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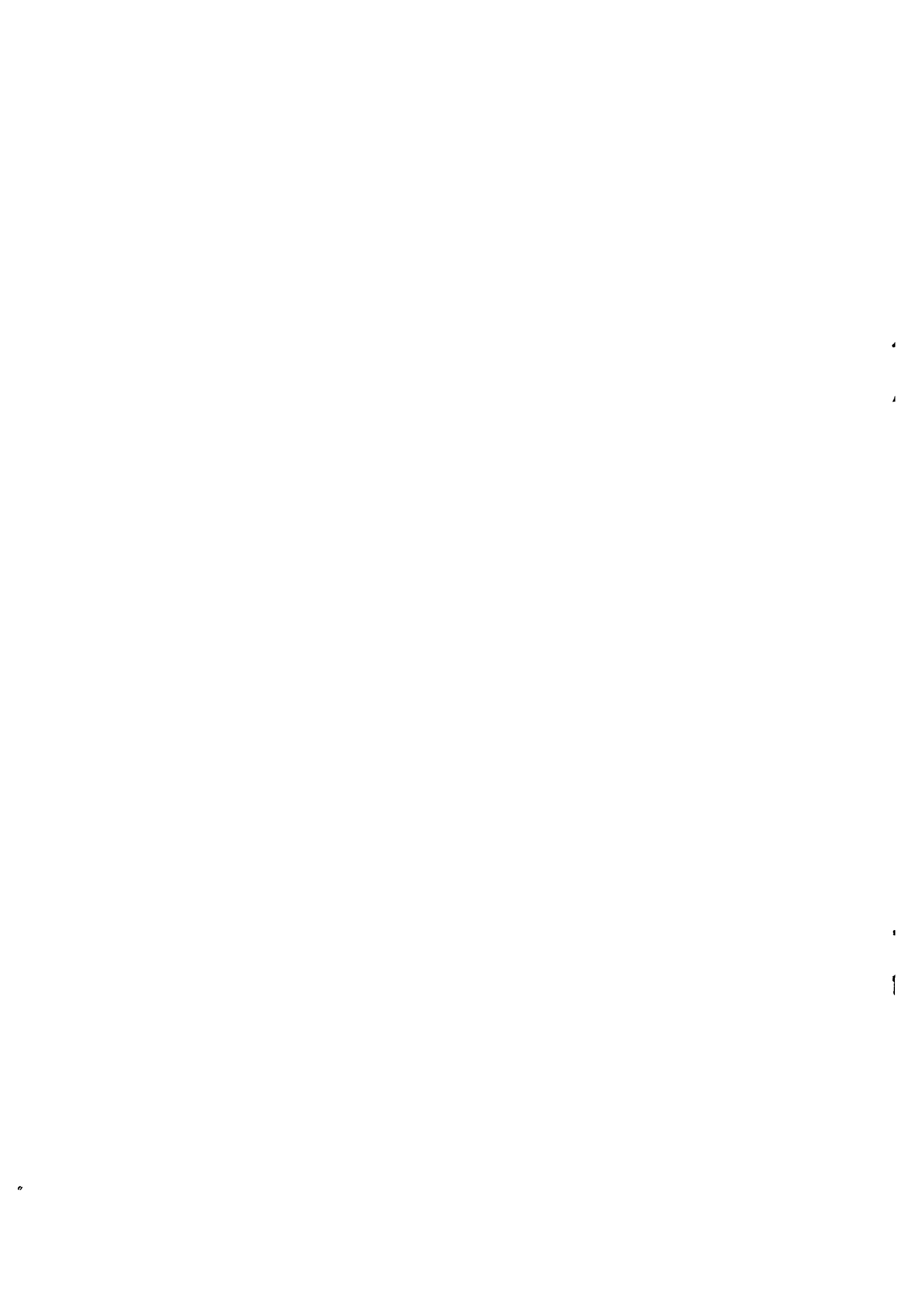
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REPORT

drawn up on behalf of the Committee on Agriculture

- I. on the amended proposal from the Commission of the European Communities to the Council for a regulation on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol
(Doc. 504/76 - COM(76) 274 final)
and
- II. on amendments thereto submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty
(Doc. 209/79 - COM(79) 237 final)

Rapporteur: Mr J. DALSASS



By letter of 27 December 1976 the President of the Council requested the European Parliament to deliver an opinion, pursuant to Article 43 of the EEC Treaty, on an amended proposal for a Council regulation (EEC) on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol.

On 5 January 1977 the President of the European Parliament referred this proposal to the Committee on Agriculture as the committee responsible and to the Committee on Economic and Monetary Affairs, the Committee on Budgets and the Committee on External Economic Relations for an opinion.

The Committee on Agriculture appointed Mr Liogier rapporteur.

On 13 October 1977 the President of the European Parliament referred the proposal, at the request of the Committee on Economic and Monetary Affairs, to the Legal Affairs Committee for an opinion on its compatibility with Protocol No. 19 to the Treaty of Accession.

At its meetings of 26/27 April and 23/24 May 1977 the Committee on Agriculture held an exchange of views on the Commission's amended proposal.

It considered the motion for a resolution at its meetings of 20/21 September, 20/21 October, 3/4 November and 20/21 December 1977 and, at the last of these meetings, adopted it unanimously.

Present: Mr Houdet, chairman; Mr Liogier, vice-chairman and rapporteur; Mr Ligios, vice-chairman; Mr Andersen, Mr Berkhouver (deputizing for Mr Cifarelli), Mr Bourdellès, Mr Dewulf, Mr Fioret (deputizing for Mr Pucci), Mr Früh, Mr Fuchs (deputizing for Mr Ney), Mr Kofoed, Mr Lemp, Mr H.W.Müller (deputizing for Mr de Koning) and Mr Pisoni.

On 16 January 1978 the European Parliament decided, at the request of Mr Bangemann on behalf of the Legal Affairs Committee, to postpone consideration of the report by Mr Liogier to a subsequent part-session to allow the Legal Affairs Committee sufficient time in which to draw up a supplementary opinion.

On 14 April 1978 the Commission informed Parliament that it had decided to modify its amended proposal for a regulation in view of the reservations expressed by the Committee on Agriculture and that it would be consulted on a new proposal.

On 22 May 1979 the Commission forwarded amendments to its amended proposal for a regulation to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty.

On 26 June 1979 the President of the Council requested the European Parliament to deliver an opinion on the amendments to the amended proposal for a Council regulation on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol.

On 5 July 1979 the President of the European Parliament referred these amendments to the Committee on Agriculture as the committee responsible and to the Committee on Budgets, the Committee on External Economic Relations, the Committee on Economic and Monetary Affairs and the Legal Affairs Committee for an opinion.

At its meeting of 26 September 1979 the Committee on Agriculture appointed Mr Debatisse rapporteur. Subsequent to the latter's resignation from the European Parliament, on 23 October 1979, the Committee on Agriculture appointed Mr Dalsass rapporteur at its meeting of 28/29 November 1979.

It considered the amended proposal for a regulation, the amendments thereto and the draft report at its meetings of 1/2 October 1979, 22/23 April 1980, 23/24 September 1980, 23/24 June 1981, 7/8 January 1982, 26/27 January 1982, 25/26 May 1982, 23/24 November 1982 and 18/19 January 1983.

On 21 May 1981 the Committee on Agriculture organized a hearing, to which it invited the chairmen and rapporteurs of the committees asked for an opinion, all interested Members and representatives of the Commission and Council legal services, with a view to considering the legal problems raised by the amended proposal for a regulation and the amendments thereto.

At its meeting of 18/19 January 1983 the Committee on Agriculture decided by 18 votes to 10 with 3 abstentions to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The Commission did not give its views on these amendments.

The committee then adopted the motion for a resolution as a whole by 18 votes to 10 with 3 abstentions.

The following took part in the vote: Mr Curry, chairman; Mr Früh, vice-chairman; Mr Colleselli, vice-chairman; Mr Dalsass, rapporteur; Mr Barbagli (deputizing for Mr Clinton), Mrs Castle, Mr Costanzo (deputizing for Mr Kaloyannis), Mr Diana, Mrs Ewing (deputizing for Mr Davern), Mr Helms, Mrs Herklotz, Mr Howell, Mr Jürgens, Mr Ligios, Mr Maffre-Baugé, Mr Marck, Mr Martin (deputizing for Mr Vitale), Mrs S. Martin, Mr Mertens, Mr Mouchel, Mr Nielsen, Mr Papapietro, Mr Provan, Mrs Rabbethge (deputizing for Mr Bocklet), Mr Skovmand, Mr Stella (deputizing for Mr d'Ormesson), Mr Sutra De Germa, Mr J.D. Taylor (deputizing for Mr Hord), Mr Thareau, Mr Tolman and Mr Vernimmen.

The opinions of the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on External Economic Relations and the Legal Affairs Committee are attached.

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The Committee on Agriculture hereby submits to the European Parliament the following amendments to the Commission's amended proposal, motion for a resolution and explanatory statement:

AMENDMENTS TABLED BY THE COMMITTEE
ON AGRICULTURE

TEXT PROPOSED BY THE COMMISSION

Amendment No. 1

The title of the proposal for a regulation to be amended as follows:

Amended proposal for a Council regulation (EEC) on the common organization of the market in ethyl alcohol of agricultural origin

Proposal for a Council regulation (EEC) on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol

Amendment No. 2

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42, 43 and 235 thereof,

1st recital unchanged

2nd recital unchanged

Amendment No. 3

New recital 2a

Whereas the aim of the common agricultural policy is to achieve the objectives specified in Article 39 of the Treaty; whereas the situation of the market in ethyl alcohol of agricultural origin is characterized in particular by the fact that overall production is in excess of Community consumption; whereas it is necessary to maintain prices on this market at a level which is competitive with world prices; whereas, therefore, measures should be adopted to stabilize the market and ensure a fair income for the producers concerned;

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 42, 43, 113, 227 and 235 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 the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy, including a common organization of agricultural markets which may take various forms depending on the product;

Whereas the conversion of certain agricultural raw materials into ethyl alcohol of agricultural origin is closely linked with the economy of those raw materials since it largely contributes to the realization of their value; whereas this process may be of particular economic and social importance for the economy of certain regions of the Community, or it may be a major source of income for producers of certain agricultural raw materials; whereas in other cases it enables products of unsatisfactory quality to be disposed of, and also the short-term or permanent surpluses of certain products which cause serious economic problems; whereas, lastly in the case of certain products it is the only means of realizing their value;*

* OJ C 309, 31.12.1976

Amendment No. 4

New recital 2b

Whereas, to this end, it is necessary for measures to be taken to facilitate the adaptation of supply to market requirements and for a subsidy to be granted to replace all national forms of production aid; whereas, in view of the factors characterizing the production of ethyl alcohol of agricultural origin, provision should be made for this subsidy to be granted at a fixed rate per hectolitre;

Amendment No. 5

3rd recital

Whereas provision should be made to allow the production of ethyl alcohol of agricultural origin to be maintained at a level which corresponds to agricultural, economic and social requirements and whereas excess production of this alcohol which would run counter to the establishment of a balance between production and possible uses should be prohibited; whereas the amount of production subsidized should therefore be limited and whereas this amount should be adapted in the light of the above-mentioned requirements and of the possibilities for use;

Whereas provision should be made to guarantee production of the quantity of ethyl alcohol of agricultural origin which corresponds with agricultural, economic and social requirements and whereas excess production of this alcohol which would run counter to the establishment of a balance between production and possible uses should be prohibited; whereas a market should therefore be guaranteed for only a limited quantity of agricultural alcohol and whereas this quantity should be adapted in the light of the above-mentioned requirements and of the possibilities for use in the reserved sectors;*

* OJ C 309, 31.12.1976

4th recital unchanged.

Amendment No. 6

5th recital

Whereas, in order that ethyl alcohol of agricultural origin should be guaranteed at least those markets on which, in the Community, it enjoys an unchallenged position, oral consumption and vinegar-making should be established as the reserved sectors for its utilization;

Amendment No. 7

6th recital deleted

Amendment No. 8

7th recital deleted

Whereas, so that Community producers and users of alcohol may make at least medium-term forecasts, the limited quantity for which a market is guaranteed should be programmed and whereas, for that purpose, this quantity should first of all be apportioned among the different alcohol-producing agricultural products and then among the Community producer undertakings; whereas provision should be made for these mechanisms to be applied with a certain degree of flexibility, especially as regards alcohol obtained in connection with the intervention measures laid down in the Regulations on the common organization of the market in wine and on the common organization of the market in fruit and vegetables;*

Whereas, in order to provide a guaranteed market for such alcohol, seeing that ethyl alcohol of non-agricultural origin can always be substituted for it and can usually be produced at a lower cost, it is necessary to require that ethyl alcohol of agricultural origin be utilized in reserved sectors while enabling those quantities of such alcohol which cannot be disposed of in those sectors to be utilized in others, and also to require the intervention agencies to buy in at a set price the alcohol which is offered to them;*

Whereas, to enable the agricultural alcohol, within the limits of the guaranteed quantity, to be disposed of in the reserved sectors whatever the price of the alcohol-producing product, it is necessary to bring into balance the prices of agricultural alcohol of various origins by levying or paying out, as the case may be, a sum which takes account of the cost of the raw material used, distilling costs and, where appropriate, traditional production conditions and also to ensure the progressive modernization and rationalization of the Community production machinery;*

Whereas prices should be balanced at a relatively low level, by reference to the price of grain spirits; whereas certain spirituous beverages will thereby be placed at a competitive disadvantage compared with other spirituous beverages obtained from alcohol; whereas the price-balancing mechanisms provided for in respect of alcohol should therefore be extended to the spirituous beverages thus placed at a disadvantage, in order to permit the marketing of a specified quantity of such spirituous beverages;*

* OJ C 309, 31.12.1976

Amendment No. 9

8th recital ~~deleted~~

Whereas, however, molasses alcohol can compete with synthetic alcohol, whereas it is therefore necessary to exclude molasses alcohol from the marketing guarantees accorded for other types of agricultural alcohol; whereas this new competitive situation may endanger certain undertakings and whereas provision should therefore be made for measures to alleviate such difficulties in certain cases;*

Amendment No. 10

9th recital ~~deleted~~

Whereas controls of the production, movement and destination of alcohol and spirituous beverages will be necessary as a means of ensuring the stability of the market and its observation;*

Amendment No. 11

10th recital ~~deleted~~

Whereas in order to protect producers against unfair competition and consumers from confusion and deception, rules are required as to the designation and presentation of products;*

Amendment No. 12

11th recital ~~deleted~~

Whereas the competent authorities must be able to keep the movement of trade continuously under review, in order to assess the market trend and to apply as appropriate the measures provided for in this Regulation; whereas to that end provision should be made for the issuing of import and export licences coupled with the provision of security guaranteeing that the operations in respect of which the licences were applied for will be carried out;*

Amendment No. 13

12th recital ~~deleted~~

Whereas the creation of a single Community market for ethyl alcohol of agricultural origin involves the introduction of a single trading system at the external frontiers of the Community; whereas this system, combined with the intervention system, must comprise a system of import levies and export refunds in order to stabilize the Community market, in particular by preventing price fluctuations on the world market from affecting prices ruling within the Community;*

Amendment No. 14

13th recital ~~deleted~~

Whereas in principle this aim can be achieved through the imposition on imports from third countries of levies which take account of the effect on production costs of the difference between the prices of alcohol-producing agricultural products in the Community and on the world market and of the need to protect the Community distilling industry;*

*

OJ C 309, 31.12.1976

Amendment No. 15

14th recital deleted

Whereas provision for the granting on exports to third countries of a refund equal to the difference between the prices of ethyl alcohol of agricultural origin within the Community and on the world market would serve to safeguard Community participation in international trade in ethyl alcohol of agricultural origin and in products containing such alcohol;*

Amendment No. 16

15th recital deleted

Whereas, however, by reason of the special market situation of certain spirituous beverages obtained from cereals and exported to third countries and, in particular, of the need for the Community distilling industry to maintain competitive prices on the world market, it is necessary to ensure that the alcohol-producing agricultural products utilized by that industry are made available to it at a price lower than that resulting from the application of the system of levies and common prices; whereas for that purpose provision should be made for a production refund to be paid for the manufacture of such beverages;*

Amendment No. 17

16th recital

Whereas, to the extent required by the situation on the Community market, provision should be made for prohibiting recourse to inward processing arrangements;

Whereas, in addition to the system described above, and to the extent required by the market situation, provision should be made for prohibiting recourse to inward processing arrangements;*

Amendment No. 18

17th recital deleted

Whereas, in addition, the Community should be enabled to take the necessary measures to mitigate the difficulties arising from any shortage of ethyl alcohol;*

Amendment No. 19

18th recital deleted

Whereas the measures referred to above make it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the mechanisms provided for may in exceptional circumstances prove defective; whereas, so as not to leave the Community market without defence in such cases against disturbances which may arise therefrom, the Community should be enabled to take all necessary measures without delay;*

Amendment No. 20

19th recital

Whereas the effectiveness of all the measures governing the common organization of the market in ethyl alcohol of agricultural origin would be jeopardized by the granting of certain kinds of aid by certain Member States; whereas the provisions of the Treaty which allow the assessment of aid granted by Member States and the prohibition of aid which is incompatible with the common market should be made applicable to ethyl alcohol of agricultural origin;

Whereas the establishment of a single market based on a common price system would be jeopardized by the granting of certain kinds of aid; whereas the provisions of the Treaty which allow the assessment of aid granted by Member States and the prohibition of aid which is incompatible with the common market should therefore be applicable to ethyl alcohol of agricultural origin;*

* OJ C 309, 31.12.1976

Amendment No. 21

20th recital deleted

21st recital unchanged

Whereas, moreover, provision should be made for taking appropriate measures in respect of ethyl alcohol and spirituous beverages obtained from sugar cane in order to maintain the level of employment of sugar cane producers in the French overseas departments and to guarantee a fair income to these producers;*

Whereas certain transitional measures may prove necessary to facilitate the transition from the present arrangements to the system arising from this Regulation and the transition from one marketing year to the next, and whereas provision should therefore be made for the adoption of such measures;*

Amendment No. 22

22nd recital

Whereas the Treaty does not specifically provide the powers necessary to enable the measures concerning the reservation of sectors of utilization to be taken within the same legal framework as that on which the common organization of the market in ethyl alcohol of agricultural origin is based, whereas those measures must consequently be taken on the basis of Article 235 of the Treaty;

Whereas the Treaty does not specifically provide the powers necessary to enable the measures concerning the reservation of sectors of utilization and those concerning intervention in respect of certain spirituous beverages to be taken within the same legal framework as that on which the common organization of the market in ethyl alcohol of agricultural origin is based; whereas those measures must consequently be taken on the basis of Article 235 of the Treaty;*

Amendment No. 23

23rd recital deleted

Whereas, in view of the special importance of the production of ethyl alcohol of agricultural origin and of spirituous beverages for the economy of the French overseas departments, the provisions concerning the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and the provisions adopted in respect of the products specified in Article 1(1)(d) and (e) should be applied to the said departments;*

Amendment No. 24

24th recital deleted

Whereas in order to curb the production of ethyl alcohol of agricultural origin and spirituous beverages, and also in order to ensure some structural improvement of such production, these products should be subject to a levy based solely on the alcohol content;*

