

Newsletter on the common agricultural policy

No. 6

June 197

	Page
I. HARMONIZATION OF LEGISLATION PERTAINING TO BEER	
1. Why is harmonization necessary and what form will it take?	1
2. Summary of the new proposals	9
A. Proposal for a Council directive on the harmonization of Member States' legislation pertaining to beer	9
B. Proposal for a Council regulation amending Regulation No. 120/67/EEC and Regulation No. 359/67/EEC in respect of the refund payable to producers of certain materials used in the brewing industry	13
II. COMMON ORGANIZATION OF SEED MARKETS	14

this kind were compatible with the provisions of the EEC Treaty. In addition, the breweries own large numbers of public houses and cafés. Its tied houses, whose turnover can be relied on, are a very important factor in assessing a brewery's business.

Other market outlets are also becoming more and more important. These include sales by the grocery trade, particularly large chain stores and supermarkets, and direct sales to households and canteens. For a long time direct selling, now known as a "home delivery service", was looked down upon as "peddling" and was left to the small firms. Nowadays, however, almost all big firms have their own distribution networks serviced by trained van-salesmen.

An attempt is also being made to introduce "trans-regional" brands of beer. These would make it much easier for large chains and supermarkets - which are also "trans-regional" - to offer the beverage.

Large breweries now realize that local marketing is not the only profitable way possible. As a result the beer trade is expanding, making the trader more important. But, while trade expands, there is a considerable trend towards increased concentration within the industry itself.

However, there are still large numbers of medium-sized breweries - 1200 in Bavaria alone with an annual output of more than 15 million hectolitres - whose sales strategy is still largely limited to local marketing. These two groups - the large breweries and the not-so-large - are unlikely to see eye to eye on this problem or agree to use the same means to achieve their objectives, though both groups assert that the consumer's interest is their primary concern.

Its examination of data on the beer trade showed the Commission:

- (a) That intra-Community trade in beer amounts to only 1.4% of Community production;
- (b) That exports by Member States, Germany excluded, come to something more than 70% of this intra-Community trade;
- (c) That imports from non-member countries come to something less than 50% of intra-Community trade; almost 80% of them are made by other Member States than Germany.

These figures show clearly how great must be the difficulties in trade in beer between the Member States. They also show that Germany is in a special position, being the only Member State with purity standards for beer manufacture; the approved ingredients are strictly confined to malted barley, hops, yeast and water. (The only non-member country with such strict purity standards is Switzerland.) Because of this, only beers manufactured without adjuncts can be imported into Germany. There are also differences - admittedly less marked - between the laws in force in the other Member States so that, generally speaking, it can be said that trade in beer is very strongly influenced by discrepancies in legislative provisions.

The need for harmonization

Because of these obstacles to trade the Commission and the Governments of the Member States maintain that legislation on beer must be harmonized. Unless these legislative provisions can be aligned, the common market cannot operate.

Referring to the elimination of obstacles to trade between the Member States in its work programme for the three years after 1969, the Commission wrote:

"The primary object of a common market is the complete opening-up of markets among Member States, the removal of all barriers to the free movement of goods, persons, services and capital and the elimination of distortions and impairments of competition within the Community. Goods must move among the Member States as in an internal market. Thus, after the disappearance of intra-Community customs duties and quantitative restrictions, no need for protection, whatever its nature, and no national interest can justify charges equivalent in effect to customs duties, measures equivalent in effect to quantitative restrictions or the systematic application of customs formalities which impede the flow of trade. The coming into being of larger markets in which a wide variety of comparable products can compete with each other to the greater benefit of European consumers is still delayed by a large number of technical barriers to trade. The programme aimed at removing these obstacles which has already been submitted to the Council should therefore be implemented as quickly as possible".

