we may expect about 500 t of dark tobaccos and oriental-type tobaccos to be offered for intervention and export refunds to be required for about 250 t of tobacco of the other varieties, especially Burley.

Finally, the EAGGF expenditure would amount to about 1,4 m ECU.

B. France

As opposed to the assumption adopted for Italy, it is not possible to assume for France that there will be no change in the retail price of the most popular cigarette, the Gauloise, because its price is near the bottom of the present price range. No price change would mean a drop in the tax receipts collected on all other cigarettes. An increase of about 2 % in the retail price for Gauloise cigarettes would be necessary, to ensure that tax receipts were held at their present level.

1. On the basis of that assumption, the consequences on the French market during the third stage of harmonization could be as follows:

- (a) Gauloise cigarettes would become less competitive against Marlboro cigarettes, the present price ratio between these two brands would increase 1 : 1,92 to 1 : 1,82;
- (b) the present rate of decline (4.5% in 1979) of Gauloise cigarettes and other French cigarettes made from dark tobacco would speed up by about 2 points; present consumption stands at around 65 000 t (Gauloise: about 45 000 t). This ^{further} drop in consumption would affect about 1 300 t, which would be replaced by foreign cigarettes.

2. On the agricultural raw tobacco market, bearing in mind the present percentage of home-grown tobacco used by SEITA (about 50%), growers may have difficulties in disposing of about 650 t. Difficulties would in fact arise only for about 550 t, as the remainder of French output could be used in the larger share of foreign cigarettes (both those manufactured under licence and those imported), which at present contain 90-95% of raw tobacco of non-Community origin.

3. The financial consequences under the common organization of the markets in the raw tobacco sector would therefore arise from the sending into intervention of quantities of leaf tobacco corresponding to about 550 t of baled tobacco.

The cost to the EAGGF is estimated at about 1,5 m EUA.

- C. (1) It must be pointed out that the estimates of expenditure for both Italy and France show solely the effects of this proposal in isolation. No account, therefore, has been taken of the additional effects stemming from the possible combined impact of the Directive and the factors of decline already affecting the market in popular/dark cigarettes to the advantage of cigarettes made from light tobacco.
- (2) Similarly, an increased ad valorem element, on those markets which previously operated with a high specific element, will improve somewhat the competitive position of cheaper cigarettes, including those made from dark Community tobacco. The effects of this are impossible to evaluate with any precision and they have not therefore been taken into account. Nevertheless, it should be noted that any increase in exports of dark tobacco cigarettes as a result of this proposal would of course tend to reduce the need for Community intervention in favour of raw tobacco and would by the same token reduce the budgetary cost below the figures shown above.

D. Greece

Greece is in any case required under the Accession Agreement to change from its present system to the second stage already in force. Any effects arising from this move are not of course attributable to the third stage proposal. At present in Greece the price range for a packet of cigarettes is 13.5 to 32 Drachma. The effects on this price range of moving from the present system to a 10 % specific (that is, the combined effects of the Accession adjustment and the present proposal) will be negligible.

E. Spain

Major changes will be required in the Spanish excise on tobacco in order to respect the non-discrimination provisions of Article 95 and to adapt to the second stage of harmonization already in force. Moreover, the terms of Spanish accession remain to be negotiated. In these circumstances, it is not possible to make any separate assessment of the possible effects of the proposal in relation to demand for Spanish tobacco.

REVENUE

A. Italy

The use in the Community of an additional quantity of about 750 t of American-type tobacco imported from non-Member countries would yield 0,23 in EUA in revenue from customs duties.

B. France

The use in the Community of an additional quantity of about 1 300 t of American-type tobacco imported from non-Member countries together with a fall in imports of dark tobacco of about 750 t would yield about 0,17 EUA in revenue from customs duties.