25th recital unchanged

Whereas the common organization of the market in ethyl alcohol of agricultural origin must take appropriate and simultaneous account of the objectives set out in Articles 39 and 110 of the Treaty;*

*

OJ C 309, 31.12.1976

Amendment No. 25

26th recital deleted

Whereas the still, fermented beverages falling within heading No. 22.07 of the Common Customs Tariff of an actual alcohol strength exceeding 15° should be covered by the common organization of the market in ethyl alcohol and whereas these products should therefore be withdrawn from the common organization of the market established by Council Regulation (EEC) No. 827/68 of 28 June 1968 on the common organization of the market in certain products listed in Annex II of the Treaty¹, as last amended by Regulation (EEC) No.;*

27th recital unchanged

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a Management Committee;*

Amendment No. 26

28th recital

Whereas it should be laid down that financial responsibility for the expenditure incurred by Member States as a result of their obligations under this Regulation should be borne by the Community, in accordance with the regulations governing the financing of the common agricultural policy;

Whereas the expenditure incurred by Member States as a result of their obligations under this Regulation is to be borne by the Community in accordance with Articles 2 and 3 of Council Regulation (EEC) No. 729/70 of 21 April 1970 on the financing of the common agricultural policy², as last amended by Regulation (EEC) No. 2788/72³, *

¹OJ No L 151, 30.6.1968, p. 16

²OJ No L 94, 28.4.1970, p. 13

³OJ No L 295, 30.12.1972, p. 1

* OJ C 309, 31.12.1976

HAS ADOPTED THIS REGULATION:

Article 1

Products covered

Amendment No. 27

Article 1(1)

1. This Regulation shall apply to the following products:**

CCT heading No	Description	CCT heading No	Description
(a) 22.08 A 1	Denatured ethyl alcohol of any strength, of agricultural origin	(a) 22.08 A 1	Denatured ethyl alcohol of any strength, of agricultural origin
22.08 B 1	Undenatured ethyl alcohol of a strength of 80° or higher, of agricultural origin	22.08 B 1	Undenatured ethyl alcohol of a strength of 80° or higher, of agricultural origin
22.09 A 1	Undenatured ethyl alcohol of a strength of less than 80°, of agricultural origin	22.09 A 1	Undenatured ethyl alcohol of a strength of less than 80°, of agricultural origin
		(b) 22.07 B II b)	Other fermented beverages, (e.g. cider, perry and mead), other, still, of an actual alcoholic strength by volume exceeding 15% vol
		(c) 20.06 B I b)	Fruit otherwise prepared or preserved, other, containing added spirit, with an actual alcohol content exceeding 11.85% mas
		22.05 C IV a) 2 } 22.05 C IV b) 3 }	Wine fortified for distillation, within the meaning of Additional Note 4 b to Chapter 22
		22.05 C V	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol, other, of an actual alcoholic strength by volume exceeding 22% vol
		(d) 22.09 B	Compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages
		22.09 C	Spirituos beverages
		(e) 22.06	Vermouths, and other wines of fresh grapes flavoured with aromatic extracts

Amendment No. 28

Article 1(2)

2. This Regulation establishes in respect of the products specified in paragraph 1:

- a common organization of the market in ethyl alcohol of agricultural origin,
- rules supplementing the provisions applicable to some of these products in connection with the respective common organizations of the market in fruit and vegetables and in wine.

** OJ C 193, 31.7.1979

2. This Regulation establishes in respect of the products specified in paragraph 1:

- under (a) and (b), a common organization of the market in ethyl alcohol of agricultural origin,
- under (c), rules supplementing the provisions applicable to these products in connection with the respective common organizations of the market in fruit and vegetables and in wine,
- under (d) and (e), rules concerning conditions for marketing and arrangements governing trade and the possible introduction of an intervention and price system.**

Amendment No. 29

Article 1(3)

3. For the purposes of this Regulation 'ethyl alcohol of agricultural origin' means the liquid obtained by distillation, after alcoholic fermentation, from alcohol-producing agricultural products.
(rest deleted)

3. For the purposes of this Regulation 'ethyl alcohol of agricultural origin' means the liquid obtained by distillation, after alcoholic fermentation, from alcohol-producing agricultural products, excluding:

- (a) liquids obtained exclusively from the distillation, whether or not after fermentation, of alcohol-producing agricultural products which give to the liquid organoleptic characteristics discernible by the consumer and which have, on leaving the stills:
 - either an alcoholic strength not exceeding 83% vol,
 - or a volatile content (excluding ethyl alcohol) of not less than 90 g per hectolitre of pure alcohol;
- (b) liquids intended for direct human consumption and obtained from the distillation of fermented cereal must, whether or not together with fruit, having organoleptic characteristics discernible by the consumer.*

Article 1 (4) unchanged

4. For the purposes of this Regulation 'alcohol-producing agricultural products' means the products falling within Chapters 7,8,10,11,12, and 23 and headings Nos 17.01, 17.02, 17.03, 17.05, 22.04, 22.05 and 22.07 of the Common Customs Tariff.

The Council, acting by a qualified majority on a proposal from the Commission, may alter the list of chapters and headings of the Common Customs Tariff referred to in the preceding subparagraph, subject to the limits laid down in Annex II to the Treaty.*

Amendment No. 30

Article 1(5) deleted

5. The methods to be employed for measuring the levels specified in paragraph 3 shall be adopted in accordance with the procedure laid down in Article 35.

In accordance with the same procedure it may be decided to make the use, referred to in paragraph 3(b), conditional on compliance with certain requirements as to marketing.*

* OJ C 309, 31.12.1976

Amendment No. 31

Article 1a (new)

The marketing year for ethyl alcohol of agricultural origin shall begin on 1 July each year and end on 30 June of the following year.

Amendment No. 32

Article 1b (new)

1. Under the conditions laid down in paragraph 4, a fixed-rate subsidy shall be granted for the production of the products specified in Article 1(1) and obtained from the following alcohol-producing agricultural products harvested in the Community:
Sugar beet
Cereals
Potatoes
Fruit
Sugar cane
2. The amount of the subsidy shall be fixed per hectolitre of ethyl alcohol at 100% vol in such a way as to guarantee a fair income for the agricultural producer, taking into account the present situation and foreseeable trends on the market.
3. The amount of the subsidy shall be varied on the basis of the alcohol-producing agricultural product used. The amount of the subsidy shall be uniform for each of these alcohol-producing agricultural products throughout the Community. It may be varied on the basis of the quality of the alcohol obtained and of the size of the distillery.
4. The amount of the subsidy shall be fixed in accordance with the procedure laid down in Article 43(2) of the Treaty. It shall be fixed before 1 July each year for the following crop year. The Council shall ensure that the subsidy thus fixed does not result in unacceptable distortions of competition as between the different agricultural alcohols produced in the Community.
5. The Council, acting by a qualified majority or a proposal from the Commission, shall adopt general rules for the application of this Article.
6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Amendment No. 33

Article 1c (new)

1. For each of the alcohol-producing raw materials specified in Article 1b(1) the subsidy shall be granted for a limited quantity of ethyl alcohol of agricultural origin.
2. The quantities referred to in the preceding paragraph shall be determined by reference to
 - average production during the last five known marketing years, and
 - possible production outlets.

To this end, the Commission shall each year submit a report to the Council to enable it to assess these factors and likely trends.

3. The quantities referred to in paragraph 1 shall be fixed in accordance with the procedure laid down in Article 43(2) of the Treaty.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Amendment No. 34

Article 2 deleted

Article 2 *
Grouping into types

The kinds of ethyl alcohol of agricultural origin specified in Article 1(1)(a) may be grouped into types according to the alcohol-producing agricultural products used in accordance with the procedure laid down in Article 43(2) of the Treaty.

Amendment No. 35

Article 3 deleted

Article 3 **
Target prices

1. A target price shall be fixed for each type of ethyl alcohol of agricultural origin. The target prices shall be valid for unpackaged goods of a standard quality, ex-factory, loaded on the means of transport chosen by the purchaser. They shall be fixed for one marketing year. 'Marketing year' means the period running from 1 July of one year to 30 June of the next.

2. The target prices shall be determined by reference to the price of the corresponding alcohol-producing agricultural product and to fixed amounts, valid throughout the Community, representing:

- (a) the processing margin, established in the light of the need progressively to modernize and rationalize the Community production potential;
- (b) the yield;
- (c) the receipts of distillers from the sale of the by-products of distillation.

For each alcohol-producing agricultural product which is covered by an intervention system under a common market organization, the price to be taken into consideration may not exceed the intervention, withdrawal or activating price or the minimum price applicable under that system.

The target prices shall be so fixed as not to lead to increased production as long as the production cost of such alcohol is not competitive with the market price for synthetic alcohol.

3. By way of derogation from paragraph 2, the target price for alcohol obtained from wine under the intervention measures in the wine sector shall be fixed at the level of the selling price for the oral consumption sector referred to in Article 10(2).

* OJ C 309, 31.12.1976
** OJ C 193, 31.7.1979

deleted (contd)

4. Special target prices may be fixed by^{**} reference to the size of the distillery during an adjustment period in the course of which the exercise of such option shall be progressively reduced. This period may not exceed 10 years.

5. The standard qualities and the target prices shall be fixed annually before 1 January for the following marketing year. They shall be fixed in accordance with the procedure laid down in Article 43(2) of the Treaty.

^{**} OJ C 193, 31.7.1979

Article 4 deleted

Marketing guarantee

1. A limited quantity of ethyl alcohol of agricultural origin produced in the Community shall be guaranteed an outlet on the Community market in accordance with the following provisions.
2. Every three marketing years before the first of January preceding the end of the third of such marketing year and for the first time before 1 April 1980, a target quantity shall be fixed for each type of ethyl alcohol of agricultural origin. It shall be valid for the whole of the period covering the five marketing years following the date on which it is fixed.

The target quantity shall be calculated on the basis of the quantities produced during the five preceding marketing years, and of prospects in the reserved sectors over the five subsequent marketing years.

However:

- for the types of ethyl alcohol of agricultural origin obtained from alcohol-producing products other than molasses and those in respect of which distillation measures have been implemented under the relevant common market organization, the target quantity shall be equal to the total produced in the five preceding marketing years;
- for molasses alcohol, the target quantity shall be based on the quantities of that type of alcohol marketed over the five preceding marketing years in the reserved sectors specified in Article 9(1).

3. A guaranteed quantity valid for the following marketing year shall be fixed annually before 1 January for each type of ethyl alcohol of agricultural origin.

The guaranteed quantity must be established within the limits of the target quantity fixed for the particular type of alcohol. It shall be determined by reference in particular to the quantities actually produced and sold during the marketing years preceding the period under consideration and to the production and sales prospects in the current marketing year for the alcohol-producing agricultural product or products in question.

4. The guaranteed quantities relating to those alcohol-producing agricultural products in respect of which distillation measures have been implemented under the relevant common market organization may be adjusted at the end of the

** OJ C 193, 31.7.1979

deleted (contd)

marketing year, within the limits of the ^{**} target quantity.

5. The target quantities and the guaranteed quantities shall be fixed in accordance with the procedure laid down in Article 43(2) of the Treaty.

6. Detailed rules for the application of this Article, including the adjustments referred to in paragraph 4, shall be adopted in accordance with the procedure laid down in Article 35.

^{**} OJ C 193, 31.7.1979

Article 5

Apportionment among distillers

1. The quantities referred to in Article 1c(1) shall be apportioned among Community distillers.

2. The apportionment among Community distillers shall be done before 1 November each year for the following marketing year in accordance with the procedure laid down in Article 35, taking account of the distillers' average production during the last five marketing years.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules concerning the apportionment among Community distillers, taking into account

- the need to reserve a share of production for new distillers, and
- the possibility of transferring all or part of the production of one distiller to another or from one marketing year to another.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Article 5 *
Apportionment among distillers

1. The guaranteed quantities shall be apportioned among Community distillers.

That portion of the guaranteed quantity allotted to a distiller is hereinafter referred to as the 'guaranteed quota'.

In the event of Article 4(4) being applied, the guaranteed quota shall be adjusted by reference to the variations thus decided on.

2. The apportionment among Community distillers shall be done before 1 May each year for the following marketing year and in accordance with the procedure laid down in Article 35. However, the Council, acting by a qualified majority on a proposal from the Commission, may decide that for a period which may not exceed five marketing years from the date on which this Regulation takes effect apportionment is to be done by the Member States. In that case, the guaranteed quantities allocated to each Member State shall be determined by reference to the average actual output of alcohol of the type or types concerned in the Member State in question over the preceding five marketing years.

3. Provision may be made for any Community distiller to transfer to another Community distiller all or part of the guaranteed quota allotted. Such transfer shall alter, for the marketing year in question, the guaranteed quotas allotted to the distillers concerned.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules concerning the apportionment of the guaranteed quantities among Community distillers, taking into account the need to reserve a share of production for newly established distillers.

5. Detailed rules for the application of this Article, including the conditions under which the transfers referred to in paragraph 3 may be effected, shall be adopted in accordance with the procedure laid down in Article 35.

*

OJ C 309, 31.12.1976

Amendment No. 38

Article 5a(new)

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules to which Community distillers must conform in their relations with producers of alcohol-producing agricultural products.

Amendment No. 39

Article 6 deleted

Article 6

Compulsory buying-in

1. Throughout the marketing year the intervention agencies designated by the Member States shall be obliged, subject to conditions to be laid down, to buy in ethyl alcohol of agricultural origin offered to them by producers within the limits of the guaranteed quota allotted to the distiller in question for the current marketing year and subject to the application of Article 13.***

2. The intervention agencies shall buy in the ethyl alcohol of agricultural origin offered to them at the target price valid for the kind or type of agricultural ethyl alcohol in question and, where appropriate, for the size of the undertaking.

If the quality of the alcohol offered differs from the standard quality for which the target price has been fixed, the latter shall be adjusted by applying increases or reductions.*

3. Detailed rules for the application of this Article, in particular as regards:

- the minimum quality and quantity required for intervention,
- the scale of increases and the scale of reduction,
- the procedures and conditions for taking over by the intervention agencies,

shall be adopted in accordance with the procedure laid down in Article 35.*

* OJ C 309, 31.12.1976

*** OJ C 309 of 31.12.1976, as amended by OJ C 193 of 31.7.1979

Amendment No. 40

Article 7

**

Article 7 (new)

Transitional measures for molasses

Measures to safeguard molasses alcohol

alcohol

(deleted)

1. If the molasses alcohol market in the Community is disrupted or threatened with disruption by competition from other types of alcohol, particularly non-agricultural alcohols, suitable measures, including temporary aid, may be applied to this alcohol until the disruption or threat of disruption is no longer present.
2. Detailed rules for the application of this Article shall be decided upon in accordance with the procedure laid down in Article 35.

Amendment No. 41

Article 8

*

Article 8 deleted

Sale of alcohol by intervention agencies

1. The intervention agencies shall be responsible for the storage and marketing, including exportation where appropriate, of the ethyl alcohol of agricultural origin bought in. Provision may be made for them to undertake in particular the rectifying and denaturing of the alcohol they have bought in.
2. The intervention agencies may sell only alcohol of a strength of not less than 95% vol and residual or denatured alcohol.
3. Alcohol bought in by the intervention agencies shall be disposed of in the reserved sectors at the prices referred to in Article 10. Where the disposal possibilities are insufficient, provision may be made for the intervention agencies to invite tenders in the unreserved sectors.

The invitations to tender shall be issued under conditions which ensure equality of access and equal treatment of purchasers and avoid any disturbance of the market in alcohol in these sectors.
4. Detailed rules for the application of this Article, including the requirements in respect of storage, marketing and invitations to tender, shall be adopted in accordance with the procedure laid down in Article 35.

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

Article 9

Reserved sectors

1. Ethyl alcohol used in the reserved sectors or for the manufacture of products belonging to the reserved sectors must be exclusively ethyl alcohol of agricultural origin.

'Reserved sectors' means the following:

- oral consumption
- vinegar-making.

2. The precise limits of the reserved sectors shall be defined in accordance with the procedure laid down in Article 35.

Detailed rules for the application of this Article shall be adopted in accordance with the same procedure.

Reserved sectors *

1. Ethyl alcohol used in the reserved sectors or for the manufacture of products belonging to the reserved sectors must be exclusively ethyl alcohol of agricultural origin.

'Reserved sectors' means the following:

- oral consumption,
- vinegar-making,
- the pharmaceutical industry.

2. Paragraph 1 shall not apply to medicinal products which in the finished state no longer contain ethyl alcohol.

3. However, for a transitional period of five marketing years from the date on which this Regulation takes effect, and for Member States who so request, the alcohol requirements of users in the perfumery and cosmetics industries may be reserved for ethyl alcohol of agricultural origin in respect of products manufactured on the territory of those Member States.

4. The precise limits of the reserved sectors shall be defined in accordance with the procedure laid down in Article 35

Detailed rules for the application of this Article shall be adopted in accordance with the same procedure.

* OJ C 309, 31.12.1976

Article 10 deleted

Fixing of the selling price for reserved sectors

1. A selling price shall be fixed for agricultural ethyl alcohol of all types and for each of the reserved sectors.*

2. For the oral consumption sector the selling price referred to in paragraph 1 shall be fixed by reference to the target price for ethyl alcohol obtained from cereals.*

In the case of the pharmaceutical, perfumery and cosmetics sectors the sale price referred to in paragraph 1 shall be fixed taking into consideration the market price of synthetic alcohol.**

3. The selling prices shall be fixed annually before 1 January for the following market year in accordance with the procedure laid down in Article 43(2) of the Treaty. The standard qualities to which these prices relate shall be fixed in accordance with the same procedure.*

4. If the quality of the ethyl alcohol of agricultural origin sold differs from the standard quality for which the selling price has been fixed, the latter shall be adjusted by applying increases or reductions.*

5. Detailed rules for the application of this Article, including the scales of increases and reductions to be applied to the selling prices of ethyl alcohol of agricultural origin in the reserved sectors, shall be adopted in accordance with the procedure laid down in Article 35.*

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

1. Where ethyl alcohol of agricultural origin of a particular type, whether or not imported, is sold to a user in one of the reserved sectors and the target price for that alcohol is lower than the selling price fixed for the reserved sector, the Member States shall levy an equalization charge.

The equalization charge shall be equal to the difference between the said target and selling prices.

2. Where ethyl alcohol of agricultural origin of a particular type produced in the Community from alcohol-producing agricultural products obtained or harvested in the Community is sold to a user in one of the reserved sectors and the target price for that alcohol exceeds the selling price fixed for the reserved sector, the intervention agencies shall make a compensatory payment. This compensatory payment shall be equal to the difference between the said target and intervention prices.

3. The quantity of ethyl alcohol of agricultural origin in respect of which the compensatory payment provided for in paragraph 2 is made may not for any one distiller exceed the guaranteed quota allotted to that distiller, less the quantities offered to intervention agencies.

4. Detailed rules for the application of this Article, including the conditions governing the levying of equalization charges, shall be adopted in accordance with the procedure laid down in Article 35.