Obviously, how far the Six are prepared to go in eliminating obstacles to trade depends on their political will. But it was precisely this political will which brought European unity into being and which will continue to advance it. On 28 May 1969, then, the Council approved a number of decisions to speed up the harmonization of legislation in the Member States. At the same time the Representatives of the Governments of the Member States meeting in the Council agreed to introduce a standstill order to ensure that national laws would not move even further apart before the common directives were adopted. The Council recognized that the harmonization of laws on beer was urgently necessary. The general programme for the elimination of technical obstacles to trade required the Commission to submit a proposed directive on beer before 1 January 1970; the Council hoped to adopt it before 1 July 1970.

Difficulties encountered

Work on the proposal ran into immediate difficulties however, with the question of what brewing materials should be approved.

Germany's purity standards, dating back to 1516, state that beer can only be made from natural materials - malted barley, yeast, hops and water. These rules, which have been amended to allow the use of wheat-malt, are strictly applied to all beer for domestic consumption. In Bavaria - the home of these standards, which were only introduced to the rest of Germany at a much later date - they also apply to beer for export.

The remaining Member States however allow, in addition to malted barley, the use of other cereal products - known as "adjuncts" - and sugar. The main adjuncts are unmalted barley, unmalted wheat, maize groats, maize starch, common wheat and rice. Adjuncts are also used in the main beer producing countries outside the Community - England, USA, Denmark and Czechoslovakia. The use of adjuncts is controlled in some Member States (15% in France, with a tolerance of 30%, and 25% in Italy). Although there is no ceiling in the Benelux countries, the proportions used are in fact more or less the same. Larger proportions affect the full-bodied flavour of the beer and are only tolerated in beer for export to the tropics. The higher adjunct content lengthens

shelf life, an important consideration given the high temperatures in those parts of the world. The use of adjuncts or sugar makes it possible to produce low-protein beers which have a higher colloidal stability, in other words protein turbidity is delayed.

But there are many other reasons why breweries use adjuncts. Thanks to them many beers - mainly of regional importance - have acquired a special flavour which is now traditional. Experiments carried out by brewers have shown that beers made with maize groats can be given a full round flavour closely resembling that given by malt. The addition of broken rice produces a "dry" beer and is therefore a favoured practice in the brewing of Pilsner types. The use of pure maize starch has no effect at all on flavour.

Production costs are an important factor, though they are obviously not the only reason for using adjuncts. Adjuncts are in fact cheaper and special arrangements introduced in connection with the EEC's cereals market regulations made them artificially so, leading to distortions of competition. However, brewers who do not use adjuncts are inclined to over-estimate the price differential and to forget that the ceiling placed on the proportion of adjuncts used limits the possibility of reducing costs. It must be admitted, however, that extract yields are higher with adjuncts than with malted barley and that there is a slight price advantage. The cereals market regulations protect the producer price for cereals and also make provision for a refund to producers for maize, common wheat and broken rice used in starch manufacture. The reason for this refund is that starch has to compete with a range of cheaper synthetic products which would drive it off the market if the price were too high. This price advantage - accorded for reasons quite unconnected with brewing - happens to benefit brewers who use starch. Since starch is in competition with broken rice and maize groats in the brewing industry, fresh distortions of competition were produced and there was a danger of them causing another switch in production. This led to the adoption of a further regulation making a refund available for maize groats and broken rice used in brewing.

Malted barley on the other hand enjoys no price advantages. Its main, if not its only, outlet is the brewing industry, malt extract or malt coffee being of very minor importance. In countries where adjuncts are traditionally used price manipulation has made no change in the competitive position, since the proportion of adjuncts is related not to price ratios but to technical necessity. However, as

some two-thirds of all Community beer is produced in Germany, there is now a danger that if the use of adjuncts were extended to the entire Community - in other words if German brewers were allowed to use them - there would be a considerable reduction in the amount of malted barley utilized, given existing Community price regulations for the various materials used in brewing. If Germany were to change over suddenly to allowing, say, 20% adjuncts, this would mean a 12% drop in the demand for malt, with undesirable repercussions on the malting industry. All these aspects of the problem were taken into account when the Commission prepared its proposals.

Discussions within the Working Committee of Common Market Brewers, the trade organization of the brewing industry in the Six, which has also done some work on suggested harmonization, produced no results. It seems that a solution was near in 1967 because at that stage the Working Committee asked the Commission to postpone drafting its proposals until the Committee came up with its own suggestions, which in the event did not materialize.