* OJ C 309, 31.12.1976

Amendment No. 45

Article 12 deleted

Article 12

Penalties*

1. In respect of the types of alcohol to which the marketing guarantee referred to in Article 4 applies, the distiller must sell in the unreserved sectors any quantity of ethyl alcohol of agricultural origin which he has produced in excess of the guaranteed quota during a given marketing year.
2. The sale in the reserved sectors of any quantity of agricultural ethyl alcohol produced by a distiller in excess of the guaranteed quota during a given marketing year shall be subject to a charge determined in relation to the financial consequences of such action.
3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Amendment No. 46

Article 13 deleted

Article 13

Postponement of production*

1. Each distiller may postpone to the following marketing year the production of part of the guaranteed quota allotted for the current marketing year. The quota guaranteed for the following marketing year shall be increased by the quantity postponed.
2. An upper limit, which may vary according to the type of ethyl alcohol of agricultural origin concerned, shall be fixed for transfers of production between marketing years resulting from underproduction.
3. Distillers may apply the provisions of paragraph 1 only if they have notified the intervention agency of the Member State concerned before 1 June of the quantities to be transferred.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

* OJ C 309, 31.12.1976

Quantitative restrictions on intervention measures for certain spirituous beverages

1. Each year before 1 January a guaranteed quantity shall be fixed for the following marketing year, in accordance with the procedure laid down in Article 43(2) of the Treaty, for each spirituous beverage:

- obtained from an alcohol-producing agricultural product obtained or harvested in the Community, and
- which may be placed at a competitive disadvantage by the fixing of the selling price for alcohol for oral consumption.

The guaranteed quantity of a spirituous beverage shall be fixed by reference to the quantity of that beverage produced, marketed or stored during the five preceding marketing years.

2. The guaranteed quantities shall be apportioned among the Community distillers concerned. That portion of the guaranteed quantity allotted to a distiller is hereinafter referred to as the 'guaranteed quota'.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules concerning the apportionment of the guaranteed quantities among Community distillers, taking into account the need to reserve a share of production for newly established distillers.

It shall, in accordance with the same procedure, lay down the characteristics of the spirituous beverages concerned.

4. The apportionment among Community distillers shall be done before 1 May each year for the following marketing year and in accordance with the procedure laid down in Article 35. However, the Council, acting by a qualified majority on a proposal from the Commission, may decide that for a period which may not exceed five marketing years from the date on which this Regulation takes effect apportionment shall be done by the Member States. In that case, the guaranteed quantities allocated to each Member State shall be determined by reference to the average actual output of the spirituous beverages concerned in the Member State in question over the preceding five marketing years.

* OJ C 309, 31.12.1976

deleted (contd)

5. Provision may be made for any Community distiller to transfer to another Community distiller all or part of the guaranteed quota allotted.

Such transfer shall alter, for the marketing year in question, the guaranteed quotas allotted to the distillers concerned.*

6. Detailed rules for the application of this Article, including the conditions under which the transfers referred to in paragraph 5 may be effected, shall be adopted in accordance with the procedure laid down in Article 35. *

Article 15 *

Intervention measures for certain spirituous beverages

Amendment No. 48

Article 15 deleted

1. The Member States shall levy an equalization charge on the alcohol contained in spirituous beverages, whether or not imported, which are released to the Community market and are obtained from an alcohol-producing agricultural product for which the target price of the corresponding alcohol is lower than the selling price fixed for such alcohol intended for oral consumption.

The amount of the equalization charge shall not be less than that laid down for alcohol obtained from the same alcohol-producing agricultural product.

2. Where spirituous beverages for which a guaranteed quantity has been fixed are released to the Community market the intervention agencies shall make a compensatory payment to the producers by reference to the alcohol content, within the limits of the guaranteed quota.

Where, in respect of such spirituous beverages obtained from an alcohol-producing agricultural product, the target price for the alcohol obtained from that product is higher than the selling price for such alcohol intended for oral consumption, the amount of the compensatory payment shall not be more than that made for alcohol obtained from the same alcohol-producing agricultural product.

The amount of the compensatory payment may be fixed by reference to the size of the distillery during an adjustment period in the course of which the exercise of such option shall be progressively reduced.

3. The amounts of the equalization charge and the compensatory payment valid for the following marketing year shall be fixed at the same time as the selling prices referred to in Article 10 and in accordance with the same procedure.

* OJ C 309, 31.12.1976

deleted (contd)

4. Detailed rules for the application of this Article, including the conditions under which the equalization charge may be levied or the compensatory payment made, shall be adopted in accordance with the procedure laid down in Article 35.*

Amendment No. 49

Article 16 deleted

Article 16 *

Transition from one marketing year to the next

The provisions necessary to prevent the market in the products specified in Article 1(1) from being disturbed as a result of a change in prices on the transition from one marketing year to the next shall be adopted in accordance with the procedure laid down in Article 35.

Article 17

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Intervention contribution

(deleted)

Amendment No. 50

Article 18 deleted

Article 18

Control *

1. Arrangements shall be made for control of the production, movement and use of ethyl alcohol and spirituous beverages.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

Amendment No. 51

Article 19 deleted

Article 19 *

Definition, designation, description

1. The Council, acting by a qualified majority on a proposal from the Commission, shall before 1 July 1979 adopt:
 - (a) general rules relating to the definition, designation and presentation of the products specified in Article 1(1);
 - (b) provisions to restrict certain designations to certain products specified in Article 1(1);
 - (c) the conditions under which the products referred to in (b) are obtained;
 - (d) provisions relating to the control and protection of such restricted designations.

Until the provisions referred to in the first subparagraph take effect, the provisions adopted by the Member States shall apply.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Article 20 unchanged

Article 20 *

Amendment of the Common Customs Tariff

The Common Customs Tariff is amended in accordance with the Annex.

* OJ C 309, 31.12.1976

Amendment No. 52

Article 21

1. unchanged

2. Save as otherwise provided in this Regulation or by the Council acting by a qualified majority on a proposal from the Commission, the following shall be prohibited in trade with third countries in the products referred to in Article 1(1):

- the levying of any charge having effect equivalent to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Amendment No. 53

Article 22 deleted

Article 21 *

Application of the Common Customs Tariff

1. The general rules for the interpretation of the Common Customs Tariff and its special rules for its application shall apply to the tariff classification of the products specified in Article 1(1); the tariff nomenclature resulting from the application of this Regulation to these products shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation or by the Council acting by a qualified majority on a proposal from the Commission, the following shall be prohibited in trade with third countries in the products referred to:

- in Article 1(1)(a) and (d), the levying of any customs duty,
- in Article 1(1), the levying of any charge having effect equivalent to a customs duty,
- in Article 1(1), the application of any quantitative restriction or measure having equivalent effect.

Article 22

Licences *

1. Imports into or exports from the Community of any of the products specified in Article 1(1) may be made conditional on the submission of an import or export licence. Such licences shall be issued by the Member States to any applicant irrespective of the place of his establishment in the Community.

The issue of such licences shall be conditional on the provision of security guaranteeing that importation or exportation is effected during the period of validity of the licence; the security shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

2. The list of the products concerned, the period of validity of the licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

* OJ C 309, 31.12.1976

Amendment No. 54

Article 23 deleted

Article 23

Import levy *

1. On importation into the Community of any of the products specified in Article 1(1)(a) and (d), a levy fixed before each marketing year for the duration of that year, in accordance with the procedure laid down in Article 35 shall be charged.
2. On importation into the Community of any of the products specified in Article 1(1)(b), (c) and (e), there shall be charged, in addition to the customs duty and any levy or countervailing charge payable under the provisions governing respectively the common organization of the market in products processed from fruit and vegetables and the common organization of the market in wine, a supplementary levy fixed before each marketing year for the duration of that year in accordance with the procedure laid down in Article 35.
3. However, if during a given marketing year the conditions of supply of one or more alcohol-producing raw materials are found to have changed considerably the levies referred to in the preceding paragraphs may be altered in accordance with the same procedure by reference to the trend of prices for such alcohol-producing raw materials.

Amendment No. 55

Article 24 deleted

Article 24

Calculation of the import levy

1. The levy applicable to the products specified in Article 1(1)(a) shall comprise:
 - (a) a variable component;
 - (b) a fixed component.The variable component:
 - (a) shall be established on the basis of the average protection afforded during the previous calendar year:
 - either for the quantities of alcohol-producing agricultural products required for the production in the Community of one hectolitre of pure alcohol,
 - or for the quantity of sugar contained in those quantities or likely to be obtained therefrom;
 - (b) shall not be less than 50% of the rate of customs duty applicable the day before the day of entry into force of this Regulation.*

* OJ C 309, 31.12.1976

deleted (contd)

2. The levy applicable to the products specified in Article 1(1)(d) shall comprise:

(a) a component derived from that referred to in (a) of the second subparagraph of paragraph 1 and calculated by reference to the ratio existing in the Community between the prices of the alcohol-producing agricultural products used in the preparation of the spirituous beverages concerned and the prices of the products used in the preparation of ethyl alcohol of the same origin;

(b) a fixed component.*

3. The supplementary levy applicable to the products specified in Article 1(1)(b), (c) and (e) shall be determined by reference to the alcohol content and to the component referred to in paragraph 2(a). It shall be applied to an alcohol content exceeding an actual alcoholic strength of:

- 15% vol, in respect of the products specified in Article 1(1)(b) and (e),
- 18% vol, in respect of wines fortified for distillation,
- 22% vol, in respect of the other wines specified in Article 1(1)(c),
- 11.85% mas in the case of products falling within CCT subheading 20.06 B I.**

4. For the purposes of applying paragraphs 1, 2 and 3 where the origin of the alcohol-producing raw material cannot be determined with certainty, the component to be applied shall be the highest component as determined in accordance with paragraph 1(a).*

5. For the products specified in Article 1(1)(a) and (d), the amount of the levy referred to in paragraphs 1 and 2 shall not be less than the rate of customs duty applicable the day before the day of entry into force of this Regulation.

The Council, acting by a qualified majority on a proposal from the Commission, shall lay down special provisions applicable to the products referred to in Article 1(a) and (d) imported into the Community on preferential terms.*

6. By way of derogation from the provisions of paragraphs 1, 2 and 3, for products falling within Common Customs Tariff subheadings ex 22.05 C IV, 22.09 A I, 22.09 B and 22.09 C in respect of which the rate of duty has been bound under GATT, the levies shall be limited to the amount resulting from that binding.

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

7. The Council, acting by a qualified majority on a proposal from the Commission, shall:

- determine the fixed components referred to in paragraphs 1(b) and 2(b),
- determine the quantities of the various alcohol-producing raw materials required in the Community to produce one hectolitre of pure alcohol,
- adopt general rules for the application of this Article.

8. Detailed rules for the application of this Article, including the conversion factors corresponding to the ratios referred to in paragraph 2(a), shall be adopted in accordance with the procedure laid down in Article 35.

These detailed rules may provide for measures designed to establish the alcohol-producing agricultural product from which imported alcohol was obtained.

Amendment No. 56

Article 25 deleted

Article 25

Export refunds *

1. To the extent necessary to enable ethyl alcohol either as such or contained in the products specified in Article 1(1)(b), (c), (d) and (e) to be exported in economically significant quantity, the difference between world market prices and prices in the Community for that alcohol or for the alcohol-producing agricultural product employed may be covered by a refund.

The refund shall be the same for the whole Community. It may be varied according to use or destination. The refund fixed shall be granted on application.

2. Where the application of export refunds would meet with difficulties in the case of ethyl alcohol of agricultural origin contained in certain spirituous beverages, the export refunds may be replaced, under certain conditions, by production refunds.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the granting of export refunds and, where applicable, production refunds and criteria for fixing the amount of such refunds.

4. The refunds shall be fixed at regular intervals in accordance with the procedure laid down in Article 35.

Where necessary the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

The opinions of the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on External Economic Relations and the Legal Affairs Committee, and the supplementary opinion of the Legal Affairs Committee are attached.

* OJ C 309, 31.12.1976

Amendment No. 57

Article 26

... in respect of all or some of the products specified in Article 1 (1). ('which are intended for the manufacture of ...of such products' deleted)

Amendment No. 58

Article 27

1. If the Community market in the products specified in Article 1(1) experiences or is threatened, by reason of imports or exports of those products, with serious disturbances.... (rest unchanged)

2. unchanged

3. unchanged

Article 26 *

Prohibition of inward processing arrangements

To the extent necessary for the proper working of the common organization of the market in ethyl alcohol of agricultural origin, the Council, acting by a qualified majority on a proposal from the Commission, may prohibit in whole or in part the application of inward processing arrangements in respect of the products specified in Article 1(1) which are intended for the manufacture of products specified in Article 1 and in respect of alcohol-producing raw materials intended for use in the manufacture of such products.

Article 27

Protective clause *

1. If the Community market in the products specified in Article 1(1)(a),(b),(d) and (e) experiences or is threatened, by reason of imports or exports of those products or of other products specified in Article 1(1) containing alcohol of agricultural origin, with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied to those products in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for the application of this paragraph and define the cases in which and the limits within which the Member States may take interim protective measures.

2. If the situation mentioned in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the measures shall be notified to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. The Commission Decision may be referred to the Council by any Member State within three working days following the day on which it was communicated. The Council shall meet without delay. It may, acting by a qualified majority, amend or repeal the measure in question.

* OJ C 309, 21.12.1976

Article 28 unchanged

Article 28

Aid *

Save as otherwise provided in this Regulation, Articles 92 to 94 of the Treaty shall apply to the production of and trade in ethyl alcohol of agricultural origin.

Amendment No. 59

Article 29 deleted

Article 29 *

French overseas departments

1. Appropriate measures concerning ethyl alcohol of agricultural origin and spirituous beverages obtained from sugar cane may be adopted by the Council, acting by a qualified majority on a proposal from the Commission, in order to maintain the level of employment of and ensure a fair income to sugar-cane producers in the French overseas departments.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

Amendment No. 60

Article 30 deleted

Article 30

Scarcity clause *

1. Where there is a risk that the supply of ethyl alcohol of agricultural origin to the Community or to a utilization sector in the Community can no longer be provided from Community resources, or where the Community market in the products specified in Article 1(1) is disturbed or threatened with disturbance and this situation is likely to continue, the necessary measures may be taken.

These measures, which shall be applicable to the products specified in Article 1(1), may include:

- (a) adjustment of the internal mechanisms regulating production;
- (b) a limit on exports;
- (c) a charge on exports

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 35.

*

OJ C 309, 31.12.1976

Amendment No. 61

Article 31

The regulations governing the financing of the common agricultural policy shall apply to the market for the products specified in Article 1(1).

Amendment No. 62

Article 32 deleted

Amendment No. 63

Article 33

Exclusive rights

Provisions which grant to certain natural or legal persons or which restrict to nationals of one Member State the exclusive right to produce, package, transport, store, refine, import, export, purchase, sell or otherwise market ethyl alcohol of agricultural origin shall be incompatible with this Regulation.

Article 31

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Financing

The equalization charges and compensatory payments provided for in Articles 11 and 15 and the amounts levied pursuant to Article 12 (2) shall be regarded, for the purpose of the financing of the common agricultural policy, as intervention designed to regulate agricultural markets.

Article 32 *

Extension of the system to the French overseas departments

1. From the date on which this Regulation takes effect, Article 40(4) of the Treaty and the provisions adopted for the implementation of that Article shall apply, so far as concerns the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, to the French overseas departments in respect of the market in the products specified in Article 1(1)(a), (b) and (c).

2. The provisions of this Regulation adopted on the basis of Articles 113 and 235 of the Treaty shall apply to the French overseas departments.

Article 33

*

Exclusive rights

Provisions which grant to certain national or legal persons or which restrict to nationals of one Member State the exclusive right to produce, package, transport, store, refine, import, export, purchase, sell or otherwise market ethyl alcohol of agricultural origin or the exclusive right to package, transport, store, refine, import, export, purchase, sell or otherwise market ethyl alcohol of non-agricultural origin shall be incompatible with this Regulation.

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

Amendment No. 64

Article 34

1. A Management Committee for Ethyl Alcohol of Agricultural Origin....
(rest unchanged)

2. unchanged

Amendment No. 65

Article 35

1. unchanged

2.

... Opinions shall be adopted by a majority of 45 votes.

3. unchanged

Article 36 unchanged

Article 34 *

Establishment of a Management Committee

1. A Management Committee for Ethyl Alcohol (hereinafter called the 'Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148(2) of the Treaty. The chairman shall not vote.

Article 35 *

Procedure of the Management Committee

1. Where reference is made to the procedure laid down in this Article, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under consideration. Opinions shall be adopted by a majority of 41 votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 36 *

Other tasks of the Management Committee

The Committee may consider any other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

* OJ C 309, 31.12.1976

Article 37 unchanged

Article 37*

Communication and information

Member States and the Commission shall communicate to each other the information necessary for applying this Regulation. Detailed rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 35.

Article 38 unchanged

Article 38

Research *

The necessary measures to encourage the search for new outlets for ethyl alcohol of agricultural origin shall be taken in accordance with the procedure laid down in Article 43(2) of the Treaty.

Article 39 unchanged

Article 39

Objectives *

This Regulation shall be so applied that appropriate and simultaneous account is taken of the objectives set out in Articles 39 and 110 of the Treaty.

Amendment No. 66

Article 40

Article 40 deleted

Amendment of Regulation (EEC) No 827/68

In the Annex of Regulation (EEC) No 827/68, heading No 22.07 is amended to read as follows:

CCT heading No	Description
22.07	Other fermented beverages (for example, cider, perry and mead) B. Other I. Sparkling II. Still a) Of an alcoholic strength of 15° or less

* OJ C 309, 31.12.1976

Amendment No. 67

Article 41

*

Article 41

Transitional measures

Should transitional measures be necessary to facilitate the transition from the existing system to the system established by this Regulation, in particular if the introduction of the new system on the date provided for would give rise to substantial difficulties in respect of certain products, such measures shall be adopted in accordance with the procedure laid down in Article 35.

Delete '30 June 1979'.

They shall be applicable until 30 June 1979 at the latest.

Amendment No. 68

Article 41a

Article 41a

Before the end of the third marketing year for which this Regulation is in operation, the Commission shall put a report before the Council analyzing the production structure for agricultural alcohol in the Community. This report shall also cover the application of this Regulation. On the basis of that report, the Council may adopt, in accordance with the procedure laid down in Article 43(2) of the Treaty, a plan for structural reorganization in this sector.

Before the end of the third marketing year for which this regulation is in operation, the Commission shall put a report before the Council analyzing the production structure for agricultural alcohol in the Community. This report shall also cover the application of this Regulation. On the basis of that report the Council shall adopt, in accordance with the procedure laid down in Article 43(2) of the Treaty, a plan for structural reorganization in this sector to apply from the end of the first period of five marketing years referred to in Article 4(2).

If necessary, the Council shall also adopt the amendments to this Regulation required to take account of the experience gained and of changing economic conditions in this sector, and in particular the production pattern in agricultural alcohol qualifying for Community aid and the pattern of utilization in the two reserved sectors.

If necessary, the Council shall also adopt the amendments to this Regulation required to take account of the experience gained and of changing economic conditions in the sector, and in particular the production pattern in agricultural alcohol qualifying for the price and outlet guarantees and the pattern of utilization in the reserved sectors.

Amendment No. 69

Article 42

*

Entry into force

This Regulation shall enter into force on 1 January 1978.

Delete the dates specified.

It shall take effect on 1 July 1978.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

* OJ C 309, 31.12.1976

** OJ C 193, 31.7.1979

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on:

- I. the amended proposal from the Commission of the European Communities to the Council for a regulation on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol
- II. amendments thereto submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹ and the proposed amendments thereto²,
 - having been consulted by the Council pursuant to Article 43(2) of the EEC Treaty (Doc. 504/76 and Doc. 209/79),
 - having regard to the interim report of the Committee on Agriculture (Doc. 266/72),
 - having regard to the preceding report of the Committee on Agriculture (Doc. 472/77),
 - having regard to the report of the Committee on Agriculture and the opinions of the Committee on Budgets, the Committee on Economic and Monetary Affairs and the Committee on External Economic Relations and the opinion and supplementary opinion of the Legal Affairs Committee (Doc. 1-1192/82),
 - having regard to the result of the votes on the Commission's proposal and the amendments thereto,
- A. having regard to the judgment of the Court of Justice of 10 December 1974³ and in particular point 10 thereof which states that 'under the provisions of Articles 43 and 46 of the Treaty, the national market organizations may provisionally be kept in existence pending the establishment of a common organization within the meaning of Article 40(2) under the conditions defined in Article 43(3)' and point 15 which states that 'while the Treaty provides that the national organization may be kept in existence pending the establishment of a common organization, this was nevertheless only envisaged until the end of the transitional period, the date by which the common agricultural policy must be finally established',

¹OJ No. C 309, 31.12.1976, p. 2

²OJ No. C 193, 31.7.1979, p.5

³Case 48-74 (Mr Charmasson v Minister for Economic Affairs and Finance) - preliminary ruling requested by the Conseil d'Etat de France in 'Reports of Cases before the Court' - 1974-8, p.1383

- B. whereas the Court of Justice has declared void vital provisions of national market organizations as contrary to the common market¹; whereas, however, the Court's judgments make it easier to define what might constitute a minimal organization of the market in ethyl alcohol of agricultural origin,
- C. whereas this situation can only give rise to uncertainty among Community producers of agricultural alcohol,
- D. whereas also the processing of certain agricultural raw materials into ethyl alcohol of agricultural origin
- (a) offers particular economic and social advantages for certain Community regions which lack other production possibilities,
 - (b) enhances the value of these agricultural raw materials and,
 - (c) contributes to the sound management of certain agricultural markets,
1. Considers that a minimum degree of organization of the market in ethyl alcohol of agricultural origin within the Community should be introduced in order
- (a) not to disturb the production of agricultural alcohol in the Community;
 - (b) to put an end to the uncertainty prevailing in this sector for producers of agricultural alcohol;
 - (c) to ensure freedom of trade within the Community;
2. Recommends that a common organization of the market in alcohol be based on the following principles:
- (a) limiting its field of application to ethyl alcohol of agricultural origin;
 - (b) ensuring the free movement of ethyl alcohol of agricultural origin within the Community;
 - (c) guaranteeing that ethyl alcohol of agricultural origin is restricted to uses directly related to the human body, namely oral consumption and vinegar-making;
 - (d) reducing the price of agricultural alcohols to that of molasses alcohol, which is the least expensive agricultural alcohol in the Community;
 - (e) granting to agricultural alcohols other than molasses alcohol a fixed-rate subsidy in order to ensure a fair income for producers;
3. Requests the Commission, therefore, to modify its proposal on the basis of these principles, in accordance with the second paragraph of Article 149 of the EEC Treaty;

¹OJ No. C 79, 29.3.1980

4. Further requests that, while a common organization of the market in ethyl alcohol of agricultural origin is being established on the basis of the above principles, the Community should see to it that employment is maintained in the Community regions for which alcohol distilling is vital, either because it provides a significant proportion of farmers' incomes, or because it is linked to other production cycles, or because it makes an important contribution to the development of certain Community regions, such as the Black Forest, Luxembourg or the French Overseas Departments;
5. Considers that, with due regard to paragraph 4 of this resolution, competition on genuinely equal terms between the various agricultural alcohols (including spirituous beverages) should be ensured by
 - (a) harmonizing their designation and definition, and
 - (b) harmonizing the taxes and excise duties levied on them;
6. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's amended proposal as voted by Parliament and the corresponding resolution.

INTRODUCTION

1. On 6 March 1972 the Commission submitted to the Council a proposal for a regulation on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol (Doc. 2/72).

At its meeting of 10 and 11 January 1973 the Committee on Agriculture adopted an interim report drawn up by its rapporteur, Mr BRIOT (Doc. 266/72).

At its sitting of 15 February 1973 the European Parliament decided, pursuant to Rule 26(2) of its Rules of Procedure, to refer this report back to the Committee on Agriculture (OJ No. C 14, 27.3.1973, p. 39).

2. On 7 December 1976 the Commission submitted to the Council an amended proposal for a regulation on the common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products containing ethyl alcohol (Doc. 504/76).

At its meeting of 20 and 21 December 1977 the Committee on Agriculture adopted a report drawn up by its rapporteur, Mr LIOGIER (Doc. 472/77).

At its sitting of 16 January 1978 the European Parliament decided, at the request of Mr BANGEMANN on behalf of the Legal Affairs Committee, to postpone consideration of the report by Mr LIOGIER to a subsequent part-session (OJ No. C 36, 13.2.1978, p. 5). On 22 March 1978 the Legal Affairs Committee adopted a supplementary opinion by Mr BANGEMANN (Doc. 472/77/Ann.II) on this proposal.

3. On 16 February 1978 the Committee on Agriculture, through its chairman, Mr HOUDET, questioned the Commission on the legal implications for the Community of failure to comply with the CHARMASSON judgement and implications for Community producers of sheepmeat, potatoes, ethyl alcohol of agricultural origin and spirits (Doc. 531/77) - Debates of the European Parliament No. 226 (February 1978), p.242.

In its reply, the Commission emphasized the urgent need to set up a common organization of the market in ethyl alcohol of agricultural origin.

On 14 April 1978 the Commission informed Parliament that it had decided to modify its amended proposal for a regulation in view of the reservations expressed by the Committee on Agriculture, and that Parliament would be consulted on a new proposal.

4. On 12 January 1979 the chairman of the Committee on Agriculture, Mr CAILLAVET, decided to table a question to the Commission and the Council in his own name on products not yet covered by a common organization of the market.

In his reply, the Commission stated that it would be presenting, before 1 April 1979, the changes announced in its letter of 14 April 1978, and that these changes would concern points of substance (reply to Written Question No. 974/78 - OJ No. C 101, 23.4.1979, p. 10).

The Council, for its part, provided a much clearer reply by indicating that the amended proposal for a regulation had never been withdrawn and that it had noted the Commission's intention to submit proposed amendments by 1 April 1979 (reply to Written Question No. 973/78 - OJ No. C 113, 7.5.1979, p. 8).

5. The amendments in question were eventually adopted by the Commission on 18 May 1979 and forwarded to the European Parliament on 29 May 1979. They in no way constitute a new proposal, as the Commission had led us to expect, with the resulting implication that its amended proposal for a regulation had been withdrawn, but consists of amendments to its amended proposal for a regulation, submitted on the basis of the second paragraph of Article 149 of the EEC Treaty.

6. These are the amendments which are now under consideration. First of all, however, we shall describe the main principles contained in the amended proposal for a regulation and the position adopted at the time by the Committee on Agriculture.

II. PRINCIPLES LAID DOWN IN THE AMENDED PROPOSAL FOR A REGULATION

7. Unlike the original proposal, which followed a monopolistic approach, making it obligatory for all ethyl alcohol of agricultural origin together with certain synthetic alcohol produced in the Community to go through the intervention agencies, the amended proposal for a regulation is more liberal - even if this liberalism is kept within certain specific limits.

8. The amended proposal concerns only ethyl alcohol of agricultural origin and spirituous beverages; synthetic alcohol is excluded from its scope.

9. Production of ethyl alcohol of agricultural origin is not subject to any restriction. This freedom is protected by three guarantees:

- a price guarantee via the system of target prices,
- a production guarantee via the system of target quantities, guaranteed quantities and guaranteed quotas,

- a marketing guarantee via the system of reserved sectors, buying-in by the intervention agencies within the limits of the guaranteed quota for each undertaking, and a mechanism for balancing the prices of agricultural alcohol of different origin by means of equalization charges and compensatory payments¹.

10. Furthermore, the production of spirituous beverages, which were expressly excluded from the agricultural field by Regulation No. 7a of 18 December 1959, is unrestricted. However, the Commission, considering that certain spirituous beverages (Korn, rum, certain potable spirits made from fruit) might be placed in difficulty by the lowering of the price of ethyl alcohol of agricultural origin in certain Member States, proposes to grant in respect of those beverages:

- a price guarantee achieved by taxing the alcohol contained in spirituous beverages for which the target price is lower than the selling price of alcohol intended for oral consumption,
- a production guarantee by means of a compensatory payment granted in respect of a guaranteed quantity of spirituous beverages obtained from an alcohol-producing agricultural product obtained or harvested within the Community which may be placed at a competitive disadvantage as a result of the fixing of the selling price of alcohol intended for oral consumption.

11. Other noteworthy provisions of the amended proposal for a regulation concern:

- the freedom accorded to molasses alcohol, which has to compete directly with synthetic alcohol. However, a marketing premium is granted over 7 years, on a sliding scale, to producers of molasses alcohol to enable them to adapt to the new conditions on the market in the said alcohol, as the Commission had noted that the prices of molasses alcohol and synthetic alcohol were approaching a similar level;
- reserved sectors for ethyl alcohol of agricultural origin, namely the oral consumption, vinegar-making and pharmaceutical sectors and, for a transitional period of five marketing years and for Member States who so request, the perfumery and cosmetics sectors;

¹ See Annex I for the definition of these various concepts.

- the financial mechanisms introduced with a view to ensuring:
 - firstly, equality of competition between these various types of ethyl alcohol of agricultural origin sold to users in a reserved sector, by fixing a standard selling price for each of the reserved sectors. This equality of competition is ensured by granting a compensatory payment or levying an equalization charge,
 - secondly, that this new common organization of the market should finance itself by the application of the intervention contribution proposed for this purpose to both ethyl alcohol of agricultural origin as such and to that contained in spirituous beverages;
- arrangements for external trade governed by the traditional mechanisms of the common agricultural policy, i.e. import levies, export refunds and a safeguard clause to protect this market from disturbances caused by excessive imports or exports of alcohol;
- scarcity clause for situations where there is a risk that Community supplies of ethyl alcohol of agricultural origin may no longer be assured;
- harmonization of definitions, designations and descriptions of products covered by this new common organization of the market;
- provisions for French overseas departments concerning alcohol and spirituous beverages obtained from cane sugar;
- ban on production and marketing monopolies in respect of agricultural alcohol and marketing monopolies in respect of non-agricultural alcohol;
- finally, setting up of a management committee to administer this common organization of the market.

III. POSITION OF THE OLD COMMITTEE ON AGRICULTURE

12. In the Liogier report¹ the Committee on Agriculture took the view that the amended proposal for a regulation constituted a sound basis for the organization of the Community market in ethyl alcohol of agricultural origin. However, it asked that this proposal should be reviewed with regard to the points listed below.

¹ Doc. 472/77

13. The committee requested that the scope of the amended proposal for a regulation should be defined more clearly or modified, to ensure that:

- there should be no improper distinction between ethyl alcohol of agricultural origin and spirituous beverages (N.B. liquids such as gin or vodka may be considered as ethyl alcohol of agricultural origin or as spirituous beverages, depending on the manufacturing process used),
- vermouths of an actual alcoholic strength of less than 22° should be treated in the same way as those of an alcoholic strength exceeding 22° so that they may enjoy the same advantages as the latter in trade with non-member countries (levies, refunds),
- products of particular economic importance for certain Community regions should be safeguarded (korn, potato spirit and eaux-de-vie from fruit produced in Germany).

14. The committee felt that the target price for each type of ethyl alcohol of agricultural origin should be reviewed to take into account not only the need to modernize and rationalize Community production potential, as advocated in the Commission proposal, but also the requirements of structural, social and regional policy in order to reflect the importance of alcohol production for certain Community regions.

In particular, the committee regretted that the special target prices, fixed on the basis of the size of distilleries during an adjustment period, were to apply for 10 years only and would be progressively reduced. In the case of these small distilleries, the committee took the view that there should be no pre-established time limit or progressive reduction. On the other hand, it considered it necessary to examine at regular intervals the situation of these small distilleries, with a view to taking the necessary measures to facilitate their modernization.

15. The committee opposed the view that molasses alcohol could withstand competition from synthetic alcohol. It therefore requested that molasses alcohol should be treated in the same way as other types of alcohol and enjoy the same guarantees, in particular the marketing guarantee.

16. The committee felt that the allocation of guaranteed quantities among Community distillers, should be carried out by the Member States and not the Management Committee, as proposed by the Commission.

17. The Committee on Agriculture was in favour of the permanent inclusion of the perfumery and cosmetics industry among the reserved sectors.

18. The committee was also in favour of abolishing the intervention contribution, not only because there was no obligation for a sector of the common agricultural policy to be self-financing (breach of the principle of financial solidarity), but also because the fixing of charges was the exclusive responsibility of the Budgetary Authority. In addition, if this intervention contribution was applied, thousands of holdings might well disappear, particularly in Germany, where the distillation of alcohol accounted for up to 30% of the income of the holdings in question.

19. As regards the scarcity clause, the Committee on Agriculture felt that the measures proposed for dealing with shortages should apply only to ethyl alcohol of agricultural origin. Exports of spirituous beverages should not be restricted and the charge on exports should be applied to them only as long as the market was disturbed, to ensure that spirituous beverages such as whisky or cognac did not lose external markets.

20. Finally, the Committee on Agriculture requested special protection measures for wine-based eaux-de-vie, the definition of a Community statute for small-scale distillers on the basis of Article 235 of the EEC Treaty, and the harmonization of the taxes and excise duties applicable to alcohol and spirituous beverages.

IV. PROPOSED AMENDMENTS TO THE AMENDED PROPOSAL

21. Examination of the amendments made by the Commission to its amended proposal for a regulation shows that the Committee on Agriculture has obtained satisfaction on the following points:

- molasses alcohol is to benefit, like other alcohols, from a certain marketing guarantee (Article 4). The intervention agencies are thus obliged to purchase, within the limits of the guaranteed quota for each distillery, molasses alcohol which has not been disposed of (Article 5). The transitional measures for molasses alcohol (marketing premium) are no longer applicable (Article 7);
- the intervention contribution (Article 17) has been abolished. The Commission's justification for this is that a common policy in respect of an agricultural product should not be financed by means of a charge on industrial products, namely spirituous beverages, with the burden being borne by the consumer. Article 31 has been amended accordingly;
- the Commission will submit to the Council, before the end of the third marketing year, a report analysing the production structure for agricultural alcohol in the Community (Article 41a). This

measure was called for in point 11 of the motion for a resolution (Liogier Report) and in the amended text of Article 3(4) of the Commission proposal. The Committee on Agriculture welcomes the Commission's endorsement of its proposal. However, it regrets that the Commission has failed to stipulate that this report should also be submitted to the European Parliament. If this is not done, it would seem impossible for Parliament to deliver a valid opinion on the plan for the structural reorganization of Community production referred to in Article 41a.

22. The other amendments call for the following comments:

- the amendments to Article 1(1) are of a technical nature and concern only the unit of measure for the alcoholic strength of the various products. This is also the case in Article 24;
- the proposed amendment to the last subparagraph of Article 1(2) is designed to ensure a degree of consistency in the Commission proposal by establishing equality of competition between spirituous beverages, flavoured wines and vermouths;
- the proposed amendment to the last subparagraph of Article 3(2) is designed to ensure that certain agricultural alcohols such as molasses alcohol do not benefit, thanks to the marketing guarantee from certain advantages enabling producers of molasses alcohol, by the system of financial equalization, to develop their production in financially favourable conditions and force out of business producers less well equipped to cope with this competition. In view of the current energy crisis, the Commission feels that Community production capacity should be maintained while preventing an inordinate increase in alcohol production;
- finally, the proposed amendment to Article 10(2) specifies that, in fixing the selling price of alcohol intended for the pharmaceutical, perfumery and cosmetics sectors, the market price of synthetic alcohol should be taken into account. Although it remains to be seen how the price of synthetic alcohol will be affected by the energy crisis, it should be pointed out that it is at present the least expensive alcohol. If the selling price of alcohol for the two abovementioned sectors was fixed at a level superior to that of synthetic alcohol, it is clear that this would jeopardize the export capacity of the European pharmaceutical and perfumery industries.

V. ANALYSIS OF THE NEW COMMITTEE ON AGRICULTURE

23. The amended proposal for a regulation and the related amendment must be considered in the light of the problem of alcohol in the Community as a whole.

First, there is an economic problem in the competition between alcohol of agricultural origin and synthetic alcohol with the associated question of the reserved sectors. Then there is a social problem, linked in part to a fiscal problem mainly in relation to Germany's contract distilleries.

Lastly, there is a fiscal problem which while not strictly the concern of a common organization of the market in alcohol is nevertheless a factor which affects the way it works.

24. The amended proposal for a regulation in the first instance poses a fundamental economic problem namely, the competition between ethyl alcohol of agricultural origin and synthetic alcohol.

As far as production is concerned, it should be pointed out that there are no restrictions on the production of alcohol of agricultural origin or synthetic alcohol. In 1978 the production of alcohol of agricultural origin (excluding spirituous beverages) was 6,824,000 hecto-litres while the amount of synthetic alcohol produced was 5,367,000 hecto-litres.

However, the Commission thought it useful to maintain the production of alcohol of agricultural origin which is a renewable raw material. In the present circumstances, synthetic alcohol would oust agricultural alcohol from the market if unfettered competition were allowed to develop. But if the price of oil were to rise, there would be a cut-back in the production of synthetic alcohol, which - except in one special case - represents a waste of energy¹, and a boost given to agricultural alcohol as a renewable source of energy.

¹ One Community company is considering increasing its synthetic alcohol output solely on account of the special properties of North Sea crude oil.

25. The Commission has therefore proposed that competition between these two types of alcohol would be kept within acceptable limits in order to avoid destroying the Community's agricultural alcohol industry. This is why the Commission has proposed granting ethyl alcohol of agricultural origin a production guarantee through a system of quotas to be apportioned between undertakings, through guaranteed prices and a marketing guarantee.

26. It is in this light that the Commission's proposal to create reserved sectors should be seen.

What the Commission proposes is, as stated in paragraph 12, to reserve the sectors associated with human consumption for ethyl alcohol of agricultural origin. These sectors represent a potential consumption of 4,400,000 hecto-litres.

The Committee on Agriculture criticizes the concept of reserve sectors insofar as, strictly speaking, it is inconsistent with free competition between agricultural alcohol and synthetic alcohol.

27. It should be pointed out that in all the Member States - de jure or de facto - the oral consumption sector is reserved for agricultural alcohol. The Commission is proposing that the same situation should apply to vinegar and pharmaceutical products intended for human consumption. However, for the perfumery and cosmetics sector it is proposing a transitional period at the end of which this sector would be open to free competition.

28. The Committee on Agriculture considers that the perfumery and cosmetics sector should, so far as it concerns human consumption, after a transitional period be reserved to agricultural alcohol alone. This sector's requirement of 450,000 hecto-litres would mean a corresponding reduction of the volume sold into intervention. In addition, since the production of synthetic alcohol is becoming less attractive in terms of financial return and energy input and as there are other uses for ethanol, it is not advisable to give too much encouragement to the production of synthetic alcohol for sectors where agricultural alcohol is a perfectly acceptable substitute.