Occasional reports in the trade press showed how stubbornly national viewpoints were defended by the trade organizations.

Press comments

Once it became known that the Commission had drafted a proposed directive, a public outcry at the very idea of harmonization was raised by the Press. The average newspaper reader might be forgiven for assuming that the Commission wanted to merge the entire brewing industry. There is of course no question of this. All the Commission wants is to introduce one law for everyone, for all brewers and for all consumers. As has been shown above in detail, this would make trade in beer possible and easier, which is the only way that brewers and consumers can enjoy the advantages of the Common Market. No attempt will be made, naturally, to change brewing methods or drinking habits. On the contrary, the Commission is trying to do everything possible to prevent this happening.

Other Press reports might give the reader the idea that the German consumer was ready to abandon his traditional drinking habits for the sake of a few pfennigs and that he would have to be protected from himself. There is very little mention of the well-established fact that the consumer appreciates quality. Another fear constantly voiced is that German breweries will change over with a flourish of trumpets to using adjuncts in their process. This is based on a one-sided assessment of the facts and the Commission does not believe that there is any danger of this if its proposal is adopted as it stands.

It is remarkable that little or nothing is said about the advantages of the Commission's proposal. The maintenance of purity standards is, naturally, in no way prohibited and provision is made for a special label for beer made from pure malted barley. The proposal therefore opens up trade opportunities which breweries will certainly be quick to seize upon. In countries where adjuncts are allowed breweries complying with the purity standards have already gained something.

The Commission has taken a firm stand on the question of whether, in addition to adjuncts, chemical additives should be allowed. It wants to ensure that Community beer is and remains a natural, wholesome, product of good quality.

The basic principles behind harmonization in the matter of beer

In drafting its proposals for a Council directive the Commission had to decide what line the new Community rules should take, while adhering to the basic principles behind harmonization. In every case these principles are that raw materials and finished products must move freely, that identical conditions of competition apply to all manufacturers and that all consumers have equal access to the product. With beer additional rules on the drafting of food legislation must be borne in mind, the main purpose of these being to protect against misleading information. Under this heading come all the provisions on composition, manufacturing methods, characteristics, wholesomeness and labelling. As for the approval of specific raw materials or additives, a decision must be taken as to whether their use is technically necessary and without danger to consumers' health. These basic principles are formulated as follows in the explanatory memorandum to the Commission's proposal:

The purpose of the proposal is

- (a) To make it possible for the Community's brewing industry, thanks to a free choice of brewing materials under the same competitive conditions at Common Market level, to produce goods which meet public health requirements;
- (b) To enable all Community consumers to choose freely between goods produced in the Community.

The guiding principle behind any harmonization of food legislation is the protection of consumers' health. As far as the use of adjuncts in brewing is concerned, even the staunchest advocates of Germany's purity standards failed to produce evidence to support the belief that beer made from pure malted barley is healthier. The same may not be true of beers containing additives but we have already seen that their use is to be prohibited.

Following an examination of the present situation, and bearing in mind these basic principles which hold good for any type of harmonization, the Commission came to the conclusion that Community rules based solely on the utilization of malted barley in brewing would not be consistent with the principles it had set itself. Nor would such rules be very realistic in view of the possible enlargement of the Community to include countries like England and Denmark, where the unlimited use of adjuncts is allowed.

At the same time the Commission recognized that the universal use of adjuncts would not do either, given the existing supply situation in the Community. Distortion of the normal conditions of competition through price manipulation would mean that cost would become the primary

consideration in the selection of brewing materials, whereas technical necessity must be the only consideration if the principles of harmonization are to be complied with. It would also mean that the market for malted barley would be considerably changed, severely affecting the malting industry.

The Commission therefore believes that Community rules on beer must allow the use of adjuncts but only if the rules incorporate three further important features described below.

1. Harmonization of conditions of competition with regard to procurement of raw materials

There is no refund to producers for malted barley and, since it would be an expensive business to make one available, there is no intention of suggesting this.