29. The marketing guarantee for an average production level of 7,400,000 hecto-litres of agricultural alcohol covers an estimated 5,650,000 hecto-litres. This figure exceeds by 1,250,000 hecto-litres the requirements of the reserve sectors. The intervention agencies which will have to buy up these 1,250,000 hecto-litres can either put them into storage or market them in the non-reserved sectors.

To avoid distorting competition, the Commission has chosen to propose the procedure of inviting tenders. The invitation to tender¹, which may be issued only by the intervention agencies, must be issued 'under conditions which avoid any disturbance of the market in alcohol'² including therefore the synthetic alcohol market, so that the Commission's proposal cannot be accused of promoting unfair competition between agricultural alcohol and synthetic alcohol.

30. In this connection, reference should be made to the minutes of the hearing of 21 May 1981 on the subject of ethyl alcohol of agricultural origin³. It was pointed out on that occasion that in Case 139/79 (the 'isoglucose' judgment), the Court had clearly acknowledged the 'primacy of the agricultural policy in relation to the objectives of the Treaty in the field of competition and the Council's power to determine the extent to which the rules of competition should apply to the agricultural sector'.

31. However, the Legal Affairs Committee maintained its reservations in its supplementary opinion as it felt that in spite of the Court's judgment the Commission proposal was at variance with the principles of proportionality and non-discrimination.

32. The amended proposal for a regulation poses a social problem in that a number of Community regions depend traditionally on the production of alcohol. This is true in the case of the Black Forest's contract distilleries (the total is 33,300 for the whole of Germany) and also in the case of Lower Saxony, Westphalia and Schleswig-Holstein where alcohol including korn is produced from potatoes and cereals and finally, there are the French overseas departments with their rum production.

33. The Commission's abandonment of the intervention contribution represented substantial progress for these special types of distilleries. The Commission has proposed other measures in favour of these distilleries as follows:

- (a) The Council may fix special target prices (Article 3(4)) by reference to the size of the distillery, subject to progressive reduction over a period not exceeding ten years;

¹ See PE 65.266, p.3

² See Article 8 of the amended proposal for a regulation.

³ PE 73.925, p.3

- (b) For spirituous beverages for which a guaranteed quantity has been fixed (Article 15(2))¹, namely korn, eaux-de-vie made from fruit and rum from the French overseas departments, the intervention agencies will make a compensatory payment to the producers not subject to any time limit.
- (c) For the French overseas departments (Article 29), the Commission has proposed that the Council may adopt 'appropriate measures' with a view to maintaining the level of employment and ensuring a fair income for sugar cane producers;
- (d) Finally, after the regulation has been in force for three years, the Commission will present to the Council a report analysing the structures of agricultural alcohol production in the Community on the basis of which the Council (and not the Management Committee) will after consulting the European Parliament adopt a plan to restructure the sector.

34. This last point featured in the report by Mr Liorgier and, happily, the Commission has followed the recommendation of the old Committee on Agriculture. However, the guarantee offered to special types of distillery by the system of special target prices is still insufficient in that those prices are subject to progressive reduction and to time limits.

The Commission should have abandoned this idea of 'progressive reduction' and proposed an intervention system for these producers to be used where they are unable to market their products.

Similarly, provisions should have been made for better protection for rum manufactured in the FOD. Such protection might have taken the form of an appropriate definition of rum and a 'registered designation of origin' system.

35. The amended proposal for a regulation lastly raises a complex fiscal problem with a number of aspects.

(a) First, there is the problem of the competition between the various types of alcoholic beverages (eaux-de-vie, wines, beers) protected by national laws and which are or have been the subject of proceedings before the Court of Justice. At present the effect of the Court's findings is negative. It is now up to the Commission to try and restore what the Court, in the name of the Treaties, has destroyed. The Commission should therefore put to the Council a proposal for the harmonization of taxes and excises on alcohol and spirituous beverages to create genuine competition in the Community between the various types of alcoholic beverage. Some progress

¹See Article 14 for the conditions governing the fixing of the guaranteed quantity

has already been made towards harmonization (in France, for example, the duty on cognac has been increased in accordance with the rulings of the Court in order to avoid giving cognac a privileged position as compared with whisky), but further efforts are necessary.

(b) There is then the problem of contract distilleries already referred to. Here, too, the system currently applied should be maintained or even extended where such a system is justified by social factors.

(c) Finally there is a specifically French problem, that of home distillers, i.e. the million or so people entitled to distil 10 litres of pure alcohol per annum without paying any tax. This system remains insignificant and has no influence on intra-Community trade. Consequently, it should be left outside a Community system.

36. This fiscal problem is compounded by the problem of obstacles to trade in spirituous beverages within the Community which need to be removed if genuine competition is to be created. Thus, recently, France amended its laws on advertising for spirituous beverages in response to requirements of public health and to put an end to restrictions which hitherto affected only spirituous beverages from outside France.

37. Consideration of this very complex proposal would not be complete without looking at three further points, namely the problems of wine alcohol, molasses alcohol, and the application of Protocol No. 19.

38. As far as wine alcohol is concerned, the main difficulty is to fit highly variable quantities into a rigid framework, especially as the Council has fortunately just adopted on a permanent basis the 'performance guarantee'. The Commission has therefore decided to introduce into its amended proposal for a regulation the necessary degree of flexibility to take account of exceptional harvests, i.e. where the production of wine

alcohol exceeds the average level of 1,350,000 hectolitres of pure alcohol. This, then, is the purpose of Article 4(4) of the proposal which provides that the guaranteed quantities allocated annually to each distiller may be adjusted at the end of the marketing year within the limits of the target quantity fixed for wine alcohol.

39. However, if too much wine alcohol were produced, there would be a danger of the market in ethyl alcohol of agricultural origin being disturbed. It is therefore to be hoped that the effect of the Commission's action programme 1979/1985 for the progressive establishment of balance on the market in wine¹ will be felt soon so that in future wine production is concentrated on better quality wines which are in demand on the market and so do not need to be sent for distillation.

It should be noted that in its new proposal amending Regulation (EEC) No. 337/79² the Commission aims to introduce stricter rules in the wine sector in order better to control the production of wine, especially in view of the prospect of Spanish accession to the Community.

40. The old Committee on Agriculture had asked for a production guarantee, even partial, to be granted for molasses alcohol. Its suggestions, on this point have been heeded, in that the Commission has revised its amended proposal accordingly - (Articles 4 and 6). On average 3,250,000 hectolitres of molasses alcohol are produced annually, and of that quantity, 1,500,000 hectolitres, i.e. virtually half, will benefit from the marketing guarantee. Furthermore, these 1,500,000 hectolitres correspond to the quantity currently marketed in the reserved sectors.

The Commission considers that most of the rest of this alcohol should be exported in view of the increasing export opportunities for agricultural alcohol.

The Commission should consider whether the Community instead of producing alcohol from molasses should use molasses to produce other commodities which are in short supply. The use of molasses in animal feed-stuffs could be of interest in that :

- (a) the Community needs such products, and
- (b) it could thereby establish a balance between the supply of agricultural alcohol and demand from the reserved sectors.

¹ Doc. 496/78 - rapporteur : Mr Pisoni
² COM(81) 408 final

41. Finally, attention should again be drawn to the problems posed by Protocol No. 19 annexed to the Act of Accession concerning spirituous beverages obtained from cereals, basically whisky and whiskey.

The purpose of Protocol No. 19 was to facilitate the use of Community cereals for the manufacture of spirituous beverages from cereals for export to third countries. The measures to be taken by the Council under this protocol were to be adopted, either within the framework of the common organization of the market in cereals or that to be adopted for the market in alcohol, it being understood that such measures must not give rise to discrimination between whisky (or whiskey) and other spirituous beverages.

42. By its resolution of 28 December 1972¹ on the drawing up of the common policy on alcohol and the implementation of Protocol No. 19 annexed to the Act of Accession, the Council agreed : 'to adopt simultaneously

- the regulation for the common organization of the market in ethyl alcohol with effect from 1 August 1973;
- the measures intended to ensure the actual grant - also with effect from 1 August 1973 - within the framework of the common organization of the market and pursuant to the provisions of Protocol No. 19, of export refunds for spirituous beverages obtained from cereals'.

43. Article 25 of the amended proposal was in line with this Council resolution. However, since 28 April 1981 this problem has been settled, within the framework of the common organization of the market in cereals, since the Council has adopted Regulations (EEC) Nos 1187/81 and 1188/81² laying down rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages.

VI. PROPOSALS FOR SOLVING THE PROBLEM OF ETHYL ALCOHOL OF AGRICULTURAL ORIGIN

44. As the Commission has pointed out, the adoption by the Council of an organization of the market in ethyl alcohol of agricultural origin is now becoming urgent³ on account of :

- (a) the uncertainty which prevails in this sector following the judgements handed down by the Court of Justice;
- (b) the need to achieve free movement of goods in relation to alcohol and spirituous beverages;

¹ OJ No. C 141, 31.12.1972, p.1

² OJ No. L 121, 4.5.1981

³ PE 65.266

(c) the need to avoid destroying the production machinery of a renewable raw material at a time when energy is in short supply;

45. The Committee on Agriculture draws attention to the effort made by the Commission in attempting to lay down rules for the agricultural alcohol sector in the Community. It welcomes the fact that in its amended proposal the Commission has taken account of the criticisms expressed by the committee. However, the complexity of the proposals, which results from the desire for compromise shown by the Commission, will make its acceptance by the Council extremely difficult since it is not easy to satisfy both the states which produce agricultural alcohol and those which produce synthetic alcohol, not to mention the problems connected with spirituous beverages. This being so, it is legitimate to ask whether the Commission might not consider simplifying its proposal so as to ensure the free movement of alcohol and spirituous beverages while providing measures intended to guarantee the livelihood of producers who might be adversely affected by any such liberalization.

46. It would also be unwise to delay again the adoption of a common organization of the market in agriculture on the ground that at some point in the future the Community will be faced with enlargement to include Greece, Portugal and Spain.

Greece, which has been a member country of the Community since 1 January 1981, has an alcohol production of 295,000 hectolitres. This level of production would not disturb the Community market.

Portugal, whose alcohol production is also fairly low (about 100,000 hectolitres), is a net importer of alcohol and so would benefit the Community market.

Spain, however, produces large quantities of alcohol fluctuating between 1,700,000 and 2,500,000 hectolitres annually, these fluctuations being due to the amount of wine distilled into alcohol. If Spain were to become a member of the Community, it would in any case have to conform to the Community discipline which the Commission plans to introduce in the wine sector.

47. The Committee on Agriculture considers that the Commission's proposal must be thoroughly reviewed in order to take account of the criticism expressed by the committees asked for their opinion, and especially the doubts expressed by the Legal Affairs Committee, and also to take account of the improbability of an agreement being reached within the Council on the basis of the present proposals.

48. For the reasons set out in point 44 of this explanatory statement, the Committee on Agriculture considers essential the introduction of a minimum common organization of the market in ethyl alcohol of agricultural origin.

It had thought that Article 40(2)(b) might provide the basis for this, since it stipulates that the common organization of the market may take the form of a 'compulsory coordination of the various national market organizations'.

49. Such a framework would have made it possible to maintain the essential provisions of the national market organizations which do not distort competition and, at the same time, to apply a common system to agricultural alcohol. Moreover, this 'decentralized' approach would leave intact a large number of the rules of national market organizations and would thus have made it possible to solve the local problems of certain regions of the Community, such as the Black Forest, Luxembourg and the French overseas departments, to which alcohol production is of vital importance.

50. However, the Committee on Agriculture did not opt for this solution because it would require the introduction of a minimum price for ethyl alcohol of agricultural origin in intra-Community trade in order to prevent the Community market from being disrupted by unbridled competition.

51. A system of minimum prices in intra-Community trade would be open to serious legal objections. The banning of imports into a Member State of a product which failed to conform to a minimum price would be equivalent in its effect to a quantitative restriction and would have to be regarded as an infringement of Article 30 of the EEC Treaty. This has, moreover, been confirmed by the Court of Justice, which declared invalid a provision of the old 'wine' regulation (Regulation (EEC) No. 816/70) which authorized the producer Member States to levy taxes in intra-Community trade as a safeguard measure.

The existence, in the wine market, of a system of minimum prices was accepted only because it was hedged about with the following legal safeguards:

1. The disposal of wine is guaranteed by the fact that a distillation mechanism is triggered when the minimum price is fixed; this mechanism comes into operation when the minimum price is reached;
2. The period of application of the measure is limited to 4 years;
3. The measure is used only in the event of a serious crisis and only after the other intervention measures have failed to stabilize the situation on the market.

In addition, the effects of the 'wine' regulation are felt in all the Member States at the same time. A system of minimum prices, applied whenever freedom of movement is likely to pose a serious threat to the production of alcohol in a Member State, is so protectionist that it denies the existence of a common market and is incompatible with a common market organization based on common rules.

52. The Committee on Agriculture has therefore preferred to focus its attention on the possibility of simplifying the present amended Commission proposal. This could be achieved on the basis of the following guidelines:

- (a) the proposal should apply solely to ethyl alcohol of agricultural origin and spirituous beverages should be totally excluded from its field of application;
- (b) freedom of movement for ethyl alcohol of agricultural origin should be guaranteed within the Community;
- (c) only two sectors should be reserved for ethyl alcohol of agricultural origin: oral consumption and vinegar-making;
- (d) the price of ethyl alcohol of agricultural origin should be reduced to that of molasses alcohol. In recompense, the other types of agricultural alcohol should receive Community aid;
- (e) spirituous beverages of economic importance to certain Community regions (fruit-based potable spirits in Germany and Luxembourg, rum from the French overseas departments) should continue to be subject to their respective national laws as regards taxation and should not therefore be dealt with by the simplified proposal for a regulation.

These guidelines should be examined thoroughly.

53. The fact of limiting the field of application of the future 'alcohol' regulation to ethyl alcohol of agricultural origin should allay the fears of those who suspect that the Community is trying in one way or another to control the production of spirituous beverages. In future, it would be clearly established that this production is free. Such a solution ought also to dispel the doubts entertained by the Legal Affairs Committee.

54. It is essential, in a common market, for ethyl alcohol of agricultural origin to be able to move freely among the Member States. The amendments put forward to the Commission's proposal are consistent with this requirement since they make for the establishment of a relatively 'simple' common market organization for the sector in question.

In particular, as we have already stated, the idea of a minimum price for alcohol has been rejected.

55. In response to the legal criticisms and doubts expressed about the reserved sectors, the Committee on Agriculture proposes that their number be reduced to two (oral consumption and vinegar-making), since these sectors are already reserved, de jure or de facto, for agricultural alcohol in the Member States. In short, the Committee on Agriculture proposes the endorsement of a situation that already exists in fact or in law.

56. With a view to mitigating the effects of the mechanism advocated by the Commission in its amended proposal, the Committee on Agriculture suggests that the price of agricultural alcohols be reduced to that of molasses alcohol, which is the least expensive alcohol. If this were done, the whole equalization system built around cereals-based alcohol would disappear. Furthermore, all the various mechanisms regulating the Community's external trade would cease to be necessary because the price of alcohol in the Community should approximate to the world price. The customs duties, on the other hand, would be maintained. (The Community imports very little alcohol. The alcohol it does import (about 150,000 hl per year) mostly comes from the ACP States and therefore receives preferential treatment).

As compensation for reducing the price of agricultural alcohols to that of molasses alcohol, the Committee on Agriculture suggests that the Community should grant a fixed-rate subsidy for alcohols obtained from sugar beet, cereals, potatoes, fruit and sugar cane in order to guarantee a fair income for producers. The amount of the subsidy would be limited to the quantities currently produced in the Community.

This arrangement ought to satisfy both the Committee on Budgets, which found the common market organization proposed by the Commission too expensive, and the Committee on Economic and Monetary Affairs, which feared that the equalization system would distort competition between the various agricultural alcohols and between them and synthetic alcohol.

57. Spirituous beverages, such as fruit-based potable spirits or rum, should not be dealt with by the regulation, which would leave the existing tax provisions intact. As far as Korn is concerned, it would seem that its producers want it to be treated as an agricultural alcohol. If this was not the case, it would benefit from the tax provisions currently applicable in Germany.

58. Finally, if there is to be a genuine common market in alcohol, national subsidies other than those of a fiscal nature must be abolished. If this were done, storage measures taken at national level would no longer be lawful. Against this, however, it should not be forgotten that the Community would aid producers of agricultural alcohol to ensure that they received a fair income.

59. The cost of running this common market organization should amount to 60 m ECU a year, as against 100 m ECU with the original proposal.

We would point out that refunds on whisky, which are borne by the common market organization of the market in cereals, cost 30 m ECU a year.

The disposal of wine alcohol is covered by Regulation (EEC) No. 337/79. Article 40a¹ of this Regulation provides that the disposal of alcohol obtained from certain wine distillation operations must not disturb the markets in alcohol and spirituous beverages produced in the Community and that, if need be, such alcohol may therefore be disposed of outside the Community, probably by means of the tendering procedure.

60. The Committee on Agriculture hopes that its proposals will enable the discussion of the 'alcohol' dossier to be reopened within the Council. The uncertainty that is now so prevalent in the alcohol sector is damaging to Community producers and will eventually threaten the very existence of the EEC's production machinery, which would be disastrous for our Community which is so dependent on raw materials.

61. However, the market organization proposed by the Committee on Agriculture will have to be completed. If freedom of movement for ethyl alcohol of agricultural origin is secured, measures will be needed to secure the same freedom for spirituous beverages. This will mean removing a number of non-tariff barriers such as those relating to the definition of spirituous beverages and to taxation. Moreover, the tax regulations applicable to agricultural alcohols themselves will have to be harmonized.

Particular care will be needed to ensure that this essential process of tax harmonization does not imperil those regions for which the production of alcohol is a vital necessity. The Black Forest is one such region, but there is also Luxembourg and the French Overseas Departments.

62. The Committee on Agriculture therefore calls on the Commission to simplify its proposal on the basis of the principles it has enunciated, so as to make possible the establishment of a minimum common organization of the market in ethyl alcohol of agricultural origin, and strongly recommends the European Parliament to endorse its conclusions.

¹See Regulation (EEC) No. 2144/82 - OJ No. L 277 of 3.8.1982, p.1.

DEFINITION OF TERMS USEDTarget price

A target price shall be fixed for each type of ethyl alcohol of agricultural origin. It is the price at which the intervention agencies purchase alcohol which producers have been unable to dispose of either on the open market or in the reserved sectors.

Quantitative marketing guarantee

A marketing guarantee shall be granted in respect of a limited quantity of ethyl alcohol of agricultural origin produced in the Community.

To this end, a target quantity, covering five marketing years, shall be fixed for each type of alcohol.

A guaranteed quantity valid for one marketing year shall be fixed annually. It shall consist of the quantity of alcohol for which an outlet can be found, if necessary, through the intervention agencies. After five marketing years, the guaranteed quantities shall be equivalent to the target quantity fixed at the outset.

Finally, the guaranteed quantity for each type of alcohol shall be apportioned among Community distillers. The amount allocated to each undertaking is the guaranteed quota. This is the volume which undertakings may send in to the intervention agencies if they find no outlets for the alcohol which they produce.

Reserved sectors

These are the sectors in which only ethyl alcohol of agricultural origin may be used, viz:

- oral consumption
- vinegar-making
- pharmaceutical industry
- and, for five marketing years, on a provisional basis for Member States who so request, the perfumery and cosmetics sector.

A selling price shall be fixed for each of the reserved sectors. If the target price of an alcohol is lower than this selling price, it shall be subject to an equalization charge. If the target price of an alcohol exceeds this selling price, it shall benefit from a compensatory payment. By employing this system, the Commission intends to give each type of alcohol an equal chance of gaining access to the reserved sectors.

Production of ethyl alcohol of agricultural origin

Member State	Products	1000 hl pure alcohol			
		1977 ²	1978 ²	1979 ²	1980 ²
Germany	Molasses	253	221	220	242
	Potatoes	407	503	504	560
	Cereals	192	82	83	74
	Fruits and various	59	32	26	51
	TOTAL	911	838	833	927
France	Molasses	644	646	580	534
	Sugar beet	1110	1573	1603	1530
	Wine ¹	1021	438	435	857
	Fruit	3	25	4	3
	Sugar cane	25	25	16	63
	Various	59	29	36	43
	'Non-restricted' ³	-	-	-	157
TOTAL	2862	2736	2674	3187	
Italy	Molasses	1384	1262	1109	858
	Wine	218	233	319	1000
	Fruit	193	76	309	259
	Potatoes	-	62	18	25
	TOTAL	1795	1633	1755	2142
Netherlands	Molasses	604	609	664	569
	Cereals	41	44	46	45
	TOTAL	645	653	710	614
Belgium	Molasses	263	250	190	114
	Cereals	5	6	8	2
	TOTAL	268	256	198	116
Luxembourg		-	-	-	-
United Kingdom	Molasses	182	196	232	176
	Cereals	306	324	319	327
	TOTAL	488	520	551	503
Ireland	Molasses	45	63	59	62
	Cereals	-	2	15	15
	Lactose	-	5	16	30
	TOTAL	45	70	90	107
Denmark	Molasses	96	84	79	82
	Potatoes	17	25	24	19
	Cereals	25	9	13	19
	TOTAL	138	118	116	120
Greece	Molasses	-	-	-	206
	Dried grapes	-	-	-	55
	Figs	-	-	-	22
	Wine	-	-	-	84
	TOTAL	-	-	-	367
EUR 9		7152	6831	6927	7716
EUR 10		-	-	-	8083

Source: Commission of the EC, D.-G. for Agriculture

¹Quantities for which responsibility was taken by the 'Service des Alcools' (excluding potable spirits)

²or marketing year ending in that year

³Alcohol obtained from sugar beet; molasses and cereals not controlled by

ANNEX III

Community production of distillates of agricultural origin
not having the characteristics of an alcohol
 (within the meaning of Article 1 of the proposal)

Spirituuous beverages

(in 1000 hl pure alcohol)

Member State	Origin	74 73/74	75 74/75	76 75/76	77 76/77	78 77/78	79 78/79	80 79/80
Germany	Cereals (Korn)	466	465	439	433	474	431	445
	Fruit	41	36	34	41	27	48	43
	Wine ¹	224	202	202	195	141	148	153
	TOTAL	731	703	675	669	642	627	641
France	- Cognac	739	544	720	447	354	503	655
	- other registered wine and marc-based potable spirits	182	119	90	76	40	81	106
	- wine-based potable spirits delivered to Serv. des Alc.	432	871	166	23	6	-	575
	- fruit-based potable spirits	154	140	117	122	18	91	88
	- rum (overseas departments)	301	312	310	265	284	275	279
	TOTAL	1808	1986	1403	933	702	950	1703
Italy	Wine	201 ³	187	126	56	57	144	411
	Marc	178 ³	196	179	163	159	182	181
	Fruit	10 ³	25	31	11	19	16	43
	TOTAL	389	408	336	230	235	342	635
Netherlands ⁴	Cereals (moutwijn)	9	9	20	20	20	20 ²	20 ²
Belgium	Cereals	5	5	4	4	4	4	4
Luxembourg	Fruit	2	2	3	1.8	1.6	2.3	1.6
	Cereals	1	1	1	0.4	0.4	0.5	0.5
	TOTAL	3	3	4	2.2	2.0	2.8	2.1
United Kingdom ⁴	Whisky	4760	3939	3241 ²	3767	3230	3150	3001
Ireland ⁴	Whisky	36	37	41	46	53	115	116
Denmark ⁴		-	-	-	-	-	-	-
Greece	Ouzo	-	-	-	-	-	-	27
EUR 9		7741	7090	5724	5671	4888	5211	6122
EUR 10		-	-	-	-	-	-	6149

¹Production based on 'Rohbrand' is not included in the figures on this line but is contained elsewhere in the production figures for the other Member States. The wine-based potable spirit produced in the Community and used to manufacture fortified wines (Brennwein) which are distilled in the FRG is already incorporated in the production figures of the other Member States.

²Estimates

³Quantities withdrawn from warehouses

⁴Substantial quantities of spirituous beverages are also obtained from alcohol.

ANNEX IV

Community production
of ethyl alcohol of non-agricultural origin

(in 1,000 hl alcohol at 100% vol.)

Member State		73 72/73	74 73/74	75 74/75	76 75/76	77 76/77	78 77/78
France	Synthetic	1,203	1,167	1,222	895	1,205	1,142
	cellulose	<u>22</u>	<u>20</u>	<u>20</u>	<u>16</u>	<u>-</u>	<u>20</u>
	TOTAL :	1,225	1,187	1,242	911	1,205	1,162
Germany	synthetic	1,197	1,522	1,117	1,232	1,280	1,124
	cellulose	209	202	136	127	133	118
	other	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>-</u>
	TOTAL :	1,408	1,726	1,255	1,360	1,415	1,242
United Kingdom		1,786	2,930	1,980	2,520	2,723	2,963
EEC		4,419	5,843	4,477	4,791	5,343	5,367

ANNEX V

AVERAGE PRODUCTION OF AGRICULTURAL ALCOHOL

Raw materials	Average production	Marketing guarantee
Molasses	3,250,000	1,500,000
Wine ¹	1,350,000	1,350,000
Sugar beet	1,200,000	1,200,000
Potatoes	500,000	500,000
Cereals	550,000	550,000
Fruit	400,000	400,000
Other (+ lactose)	150,000	150,000
	<u>7,400,000</u>	<u>5,650,000</u>

¹including wine-based potable spirits delivered in France to the 'Service des Alcools'.

AVERAGE QUANTITIES OF AGRICULTURAL ALCOHOL USED IN THE RESERVED SECTORS

Oral consumption	3,250,000)	
) 3,500,000	
Vinegar-making	250,000)	
) 900,000	
Pharmaceutical	450,000)	
)	
Perfumery-cosmetics	450,000)	
	<u>4,400,000</u>	
(France-Italy)		

QUANTITIES OF AGRICULTURAL ALCOHOL AND SYNTHETIC ALCOHOL
USED IN THE COMMUNITY IN 1980

(100 hl at 100% vol.)

Sector of utilization	Agricultural alcohol	Synthetic alcohol
Oral consumption	4,386	10
Vinegar-making	269	-
Pharmaceutical	390	86
Perfumery-cosmetics	660	280
Other uses	1,040	4,380
Total	6,745	4,756

Breakdown of Community distilleries of alcohol
of agricultural origin
(according to average annual production)

Situation March 1977

Source: Commission
of the European
Communities

	Average annual production					TOTAL	
	between				exceeding		
	0 and 5,000 hl	5,000 and 10,000 hl	10,000 and 50,000 hl	50,000 and 100,000 hl	100,000 hl		
Germany		For details, see ANNEX VII				1,686	+ 33,300 Abfindungs- brennereien
France	3 sugar beet 3 molasses 1 sugar beet + molasses 98 wine 12 sugar cane 117 (overseas departments)	3 sugar beet 2 molasses 35 wine 1 sugar cane (overseas departments) 41	16 sugar beet 4 molasses 9 sugar beet + molasses 28 wine 57	2 sugar beet 1 molasses 8 sugar beet + molasses 11	2 sugar beet + molasses 2	228	+ 5,256 itinerant distillers
Italy(1976)	330	28	33	4	6	401	+ 249 (small-scale distilleries)
Netherlands			3 (40,000 mol.) (25,000 cer.) (20,000 cer.)	1 (80,000 mol.)	3 (230,000 mol.) (140,000 mol.) (130,000 mol.)	7	
Belgium		1	1	1	1	4	+ 7 small distill- eries
Luxembourg	2 (rectifi- cation)						+ 400 family-owned
United Kingdom				3 cereals	2 molasses cereals	5	
Ireland			2 molasses			2	
Denmark			1	1		2	

Breakdown of German distilleries according to
type and the quantities covered by their
distilling licen

Situation March 1977

1. Agricultural distilleries using:

(a) <u>Potatoes and cereals other than korn</u>	(b) <u>Korn</u>	(c) <u>Potatoes and korn</u>	<u>TOTAL</u>
up to 300 hl : 236	133	95	464
600 hl : 106	206	31	343
1,200 hl : 86	56	9	151
2,000 hl : 143	16	4	163
4,000 hl : 52	5	1	58
10,000 hl : 3	-	2	5
TOTAL 626	416	142	1,184

2. Industrial distilleries using:

(a) <u>Potatoes and cereals other than korn</u>	(b) <u>Korn</u>	(c) <u>Potatoes and corn</u>	(d) <u>Molasses</u>	(e) <u>Wine and fruit</u>	<u>TOTAL</u>
up to 600 hl : 1 15000 hl : 1	up to 300 hl : 34 600 hl : 37 1,200 hl : 32 2,000 hl : 27 4,000 hl : 14 10,000 hl : 3	up to 1,200 hl : 1	up to 2,000 hl: 9 5,000 hl:12 10,000 hl: 5 30,000 hl:5 50,000 hl: 1	270 ¹	
TOTAL : 2	147	1	32	270	452

3. Small-scale distilleries (less than 4 hl per year):

under supervision: 50 paying flat-rate tax:33,300 (Abfindungsbrennereien)					50
--	--	--	--	--	----

¹ of which 120 are operational
Source: Commission of the European Communities

OVERALL TOTAL : 1,686

CLARIFICATION OF THE AMENDMENTS
TO THE AMENDED PROPOSAL FOR A REGULATION

Amendment No. 1

The purpose of changing the title is to show that the proposal for a regulation should apply solely to ethyl alcohol of agricultural origin and that spirituous beverages should be excluded from its field of application.

Amendment No. 2

Articles 28 and 113 have been deleted because the mechanisms regulating external trade would cease to be necessary with the alignment of the price of alcohols on the price of molasses alcohol, which approximates to the price on the world market.

Article 227 has been deleted because rum, a spirituous beverage, would be excluded from the field of application of the new proposal.

Amendment No. 3

This amendment indicates that the basic price of agricultural alcohol in the Community would be the same as the basic price of molasses alcohol. (This and the following amendment should be considered in conjunction).

Amendment No. 4

This amendment indicates that in place of national production aid subsidies would be granted to producers to ensure that they received a fair income.

Amendment No. 5

The amount of the subsidies referred to in Amendment No. 4 would not be unlimited. There would be a ceiling on the amount of production subsidized. This ceiling would be determined both by use and by social requirements.

Amendment No. 6

The sectors which are reserved de jure or de facto in the Member States for agricultural alcohol, namely the oral consumption and vinegar-making sectors, would be the only ones retained.

Amendment No. 7

With the alignment of the price of alcohols on that of molasses alcohol (instead of cereals-based alcohol), the equalization system proposed (equalization charge, compensatory payment) would become superfluous.

Amendment No. 8

With the exclusion of spirituous beverages from the field of application of the regulation proposed, the intervention measures envisaged for some of them would no longer be applicable.

Amendment No. 9

The eighth recital would cease to be applicable because molasses alcohol would be placed on an equal footing with the other agricultural alcohols.

Amendment No. 10

This controversial provision, which is associated with the more general problem of control, can be deleted.

Amendment No. 11

This provision, which relates in particular to spirituous beverages, should be incorporated in a separate regulation.

Amendments Nos. 12, 13, 14 and 15

With the alignment of the price of alcohols on that of molasses alcohol, which approximates to the world price, it would cease to be necessary to maintain the traditional external trade mechanisms: import levies, exports refunds, deposits, etc.

Amendment No. 16

The fifteenth recital, which concerns spirituous beverages obtained from cereals (whisky), would be inapplicable. It should be borne in mind that the problem of whisky has been settled within the framework of the common organization of the market in cereals.

Amendment No. 17

This amendment is of a purely editorial nature.

Amendment No. 18

The seventeenth recital is inapplicable since the situation on the market is more likely to be characterized by surpluses.

Amendment No. 19

It is pointless to make the market organization proposed too cumbersome. An ad hoc regulation could always be adopted if a crisis arose.

Amendment No. 20

It is necessary to stress the 'simplicity' of the common market organization proposed, to keep a check on national aids and to prohibit them if they are incompatible with the common market.

Amendment No. 21

Ethyl alcohol obtained from sugar cane would be subsidized. Rum, a spirituous beverage, would be excluded from the field of application of the regulation proposed; it would therefore continue to benefit from the tax provisions in force pending their harmonization.

Amendment No. 22

The twenty-second recital has been amended to take account of the exclusion of spirituous beverages from the field of application of the regulation proposed.

Amendment No. 23

The exclusion of spirituous beverages obtained from sugar cane (rum) from the field of application of the regulation proposed and the aid envisaged for cane alcohol would make the twenty-third recital redundant.

Amendment No. 24

Since the Commission has abolished the intervention contribution originally proposed (see Article 17), this recital is unnecessary.

Amendment No. 25

Since the regulation proposed would apply solely to ethyl alcohol of agricultural origin, fermented beverages should not be covered by it. The twenty-sixth recital is therefore inapplicable.

Amendment No. 26

This amendment, of an editorial nature, has been made because Regulation (EEC) No. 729/70 has since been modified.

Amendments Nos. 27, 28, 29 and 30

These amendments narrow the field of application of the regulation proposed, particularly by excluding spirituous beverages.

Amendment No. 31

This amendment establishes the marketing year for ethyl alcohol of agricultural origin.

Amendments Nos. 32 and 33

These amendments lay down the conditions for granting aid to agricultural alcohols other than molasses alcohol; such aid must not create unacceptable distortions of competition between the different agricultural alcohols produced in the Community.

Amendments Nos. 34 and 35

With the alignment of the price of agricultural alcohols on that of molasses alcohol, it would cease to be necessary to fix a price for each type of alcohol. Articles 2 and 3 would therefore be superfluous.

Amendment No. 36

The principle of a marketing guarantee has been abandoned, primarily because of the reduction of the number of reserved sectors. On the other hand, a subsidy would be granted for agricultural alcohols other than molasses alcohol up to a given quantity (see Article 1(b) and (c)). With this amendment, Article 4 becomes inapplicable.

Amendment No. 37

The principle of apportioning the subsidized quantities among Community distilleries is retained. However, the relevant Article has been somewhat simplified.

Amendment No. 38

The purpose of the new Article 5a is to regulate relations between the distilleries and the producers of alcohol-producing agricultural products and, in particular, to ensure that these producers receive a fair return for the products they supply to the distilleries.

Amendments No. 39

The distilleries, which benefit from a system of Community aid, must be able to market the alcohol they produce without recourse to the intervention agencies. Consequently, these agencies have no part to play in the common market organization proposed.

Amendment No. 40

This introduces safeguard measures for molasses alcohol.

Amendment No. 41

Same explanation as for Amendment No. 39.

Amendment No. 42

This amendment gives effect to the decision to limit the number of reserved sectors to two - oral consumption and vinegar-making (See also Amendment No. 6).

Amendment No. 43

Since the price of all agricultural alcohols would be fixed at the level of the cheapest alcohol, there would no longer be any need to fix selling prices for each type of alcohol in each of the reserved sectors.

Amendment No. 44

With the alignment of the price of agricultural alcohols on that of molasses alcohol, an equalization system would not be needed. (It should be borne in mind that a subsidy would be granted to producers).

Amendment No. 45

With the abolition of the marketing guarantee (see Amendment No. 36), there would be no reason to retain Article 12, which provides for penalties to be imposed if agricultural alcohol is disposed of outside the reserved sectors.

Amendment No. 46

For the same reason, there would be no reason to retain the clause providing for the carry-over of guaranteed production quotas.

Amendments Nos. 47 and 48

Since spirituous beverages would be excluded from the field of application of the regulation proposed, Articles 14 and 15 would be inapplicable.

Amendment No. 49

With the liberalization of the price of agricultural alcohol, Article 16 would become redundant.

Amendment No. 50

This controversial provision can be deleted, since the problem of controls lies outside the scope of the regulation proposed.

Amendment No. 51

This important provision, which aims to guarantee freedom of movement within the Community for the products in question, especially spirituous beverages, should be the subject of a separate regulation.

Amendment No. 52

The modification proposed takes account of the exclusion of spirituous beverages from the field of application of the regulation proposed.

Amendments Nos. 53, 54, 55 and 56

With the alignment of the price of agricultural alcohols on that of molasses alcohol, it would cease to be necessary to maintain the traditional trade mechanisms, such as import licences, levies and refunds. Only the Common Customs Tariff would apply.

Amendments Nos. 57 and 58

Articles 26 and 27 have been amended to take account of the exclusion of spirituous beverages from the field of application of the regulation proposed.

Amendment No. 59

Ethyl alcohol obtained from sugar cane would benefit from a production subsidy. Rum, a spirituous beverage, would be excluded from the field of application of the regulation and benefit from the advantageous tax provisions currently in force. Article 29 would not therefore be necessary.

Amendment No. 60

There is no need to make the common market organization proposed more cumbersome by including a scarcity clause. A suitable ad hoc regulation could always be adopted. The Community market in alcohol is in any case in surplus.

Amendment No. 61

This amendment, of an editorial nature, takes account of previous amendments (see Amendments Nos. 44, 45 and 48):

Amendment No. 62

For the reasons given in Amendment No. 59, Article 32 would not be necessary.

Amendment No. 63

Article 33 has been modified to take account of the total exclusion of synthetic alcohol from the field of application of the regulation proposed.

Amendment No. 64

The purpose of this amendment is to make it clear that the management committee must concern itself solely with ethyl alcohol of agricultural origin.

Amendment No. 65

This correction simply takes account of the accession of Greece to the Community.

Amendment No. 66

As indicated above (see Amendment No. 25), fermented beverages would not be included in the common market organization proposed. Article 40 is therefore superfluous.

Amendment No. 67

30 June 1979 is no longer applicable and has accordingly been deleted.

Amendment No. 68

This amendment, of an editorial nature, takes account of previous amendments (see Amendment No. 36).

Amendment No. 69

The dates are no longer applicable. Hence their deletion.

OPINION OF THE COMMITTEE ON BUDGETS

Draftsman : Mr B. HORD

On 3 October 1979 the Committee on Budgets appointed Mr Hord draftsman.

At its meeting of 29 April 1980 the committee considered the draft opinion and adopted it by 15 votes in favour with 6 abstentions.