Instead, conditions of competition will have to be harmonized by abolishing the refund to producers for maize groats and broken rice used in brewing.

As for starch used in brewing, refunds made available for starch manufacture will have to be recouped from the breweries.

Since breweries in all Member States are subject to constant administrative supervision these refunds can be recovered without any difficulty in the form of a levy.

This arrangement will produce true prices for adjuncts which will be much closer to malted barley prices. The effect of this would be a balanced utilization of the various raw materials, which would then be selected solely on their technical merits and their effect on the quality of the beer.

2. Fixing a maximum proportion for the use of adjuncts

Despite the harmonization of the conditions of competition for the various brewing materials, malted barley will still be at a slight disadvantage, amounting to some cents of a unit of account per hectolitre.

With a view to clamping down on speculation which would be to the consumer's disadvantage, and so as to preserve the market which the breweries now represent for the malting industry, the Commission proposes that a ceiling be placed on the amount of adjuncts used. Given present practice in the Community and the reasons for it, the Commission suggests that this ceiling be fixed at 30%.

In the Member States (other than Germany) adjuncts represent 21% to 22% of total brewing materials used. It must be remembered here that beer is also produced from pure malted barley in all Member States, while some special beers need an even higher proportion than this. It should be noted however that in Belgium, where there is no ceiling, the maximum proportion of adjuncts used in the manufacture of normal beer does not

exceed 30%, the proportion for everyday beer being somewhere between 15 and 25%.

3. Introduction of protective labelling for beer brewed from pure malted barley

Beers made solely from malted barley must be clearly distinguished from beers in which adjuncts are used by means of a protective labelling specifically reserved for them. This labelling provision, which will give a marketing advantage to traditional German beer, should compensate for the additional cost involved in using pure malted barley. For this reason the Commission believes that its proposal offers the best Community solution and is convinced that German brewers will not be tempted by a slight price differential - amounting to a few cents of a unit of account for beer with an original gravity of 12.5% - to abandon production methods which are based on a tradition of centuries of brewing and beer-drinking, particularly since they are being given an opportunity of advertising this tradition.

Other features of the proposal

As for the remaining features of the proposed Community rules on production and marketing, the Commission believes that relatively strict measures must be introduced to ensure that Community beer remains a natural, wholesome product of good quality. In addition, care must be taken to maintain market transparency.

In the interests of quality, the proposal would only approve such starch- or sugar-containing brewing materials as are being used in the Community at the present time. For the same reason the use of additives is forbidden for all practical purposes. An exception has been made for a small number of cases where saccharin will continue to be allowed as a transitional measure (mainly for beers with a low original gravity) and indefinitely for special traditional beers provided the use of saccharin is technically essential (for beers that would be too acid without the addition of a sweetener). In these cases sugar cannot be used, since it would lead to bottle fermentation. Where fermentation is artificially arrested to keep the alcohol content low and the flavour sweet, bottle fermentation is dangerous and can only be prevented by pasteurization. But pasteurization gives a completely different flavour, which would change the character of these traditional beers. The use of saccharin is technically unavoidable here.

To preserve market transparency beer must be divided into different categories based on its original gravity. Furthermore, bottles and cans with a capacity of less than one litre must be of a particular size, enabling the consumer to compare prices and get a better idea of the market.

Harmonization at European level will necessarily lead to changes in consumer expectations, since it is hard to find a common denominator for the traditions of six countries. The Commission therefore attaches the utmost importance to strict labelling provisions to ensure that the consumer is given the whole story.

2. Summary of the new proposals

The Commission has submitted two inter-related proposals to the Council, so that when the directive on the harmonization of legislation on beer is approved the relevant provisions of the cereals regulation can be repealed, since these could have the effect of distorting competition.

A. Proposal for a Council directive on the harmonization of Member States' legislation pertaining to beer

Directives on food legislation are so technical that it is difficult to give a comprehensive summary, since every word is important. All that can be done here is to pick out the main points of the proposal and give a short explanation.