Present: Mr Lange, chairman; Mr Notenboom, vice-chairman; Mr Spinelli, vice-chairman; Mr Hord, draftsman; Mr Adonnino, Mr Arndt, Mr Baillet, Mr Balfe, Mr Barbi, Mr Battersby (deputizing for Mr R. Jackson), Mr Bonde, Mrs Boserup, Mr Colla, Mr Dankert, Mr Fich, Mr Forth, Mr Gouthier, Mrs Hoff, Mr Langes, Lord O'Hagan, Mrs Scrivener, Mr Simonnet, Mr J.M. Taylor and Mr Tuckman

OPINION on the Proposal from the Commission amending the amended proposal for a Regulation on the common organisation of the market in ethyl alcohol

Widening of the scope of the EAGGF

1. Nearly all agricultural products are already covered by the scope of the common agricultural policy and Community action in regard to them is reflected in the budget. Ethyl alcohol, in common with potatoes and sheep meat, is one of the agricultural products not to enjoy the benefits of a regime or common organisation of the market.

Background to the present proposal

2. In March 1972, the Commission put forward a proposal⁽¹⁾ for a Regulation on the common organisation of the market in ethyl alcohol of agricultural origin, together with supplementary proposals in respect of ethyl alcohol of non-agricultural origin and certain products containing alcohol.

3. This proposal was examined by the Committee on Agriculture⁽²⁾ and Parliament, at its sitting of 15 February 1973, decided⁽³⁾ to refer the proposal back for further consideration so that account could be taken, in particular, of the situation arising from the enlargement of the Community.

4. Since then, the issue has been examined at considerable length within the Commission and within the specialised committees of the Council. An Ad Hoc group examined the problems arising and came up with a number of suggestions. However, as the Commission explained, "in spite of all of these efforts, it has not been possible to reach a consensus on a sufficient number of individual problems to enable overall agreement to be reached".⁽⁴⁾

The amended proposal

5. The Commission put forward, in December 1976, an amended proposal for a Regulation on the common organisation of the market in ethyl alcohol.⁽⁵⁾

Earlier opinion of the Committee on Budgets

6. The Committee on Budgets examined the financial and budgetary aspects of the proposal and its opinion and conclusions are set out at pages 80 to 85 of the report⁽⁶⁾ drawn up by the Committee on Agriculture.

(1) Com (72) 240

(2) Doc 266/72

(3) OJ N° C 14, 27.3.1973

(4) Doc 504/76, third paragraph

(5) Doc 504/76

(6) Doc 472/77

Conclusions of the Committee on Budgets on the amended proposal

7. For ease of reference, the key findings of the Committee on Budgets in regard to the amended proposal of December 1976 are set out hereunder; the Committee on Budgets felt that the text:

- gave far too wide powers to the Management Committee in regard to the fixing and varying of charges, which is a budgetary authority responsibility;
- introduced the objectionable concept of assigned resources in another area of Community activity;
- involved a new bureaucratic interference in the running of enterprises;
- penalised an efficient industry - distillation of potable spirits and alcohol - by imposing on it a discriminatory charge designed to help carry the cost of disposing of surpluses of an inefficient sector;
- did nothing to eliminate the discriminatory treatment of spirituous beverages imported into certain Member States from other Member States; and
- envisaged a 'net' budget system rather than the desirable presentation in which receipts and expenditure appear in full in the budget.

8. While the Committee on Agriculture saw some merit in the proposal, the Committee on Budgets rejected it for the following reasons:

- (i) it was an intrusion on the rôle of the Budgetary Authority;
- (ii) it was discriminatory as between different categories of producers and consumers;
- (iii) it would add to the number of instances in which the undesirable practice of not entering all transactions in the budget occurs; and
- (iv) the financial statement was unsatisfactory.

Latest proposal from the Commission

9. The Commission has now come forward with a document (COM (79) 237 final) which amends its amended proposal. As in the case of the earlier text, the main aspects of the Commission's document fall to be considered by the Committee with basic responsibility in this sphere - the Committee on Agriculture. The Committee on Budgets confines itself to the budgetary and financial aspects.

10. In two respects, the present version represents an improvement on the preceding draft. The intervention contribution provisions in Article 17 of the 1976 version has been abandoned. Secondly, the present version appears not to involve penalising an efficient industry by imposing discriminatory changes.

11. The presentation of the proposal and the draft of the regulation put forward by the Commission are very complex. Indeed, the ramifications of the proposed common organisation of the market could lead to its becoming a source of new irregularities. Furthermore, the explanation furnished by the Commission amounts to a mere page and a half for an amending document of eight pages referring to the original (504/76) which comprises fifty-six pages including schedules. It is indicated in the Commission's explanation (paragraph 4) that it would seem to be necessary to analyse the production structures and there is a suggestion that, after such a study, further proposals with a financial impact may then be put forward.

12. It is considered that, in the case of such a proposal as the present one, the Commission should endeavour to set out clearly, for the members of the European Parliament and indeed for the members of the Council, what exactly the proposal is about and how it will operate. It is regretted that the Commission has failed to produce its revised proposals in a new consolidated text for what is an important aspect of the Common Agricultural Policy and which could have far reaching financial, economic and social consequences. The estimated financial effect of this draft regulation put forward by the Commission could be to add approximately 132m EUA to the general budget. This is about half the sum which Parliament adds, in a typical year, by way of amendments to the budget following lengthy procedures which entail a careful study of the items being proposed for inclusion in the budget. The Committee on Budgets considers that the text falls far short of what could reasonably be judged to be an adequate explanation.

Specific comments on COM (79) 237 final

13. At paragraph 1 of the Commission's explanatory memorandum, it is stated that "guarantees identical to those granted for other types of alcohol of agricultural origin should be granted in respect of a part of the molasses alcohol production". No clearly elaborated argument is advanced in support of this contention. This is typical of the procedure followed in the past, where an initial proposal leads to the steady extension of the scope of the activity to other domains that are more or less closely related to the product covered originally. An intimation of this kind should be supported by careful argument. Furthermore, 'a part' of the molasses alcohol production does not appear to be defined but it is understood to relate to about 50% of total current output.

14. The case made for the "inclusion of vermouths and aromatised wines, although industrial products within the meaning of Annex II to the Treaty, in the list of products covered by this common market organisation, alongside spirituous beverages" is exiguous and unconvincing. The Committee on Budgets feels that this particular addition to the "ethyl alcohol list" should be deleted.

15. The proposed amendment to Article 6 which deletes the words "other than molasses alcohol" would, of course, have the effect of bringing this particular product within the scope of the common organisation of the market in ethyl alcohol. This proposal does not appear to be adequately justified and would entail an unspecified potential charge on the budget. Therefore the Committee on Budgets recommends its deletion.

16. The determination of the sale price for agricultural ethyl alcohol under the proposed new second sub-paragraph in Article 10 (2) for the pharmaceutical, perfumery and cosmetic sectors fixing this by reference to the market price of synthetic alcohol is likely to lead to a substantial incidence of compensatory payments with the current cost of synthetic alcohol being significantly lower than that of agricultural ethyl alcohol.

17. The Commission's proposal to delete Article 17 is, however, welcomed as it removes a provision that the Committee on Budgets found to be particularly objectionable when it examined Doc 504/76.

18. The Commission proposes, in the new Article 41a, that it shall forward to the Council before the end of the third marketing year a report analysing the production structure for agricultural alcohol in the Community. The draft Article goes on to state that, "on the basis of that report the Council shall adopt a plan for structural reorganisation in this sector"... No provision is made in this draft article for consulting the European Parliament in regard to a report affecting possible alterations to a scheme involving expenditure of the order of 132m EUA. This is unacceptable to the Committee on Budgets.

The Management Committee

19. As indicated in the earlier opinion of the Committee on Budgets - adopted on 8 June 1977 - the draft regulation contains some twenty five references to the Management Committee which will have a key central rôle in the setting up of the system and in its day-to-day running. It is understandable that a central body would have specific responsibility for the control of production, movement and use of ethyl alcohol. Committees of this nature have a useful rôle to play in regard to ensuring the smooth running of the

scheme. As set out in draft Article 35, it is proposed that the Management Committee should act - as is the case with other such Committees - on the basis of proposals put forward by the Commission.

20. If the measures favoured by the Commission are not in accordance with the opinion of the Committee, the matter shall - under the provisions of Article 35(3) of the draft regulation - be communicated to the Council and the latter institution, acting by a qualified majority, may take a different decision within one month.

21. In this proposed procedure, there is yet another classic example of a mechanism which has received strong objection in the past from Parliament. Under Article 205 of the Treaty, the Commission has a wide mandate for implementing the budget. It is considered to be wholly inappropriate for a management committee to be in a position (i) to erode the role of the Commission in the way that is rendered possible by the draft Article 35 and (ii) to undermine Parliament's position as a partner in the budgetary authority.

22. The Committee on Budgets considered this general matter on several occasions in the past. At its meeting on 16/17 March 1977, it examined an opinion¹ prepared by Mr AIGNER on the compatibility of the management committees with Article 205 of the Treaty. The following quotation from paragraph 27 of the opinion summarises the position of the Committee on Budgets in regard to the issue:

'The Committee on Budgets acknowledges that a considerable number of management committee procedures concern Community activities which have no financial implications. However, where implementation of the budget is involved, consultations should be held with the Council and Commission to ensure that:

(a) all proposals for the establishment of management committee procedures should in future provide only for consultative powers for the committee, but should not provide for overriding authority for the Council as has always been the case;

(b) in all existing management committee procedures the overriding authority given to the Council by virtue of an institutional agreement should gradually cease to be used;

(c) in cases in which this authority is maintained for a certain period of time, a right of consultation for the European Parliament should be built in'.

¹ PE 47.932/fin.

(1)

23. Subsequently, in a report on a proposal from the Commission of the European Communities to the Council (Doc. 506/77) for a regulation laying down general rules for the financing of certain interventions by the EAGGF Guarantee section, the Committee on Budgets considered the issue once more. The Committee felt that all of the criteria cited in the preceding paragraph would be met by a formula which ensured that the European Parliament would be consulted fully where important budgetary consequences arise. This view was endorsed by Parliament.⁽²⁾

24. In the present instance, it must be accepted that, because of the highly technical nature of the products covered by the draft regulation and because of the complexity of the arrangements, a body of experts will be required to ensure the smooth operation of the system. However, so as to ensure that the group of experts do not trespass on the budgetary rights of Parliament, an amendment similar to that described in the preceding paragraphs would be insisted upon by the Committee on Budgets.

25. Since alterations in the list of products covered by the draft regulation would have an impact on the budget, an amendment to Article 1 (4), second subparagraph, would be required so as to ensure that the prerogatives of the European Parliament are preserved.

Energy Considerations

26. It is well known that one of the principal characteristics of ethyl alcohol is its combustibility and that this material has been used as a source of energy both in its own right and as an additive to petroleum. Taking this aspect into account and at the same time recognising the world energy crisis, it is incredible that the Commission's latest proposal for a regime for ethyl alcohol fails to make any reference to this aspect, particularly when there is a wholesale search for alternative energy sources.

Sugar Quotas

27. In view of the current proposals to revise Community sugar quotas, it is considered that there may well be repercussions in the production of ethyl alcohol from the raw materials involved in this sector. The Commission's documentation fails completely to deal with this aspect and makes no reference to the situation in the sugar industry.

Enlargement

28. The fact that the Commission's proposals for ethyl alcohol do not consider the effects of membership of Greece, Spain and Portugal, three countries which

(1) Doc 78/78

(2) OJ No C 134/74, 5.6.1978

would, almost certainly, have a considerable effect on the scope for the production of ethyl alcohol, is very surprising. This is yet another short-coming of the Commission's documentation.

Own Resources Limitations

29. The current proposals for a new regime for ethyl alcohol completely disregard the Community's budget crisis where exhaustion of own resources finance is imminent.

Overwhelming Cost of CAP

30. The timing of the current ethyl alcohol proposal is in itself most inopportune. With current expenditure on the Guarantee Section of EAGGF accounting for nearly 80% of all Community expenditure, it is unreasonable to promote further expenditure on a new regime for an agricultural/industry product when there are so many urgent problems in the Community in great need of the limited financial resources in the non-agricultural sectors.

Commission's estimates of the costs involved (for one year)

31. The following table sets out the estimates of expenditure furnished by the Commission in relation to the proposal:

Production refund under Article 25(1)	<u>M.U.A.</u> 32.0
Buying in by intervention agencies under Articles 6 & 8	3.6
Losses to intervention agencies on sales	34.8
Grant of compensatory payment under Article 11(2)	33.37
Grant of compensatory payment under Article 15(2)	<u>23.0</u>
	126.77
<u>Less:</u> equalisation charge under Article 11(1)	<u>16.75</u>
<u>/ Total expenditure of 132 million EUA per paragraph 5 of the financial statement (COM (79) 237 final) \</u>	<u>110.02</u> (1)

As with the explanatory memorandum which accompanied Doc. 209/79, this table is not as ample in its explanations as the total sums involved would require.

(1) To convert u.a. into EUA, multiply by 1.2.

Conclusions

32. The Committee on Budgets considers that, on budgetary and financial grounds, a negative opinion must be given on this proposal for the following reasons:

- (i) the explanatory material supplied is totally inadequate ;
- (ii) the proposed addition of 132 MEUA to the cost of the agricultural element is too great ;
- (iii) the present proposal promises further supplementary proposals for structural reorganisation of the sector including renovation of some distilleries without any reference to consultation with Parliament ;
- (iv) some of the products are of an industrial nature and to extend the scope of the agricultural element in the budget to cover such products appears to be excessive ;
- (v) the inclusion of the provisions in regard to a management committee runs entirely counter to the views endorsed on numerous occasions by Parliament ;
- (vi) the current proposals appear deliberately to create surpluses of alcohol which when sold with subsidy would undermine the synthetic alcohol industry ;
- (vii) no regard has been given to energy aspects ;
- (viii) the consequences of the current revisions to sugar quotas do not appear to have been taken into account ;
- (ix) no reference is made to the likely consequences of enlargement ;
- (x) the practical problem of impending exhaustion of the Community's financial resources is ignored ;
- (xi) it is inappropriate to contemplate an alcohol regulation until the system of duties on spirituous beverages throughout all Member States has been harmonised ;
- (xii) the proposals exacerbate the overwhelming and unacceptable proportion of the budget being devoted to agriculture ;
- (xiii) the financial statement is unsatisfactory.

33. Therefore, the Committee on Budgets recommends to the Committee on Agriculture:

- that this proposal by the Commission for a common organisation of the market in ethyl alcohol be rejected ;
- that having regard to the large number of objections the proposal to invoke an Alcohol Regulation should now be abandoned.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Draftsman: Mr de Ferranti

On 3 October 1979 the Committee on Economic and Monetary Affairs appointed Mr de Ferranti draftsman.

It considered the draft opinion at its meeting of 23/24 April 1980 and adopted it unanimously by 8 votes in favour with three abstentions.

Present: Mr Delors, chairman; Mr de Ferranti, vice-chairman and draftsman; Mr Deleau, vice-chairman; Mr Beazley (deputizing for Sir Peter Vanneck), Mr Delorozoy, Miss Forster, Mr Giavazzi, Mr Lange, substitute, Sir Brandon Rhys Williams, Mr Schinzel and Mr von Wogau

1. The Committee on Economic and Monetary Affairs would at the outset draw attention to the fact that it has on two previous occasions (1 February 1973 and 21 December 1977) clearly dissociated itself from the Commission's proposals to introduce in this sector of industry a market organization based on the principles that characterize the common agricultural policy. The Commission's proposals still contain three inflexible and inefficient provisions:
 - a) Certain applications (drinks, vinegar, pharmaceuticals and cosmetics) would continue to be reserved exclusively for agricultural alcohol.
 - b) By intervention at guaranteed prices, agricultural alcohol production would be maintained on a scale which would always exceed the needs of the applications which are reserved for agricultural alcohol.
 - c) This structural surplus of agricultural alcohol over the needs of the reserved applications would be disposed of at subsidised prices to non-reserved applications which are now supplied with synthetic alcohol which is less expensive to produce.
2. Agricultural alcohol and synthetic alcohol are acknowledged by the Commission to be chemically identical. There is no justification for the reservation of application sectors other than on health grounds. Although synthetic alcohol and agricultural alcohol are identical, synthetic alcohol is cheaper to produce both in money terms and on energy grounds.
3. Inevitably these proposals will cause severe economic and financial damage to synthetic alcohol interests in the Community. About one-quarter of the estimated cost (132 m.u.a. per year) would be devoted to subsidising disposals of surplus agricultural alcohol into non-reserved application. The Commission anticipate that about 100,000 tonnes per year (1,25 million HL) will be sold in this way. Free market demand in non-reserved sector applications is little over 400,000 tonnes per year (5 million HL). Disposals as great as 25 per cent of the total market will have severe impact on the demand for synthetic alcohol. The effect will be even more pronounced when there is an abundant wine harvest.
4. Synthetic alcohol capacity can satisfy the present and expected demand in the non-reserved sector. Therefore these disposals will destroy the economic viability of synthetic alcohol production.
5. Moreover, users of synthetic alcohol will suffer a dislocation in their supplies and will be unable to make investment plans based on steady raw material supplies of uniform quality, at predictable prices.

6. The amendments proposed in 1979 include a guaranteed production quota for molasses alcohol (which was omitted from the 1976 draft). This, of course, increases the overall surplus of agricultural alcohol which threatens the synthetic alcohol trade. Molasses, which are needed for citric acid production and other purposes, would be diverted into alcohol production, since the artificial conditions created by the system of guaranteed prices would make it more attractive to convert them into alcohol than to sell them as molasses. This will aggravate the shortage in the supply of molasses within the Community: already nearly half the demand has to be met by imports.

7. Intervention measures are inappropriate for commodities in which the Community is deficient. It cannot be said that the inclusion of molasses alcohol in the intervention provisions is necessary to fulfil any agricultural objective.

8. For these reasons the Committee on Economic and Monetary Affairs will maintain its vigorous opposition to these proposals. They are largely irrelevant to the agricultural sectors from which the alcohol is derived, and are a wholly inefficient and disproportionate use of Community resources. These proposals would destroy the economic freedom of the synthetic alcohol and citric acid business by distorting competition in alcohol and molasses. Such a policy, by an extension of subsidies and favourable marketing arrangements would extend the relative privileged position of agriculture and add further to the burdens of industry.

OPINION

of the Committee on External Economic Relations

Draftsman: Mr LOUWES

On 5 October 1979 the Committee on External Economic Relations appointed Mr Louwes draftsman.

It considered the draft opinion at its meeting of 30 January 1980 and adopted it by 16 votes to 1.

Present: Sir Fred Catherwood, chairman; Mrs Wieczorek-Zeul and Mr Seal, vice-chairman; Mr Louwes, draftsman; Mr Almirante, Mrs Caretoni Romagnoli, Mr Galuzzi, Mr Irmer, Mr Kellett-Bowman, Mrs Lenz, Mr Majonica, Mrs Poirier, Mr Radoux, Mr Schmitt, Mr Seeler, Sir John Stewart-Clark and Mr Welsh

I. BACKGROUND

1. This is the second time that the Commission has submitted an amended proposal to the Council on this subject. The original draft regulation, dated 6 March 1972, was never approved as insufficient allowance had been made for the then imminent accession of three states (the United Kingdom, Ireland and Denmark) to the Community.

2. With the expansion of the Community, the proportion of alcohol produced from agricultural products fell, in relation to total alcohol production within the Community, from 55% to 35% (the proportion of spirituous beverages production increased from 25% to 40% and that of synthetic alcohol production from 20% to 25%). These facts, together with other observations on the original proposal, prompted the Commission to make a number of important points in the amended proposal more liberal.