"Beer" defined

"Beer" is an alcoholic drink produced by the fermentation of a wort made from starch- or sugar-containing raw materials, hops (including hop powder and extracts), yeast and drinking water.

The Member States themselves will have to take the necessary steps to ensure that "beer" is put on the market only if the provisions of this directive are followed. Only "beer" complying with the provisions on brewing can be marketed under that name. Beverages which resemble beer but which do not correspond to the definition of "beer" given in this directive can only be put on the market if there is no danger of the consumer being misled into thinking that they are beer. Presentation and advertising must be arranged accordingly.

Brewing materials

Apart from malted barley or wheat-malt, only the following starch- or sugar-containing materials can be used, and then solely in conjunction with malted barley or wheat-malt:

- (a) Barley, wheat, maize and rice other than malted;
- (b) Saccharose, invert sugar, dextrose or glucose syrup.

(Malt is sprouted barley; the enzymes produced by the sprouting process make it possible during the brewing process to saccharify the starchy ingredients).

The quantity of adjuncts and sugar used must not exceed 30% of the total raw materials used; "total raw materials used" covers all starch- and sugar-containing materials, malt included.

An exception is made for acid, high-fermenting or self-fermenting beer and for so-called low-alcohol beer.

Additives

The use of additives is forbidden.

Exceptions have been made allowing the addition of not more than 50 milligrams per litre of L-ascorbic acid (Vitamin C) and the addition of caramel or dark beer for colouring made exclusively from malted barley wort, hops, yeast and water or from other starch or sugar products approved for brewing purposes. (These are not additives within the meaning of the German definition.)

Traces of sulphur dioxide - up to 20 milligrams per litre - are also allowed.

To clarify the wort and the beer only additives with a mechanical or absorbing effect, proteolytic enzymes and tannins can be used, but only to the extent necessary for the process. Any traces remaining as a result of the clarifying process must not be injurious to health or affect the organoleptic properties of the beer.

The same applies to any turbidity or sediment which can appear in some beers following the brewing process (bottle fermentation in weiss beers for instance).

Saccharin

Special derogatory measures will be necessary for saccharin, though each Member State will be free to decide whether or not to apply these on its own territory.

The use of saccharin is not banned throughout the Community at the present time. The Member States allowing its use have two good reasons for doing so, as we have seen:

- (i) Saccharin is used in the manufacture of inexpensive weak beer;
- (ii) Its use is technically justified in certain traditional beers of regional importance.

The use of saccharin for economic reasons is not compatible with the Community rules contained in the proposed directive but it cannot be banned overnight. Provision has therefore been made for an appropriate adjustment period.

There will have to be special arrangements on the manufacture of beers which are of regional importance and require the use of sweeteners. Production of these beers can continue in areas where they have been drunk traditionally.

In any event where saccharin has been used this fact must be mentioned.

Categories

The gravity of the beer, expressed in degrees Plato, corresponds to the German labelling based on original gravity. The Commission suggests that beer be divided into the following categories:

Category	Original gravity
S	15.5% or more
I	11% to 13.5% inclusive
II	7% to 9.5% inclusive
III	1% to 4% inclusive

Containers

From 1 January 1986 beer must be presented in containers with a capacity of 0.25, 0.33, 0.50, 0.75 or 1 litre.

The use of metal containers holding 0.35 litres will be allowed as an exceptional measure.

No provision is made in this directive for containers holding more than 1 litre.

Beers containing saccharin may also be presented in 0.40 and 0.80 litre containers, the saccharin content being indicated in all instances.

Packaging

Beer can only be put up in bottles or other containers which will not affect its chemical or organoleptic properties (flavour and wholesomeness). Under no circumstances may these containers contaminate the beer.

Labelling

The word "beer" with an indication of the category to which it belongs must appear on the lower left-hand side of the label in letters at least 4 millimetres high.

On Category III beers the words "small beer" must also appear.

Beer with a low alcohol content must be clearly labelled as such.

Where saccharin has been used, the words "artificially sweetened" must appear on the label.

Nominal capacity must be shown either on the container or the label.

Special indications

The words "pure malted barley" can only be used for beers made exclusively from malted barley, hops, yeast and water. The indications "Bock" and "Export" are reserved for Category S and Category I beers.

Internationally approved indications will not be affected by the directive and special labelling peculiar to one Member State can also be retained.

The consumer

Any advertising which is misleading, or claims properties for a beer which the beer does not in fact possess, is forbidden.

If beer contains ascorbic acid, the use of the words "rich in vitamins", or any other description which might mislead the consumer into believing that the beer is of therapeutic value, is forbidden.

Drinks which cannot be regarded as beer within the meaning of this directive may not be labelled as beer.

Marketing

If beer complies with the provisions of this directive the Member States cannot forbid or hinder its marketing for reasons associated with composition, manufacturing features, packaging or labelling.

Exceptions to this general rule apply to:

- (i) Beer made with the addition of saccharin;
- (ii) Container sizes which can be used or introduced up to 1 January 1986;
- (iii) Provisions requiring the language of the country concerned to be used on the label.

Supervision

Sampling and methods of analysis required to test the composition, original gravity and manufacturing features of beer will be covered by purely technical provisions to be adopted by the Commission following consultation with the Standing Committee on Foodstuffs.

Exports

The directive will not apply to beer for export outside the Community.

Implementation

Member States will have one year from the date of publication to harmonize their legislative provisions. Within three years of publication the amended provisions must be applied to beers brewed as from that date.

B. Proposal for a Council regulation amending Regulation No. 120/67/EEC and Regulation No. 359/67/EEC in respect of the refund payable to producers of certain materials used in the brewing industry

As has been shown, existing price advantages enjoyed by brewing materials based on maize, common wheat and broken rice must be withdrawn so that the regional pattern of raw material utilization in the brewing industry is not changed by the harmonization of legislative provisions on beer. Once market prices for malt, starch, quellmehl, maize groats and meal and broken rice are no longer influenced by factors extraneous to the natural price formation process, brewing materials will be chosen for their special characteristics alone.

The Commission therefore proposes that, when the harmonization directive comes into force, the relevant articles of the regulations referred to, which make refunds available for materials used in the brewing industry, be revoked.

The refund paid to producers for maize, common wheat and broken rice used within the Community to manufacture starch and quellmehl will be retained because of the competitive situation for these products. Refunds cannot be paid, however, if these products are used in the brewing industry where they compete with other cereal products. If they are used for brewing purposes the refunds paid will have to be recouped - an operation which should not present any great difficulty, since all breweries are subject to constant administrative supervision.

II. COMMON ORGANIZATION OF SEED MARKETS

The Commission has recently submitted to the Council a proposal for a regulation on the introduction of a common organization of seed markets.

The proposal covers seeds not yet subject to a common market organization and hybrid maize seed, which was not adequately covered by the grain regulation.

A feature of the Community's seed market today is that the production of certain limited varieties can continue only if something is done to ensure that the grower receives a fair income. If no such steps are taken Community production of these varieties may well disappear. At present different Member States encourage the production of certain varieties through subsidies, import quotas or national levy systems. Once the common organization comes into force, however, national protective action along these lines will no longer be possible.

The Community needs to preserve its seed industry. This is a highly specialized business representing a considerable research investment. The Community has already produced technical rules limiting trade to top-grade seed, with official controls to guarantee quality. Different non-member countries are unable to offer equivalent guarantees. Furthermore, some varieties which are particularly well suited to conditions in the Community are not grown anywhere else.

Under the proposed market organization, subsidies will be available to growers of certified seed of certain sensitive varieties. These subsidies are intended to ensure that the grower receives a fair income while at the same time discouraging unprofitable production. They will also promote a measure of specialization within the Community. The subsidies for each variety and each marketing year will be fixed by the Council and will be the same throughout the Community.

The total cost of these subsidies is estimated at 5 to 6 million units of account each year. However, if seed growers were to switch to grain because production of certain varieties proved unprofitable, the resultant EAGGF expenditure would be considerably in excess of this figure.