3. In December 1977 the Committee on Agriculture adopted a report¹ on the amended proposal (the Committee on External Economic Relations was one of the committees asked for an opinion²). However, this report was never discussed in plenary session, partly because it had meanwhile become clear that the Commission was going to submit a number of new amendments to the proposal. These amendments are now before us.

II. CONTENTS OF THE PROPOSAL

First of all, a recapitulation of the proposal (taking into account the most recent amendments) will not be out of place.

4. The draft regulation covers all alcohol of agricultural origin and is intended to control production by granting marketing guarantees. Only for molasses alcohol are these marketing guarantees granted solely for a part of total production (see Article 4(2)). In the previous version of the proposal, molasses alcohol was completely excluded from the market organization.

¹ Liogier Report - Doc. 472/77

² De Clerq opinion - Doc. 472/77/Ann.

A. Marketing guarantees

5. Producers are given marketing guarantees for a limited quantity of alcohol of agricultural origin (for each type a 'target quantity' is fixed every three marketing years). The guaranteed quantities are divided among the various distilleries. These marketing guarantees are based on the following mechanisms:

(a) Price compensation

The basis for granting price compensation is the notion that it must be possible to market all alcohol of agricultural origin with equal facility, regardless of the agricultural product used as a raw material. There must therefore be compensation for the price differences of the raw materials (i.e. agricultural products) for this alcohol.

To this end a 'pivot price' is fixed which is equal to the price for alcohol produced from cereals. A compensatory payment is then paid for alcohol obtained from more expensive agricultural products. An 'equalization charge' is levied on alcohol obtained from cheaper agricultural products. It should be noted that the compensatory payment is paid only for alcohol obtained within the Community from agricultural products grown in the Community. By contrast, the equalization charge is also levied on imported alcohol. The compensatory payments are of course granted only within the limit of the guaranteed marketing quantities.

(b) Purchasing obligation

The proposal prescribes no action on the part of the intervention agencies, so producers and consumers have direct contact with one another. However, for various reasons (altered production methods, product quality, etc.) a producer may get into difficulties. In that case he is permitted (again within the limit of a guaranteed quantity) to offer his products to the intervention agency, which then purchases these at the target price fixed periodically for each type of alcohol of agricultural origin and is then responsible for the storage or resale of the products.

N.B. The target prices are so fixed that they do not lead to increased production, as long as production costs for ethyl alcohol of agricultural origin are not competitive with the market price for synthetic alcohol (Article 3(2) last paragraph). Although the price of synthetic alcohol (being linked to the price of mineral oil) has risen recently, production costs are still lower than for ethyl alcohol of agricultural origin.

(c) Reserved sectors

The third mechanism consists in reserving the following three sectors for alcohol of agricultural origin:

- human consumption
- vinegar production
- preparation of medicaments.

As regards the cosmetics sector, Member States are free to reserve this sector temporarily for alcohol obtained from agricultural products.

B. Spirituous beverages

6. Some specific measures have been taken for spirituous beverages on the basis of Article 235 of the EEC Treaty; however, these had to be kept to a minimum, as in 1959 the Council expressly ruled that these products did not belong in the agricultural sector. For these products, then, measures are justified only insofar as they are intended to ensure the smooth functioning of this common market organization.

7. The following measures are proposed:

(a) Compensatory payments to be granted for spirituous beverages which have encountered difficulties because of a drop in prices of alcohol of agricultural origin. This measure applies only to a limited quantity. For completeness' sake, it should be noted that the intervention agencies are under no obligation to purchase spirituous beverages.

(b) Equalization charges are levied on spirituous beverages produced from rather low-priced agricultural products such as molasses. This measure applies particularly to rum, both from the Community (the French overseas departments and Ireland) and from outside the Community.

C. Financial burdens

8. The previous version of the proposal laid down that an intervention contribution should be levied on the alcohol content of spirituous beverages with a view to the internal financing of the market organization (actually through the consumer and the producer of these products) (Article 17). As, according to the Commission, this solution met with fundamental difficulties, the solution favoured now is for the EAGGF to bear the cost of the market organization.

D. Measures at external frontiers

9. In principle there will be free trade in the products concerned at the external frontiers of the Community. Nor does the draft regulation prohibit distillation of imported raw materials. But it does provide for the application of a system (a quite complicated one) of import levies and export subsidies intended to provide the spirituous products with the same protection as that given to the raw materials (i.e. the agricultural products concerned) for the preparation of alcohol. The import levy comprises a fixed and a variable component (see Article 23 ff.).

10. This regulation does not conflict with the Community's international obligations, since Article 24(6) states that, for the products concerned in the Common Customs Tariff, in respect of which the rate of duty has been bound under GATT (the spirituous beverages), the levies shall be limited to the amount resulting from that binding. Furthermore, most association (and cooperation) agreements include a clause which permits the Community to modify the arrangements made with the partner concerned, inter alia, where a new Community agricultural regulation¹ is introduced. The interests of this partner must also be considered of course.

III. OBSERVATIONS

11. In this opinion the Committee on External Economic Relations wishes expressly to restrict its comments on the draft regulation to the consequences which it could have on Community relations with third countries.

¹ A simple example is Article 17(1) of the Interim Agreement with Tunisia (OJ L 141, 28.5.1976):

'1. Should specific rules be introduced as a result of implementation of its agricultural policy or modification of the existing rules, or should the provisions on the implementation of its agricultural policy be modified or developed, the Community may modify the arrangements laid down in the Agreement in respect of the products concerned.

In such cases the Community shall take appropriate account of the interests of Tunisia.'

(a) Possible consequences for imports into the Community

The fact that the existing wine regulation makes it possible to distill large quantities of surplus wine into alcohol means there is an inherent possibility of market disruption, something which the present regulation is intended to control, precisely where regular products are concerned. To what extent such a disruption of the domestic market would have an adverse effect on the Community's external trade is a matter which our committee is considering.

(b) Possible consequences for whisky exports to the United States

The fear has been expressed that whisky distillers in that country will seize upon the export refunds (Article 25) envisaged in the regulation and take measures aimed at instituting countervailing duties. This would obviously be chiefly to the disadvantage of Scottish whisky producers.

However, it seems less likely, since the conclusion of the Tokyo round, that the US will actually take counter-measures, as the principles of the common agricultural policy were not called into question there.

Nevertheless, the Commission has agreed to keep a careful watch for any attempts to undermine the regulation.

(c) Alcohol as a source of energy

The draft regulation is based on the existing situation in the Community and makes no reference to increased energy costs and the role which alcohol could play in the future as a source of energy. The consequences of this for exports are already noticeable; the prices of molasses, considerable quantities of which are imported, have increased appreciably as, particularly in Brazil (but also S-E Asia), sugar-cane and sugar-cane molasses are used to produce alcohol as a source of energy. The same thing is happening, for that matter, in the US with grain. It is not as yet possible to assess the extent to which this will affect trade flows for molasses and cereals and, possibly, other alcohol-yielding raw materials in the future. At all events it is a factor that will make itself felt eventually.

IV. CONCLUSION

12. The Committee on External Economic Relations recommends that the committee responsible should deliver a favourable opinion on the present proposal, at least as far as relations with third countries are concerned, as the draft regulation does not conflict with the Community's international obligations. However, it requests the Committee on Agriculture to take into consideration the observations made above, as well as the following two points:

- The proposed regime, by its operation alone, must not lead to the increase of high cost at the expense of low cost methods of ethyl alcohol production;
- Urges the Commission to ensure that no surpluses are generated which could lead to dumping taking place on world markets and which could consequently disturb Community trading relations abroad.

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Draftsman: Mr K. MALANGRE

On 19 July 1979 the amending document was referred to the Committee on Agriculture as the committee responsible and to the Legal Affairs Committee, the Committee on Budgets, the Committee on External Economic Relations and the Committee on Economic and Monetary Affairs for their opinion.

At the meeting of 9-10 October 1979 the Legal Affairs Committee appointed Mr MALANGRE draftsman. On 20-21 November 1979 the committee considered the proposal on the basis of a draft opinion.

On 19-20 December 1979, the committee considered a revised draft opinion and adopted it by 7 votes to 2.

Present: Mr Ferri, chairman; Mr Malangré, draftsman; Mr Chambeiron, Mrs Ewing (deputizing for Mr Gillot), Mr Janssen van Raay, Mr Pelikan, Mr Peters (deputizing for Mr Vetter), Mr Prout, Mr Tyrrell, Mrs Van de Heuvel (deputizing for Mr Sieglerschmidt) and Mrs Vayssade

I. INTRODUCTION

1. The proposal has a long history. The initial proposal¹ on the common organization of the market in alcohol was made in 1972. In early 1974 Parliament informed the Council that it would delay giving its opinion until the Commission had made the alterations necessitated by the accession of the three new Member States. In December 1976 the Commission put forward an amended proposal² on which the Legal Affairs Committee was consulted.³ The report of the Committee responsible was however never debated in plenary because it was understood that the Commission would make amendments to its amended proposal. The present document consists of those amendments.

II. LEGAL AFFAIRS COMMITTEE'S PREVIOUS WORK

2. The Legal Affairs Committee gave two opinions on the amended proposal. It was first asked to consider the question of whether the proposal was compatible with the provisions of Protocol No.19 to the Act of Accession, which concerned spirituous beverages obtained from cereals. The committee was unanimous in its view that:

"the proposed regulation does not conflict with the provisions of Protocol No. 19."⁶

3. After adopting the Calewaert opinion, the committee decided to deliver a supplementary opinion on certain legal aspects of the amended proposal. Mr Bangemann, who was appointed draftsman to replace Mr Calewaert, drew up a draft opinion, which was adopted by the committee on 22 March 1978, with 11 votes to 2 and 1 abstention.

1 OJ No. C 43, 29.3.1972

2 OJ No. C 309, 31.12.1976

3 See paragraph 2 below

4 Liogier report on behalf of the Committee on Agriculture (Doc. 472/77)

5 Doc. 209/79

6 Conclusions of Calewaert opinion, adopted on 21.11.1977, and annexed to Liogier report (Doc. 472/77, p.91)

4. In the supplementary opinion the committee stated that three specific aspects of the amended proposal - Article 1 (1) (d) (products covered), Article 9 (reserved sectors) and Article 17 (intervention contribution) - were legally untenable.

III. PRESENT PROPOSAL

5. The present document would amend the amended proposal rather than replace it in its entirety. The two documents must therefore be considered together.

6. From the Commission's explanatory memorandum in the present document it can be seen that the changes have been proposed in the light of the criticism of the amended proposal made during discussions in Parliament's committees and elsewhere, but that the Commission did not consider all the criticisms justified. It therefore seems appropriate for the Legal Affairs Committee to consider to what extent the Commission has taken account of the views which it expressed in the Bangemann opinion, and, thus, whether the amended proposal, as amended by the present text, is acceptable from a legal point of view.

7. The Bangemann opinion was, however, expressly limited to a few key issues. In paragraph 36 it was stated that "the admissibility under community law of the creation of a European alcohol monopoly with all its implications remains to be investigated, as do many other individual issues". This opinion therefore also covers a number of issues which were not covered in the earlier opinions.

IV. SCOPE OF THE PROPOSED REGULATION

8. The products covered by the proposed Regulation are set out in Article 1. In this respect there are only minor changes between the present text and the (earlier) amended proposal. (The changes concern the measurement of the alcohol content of various products.) The products covered remain the same, and include at Article 1 (1) (d) 'concentrated extracts' and spirituous beverages. There is moreover still a difference in the treatment of alcohol derived from agricultural products and synthetic alcohol in the later articles of the proposal.

9. The committee first considered whether 'concentrated extracts' and spirituous beverages can validly be included in the scope of the proposed regulation. The inclusion of these products means that they are subject, inter alia, to Articles 1 (2)¹, 18², 22² and 23² and fully covered by the organization of the market in alcohol. It is unlikely that this is possible within the framework of the Treaty articles cited as the legal bases for the proposal.
10. Under Article 38 (3) of the Treaty, Articles 39-36 (Title II Agriculture) apply only to agricultural products listed in Annex II to the Treaty. Annex II includes "ethyl alcohol or neutral spirits, obtained from agricultural products (excluding liqueurs and other spirituous beverages, and compound alcoholic preparations - 'concentrated extracts' - for the manufacture of beverages)"³.
11. The only other possible legal basis among those cited in the proposal is Article 235, which reads:
- "If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures."
12. There are thus two conditions for its use: a Community objective and an absence of Treaty powers. In this context it is the second condition which raises problems. For it is clear from Article 38 (3) that the Treaty did provide adequate powers. Paragraph 3 of Article 38 enabled the Council, within two years of the entry into force of the Treaty, to decide what products should be added to Annex II. In other words, the Council had the power to apply the provisions of the Common Agricultural Policy to spirituous beverages. But in Regulation No. 7a it expressly chose to exclude them. Article 235, however widely it is interpreted, must be seen as providing powers to attain a Community objective where no other powers exist; it cannot be intended to enable the Council to avoid the two-year deadline expressly imposed on powers given under another article. Article 235 cannot therefore be used as a legal basis for the application of the provisions of this Regulation to spirituous beverages.

1. See Doc. 209/79

2. See Doc. 504/76

3. Included in Annex II by Council Regulation No. 7a of 31.12.1959

13. The committee went on to consider Protocol 19 of the Act of Accession. This Protocol reads as follows:

- "1. The Council, acting in accordance with the procedure provided for in Article 43 (2) of the EEC Treaty, shall decide the necessary measures to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals, and in particular of whisky, exported to third countries, so that these measures may be applied in due time.
2. These measures, which may be taken within the framework of the Regulation on the Common organisation of the marked in cereals or of the regulation to be adopted on the common organisation of the market in alcohol must fit into the framework of the general Community policy for alcohol, avoiding any discrimination between these products and other alcohol, account being taken of the particular situations peculiar to each case."

The committee noted since the Protocol was adopted after the EEC Treaty and was of equivalent legal status to it, it was capable of amending the Treaty. In particular, it considered that the provision that:

"Measures of facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals... may be taken within the framework of the Regulation to be adopted on the common organisation of the market in alcohol"

amended Annex II so as to enable spirituous beverages obtained from cereals and in particular those destined for export, but not other spirituous beverages, to be covered by the Regulation.

V. TREATMENT OF AGRICULTURAL AND SYNTHETIC ALCOHOL

14. The committee next considered the differences in the treatment of, on the one hand, alcohol of agricultural origin and, on the other, of synthetic alcohol, under Articles 8 (3) and 9 of the proposed Regulation.

a) Article 8 (3)

15. One of the chief objectives of the proposal is to provide for a target quantity of ethyl alcohol of agricultural origin to have guaranteed access to the community market by means of intervention buying (and subsequent sale) within the limits of the guaranteed quotas allocated to distillers. "Where the disposal possibilities are insufficient, provision may be made for the intervention agencies to invite tenders in the unreserved sector "(Article 8 (3)). In other words, the proposal

is to give guarantees to producers in that agricultural alcohol produced in excess of the reserved' sector will be sold at subsidised prices in the non-reserved sector. The subsidised sales would undermine the market for synthetic alcohol with which it is in direct competition. It has been argued by the Commission that it is desirable to give support to the producers of non-competitive agricultural alcohol. While it might be necessary to give short-term support in times of acute difficulties, it is not possible to do so on a permanent basis within the Treaty system, for the permanent and discriminatory advantage given to agricultural alcohol would be out of all proportion to the problem which the measure sought to solve.

b) Article 9

16. Under Article 9 of the Regulation, ethyl alcohol used in the reserved sectors - i.e. oral consumption, vinegar making, and the pharmaceutical industry - or for the manufacture of products belonging to these sectors, must be ethyl alcohol of agricultural origin. Thus, this article prohibits the use of an industrial product (ethyl alcohol):

- (a) in the processing of predominantly agricultural products (for oral consumption and vinegar making); and
- (b) for the manufacture of industrial products (pharmaceuticals) which generally speaking have no connection with agricultural products.

17. It should be noted that chemically there is no difference between synthetic and agricultural alcohol but the manufacturing process for the former is considerably more economical than the distillation of agricultural alcohol if only because of the cost of the basic product.

18. The Treaty makes no express provision - save in the case of supply difficulties (Article 103(4)) - for the Community to impose bans on the use, in industrial processing, of certain products obtained by specific procedures, or to make it obligatory to use only products obtained from the raw materials. One of the Community's common market aims is to establish common policy for agricultural products, including ethyl alcohol of agricultural origin. Article 235 could certainly be used to promote this aim. But it is far from certain that it can be used to do so at the expense of another, industrial, product. There are powers in the Treaty for action to promote the production and marketing of various agricultural products (Article 40(3)(1)) but on condition that the action aims at one of the objectives of Article 39:

¹ See paragraphs 16-18 below

"(a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;

(c) to stabilise markets;

(d) to assure the availability of supplies;

(e) to ensure that supplies reach consumers at reasonable prices,"

and that the principle of non-discrimination between Community producers or consumers is respected.

c) Comments

19. Although the Treaty provisions on agriculture do not specifically prohibit discrimination between producers of agricultural products on the one hand and of industrial products on the other, they must be interpreted in the general context of the Treaty, including Article 3 (f), which lists as one of the Community's basic objectives "the institution of a system ensuring that competition is not distorted". It is clear that Article 9, by restricting the use of industrially produced alcohol, and Article 8 (3), by distorting prices, would distort competition.

Article 235, which can only be used "to attain... one of the objectives of the Community", can hardly be used as a legal basis for provisions which are in direct conflict with Article 3 (f).

20. It is true that, in the present document, there are two new provisions which apparently aim to reduce the discriminatory effects of the regulation. Article 3 (2) now provides that:

"The target prices shall be so fixed as not to lead to increased production as long as the production cost of such alcohol is not competitive with the market price for synthetic alcohol"

and Article 10 (2)¹ now provides that:

"In the case of the pharmaceutical, perfumery and cosmetics sectors the sale price... shall be fixed taking into consideration the market price of synthetic alcohol."

But these changes would merely lessen the distortion of competition in sectors other than those defined as 'reserved sectors' in Article 9. As far as the reserved sectors and the intervention sales are concerned, the distortions proposed by the Commission remain.

¹ Doc. 209/79

21. The Legal Affairs Committee must point out strongly that Article 9 and Article 8 (3) of the proposal are in contradiction with Article 3 (f) of the Treaty and with the fundamental principles of non-discrimination and proportionality, and are therefore legally invalid.

VI. MANAGEMENT COMMITTEE

22. The committee considered the question of the Management Committee which would be set up under Article 34. (Its procedure and tasks are laid down in the proposed Articles 35 and 36). The committee first noted that the European Court of Justice had held in case No 25/70 that:

"Article 155 of the EEC Treaty provides that the Commission shall exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter. This provision, the use of which is optional, enables the Council to determine any detailed rules to which the Commission is subject in exercising the power conferred on it. The so-called Management Committee procedure forms part of the detailed rules to which the Council may legitimately subject a delegation of power to the Commission".

It further noted that the procedure proposed in Article 35 was the same as that in the Regulation which was the subject of the Court's judgement. The Court held that:

" (9) The Management Committee does not therefore have the power to take a decision in place of the Commission or the Council. Consequently, without distorting the Community structure and the institutional balance, the Management Committee machinery enables the Council to delegate to the Commission an implementing power of appreciable scope, subject to its power to take the decision itself if necessary.

"(10) The legality of the ... procedure... cannot therefore be disputed in the context of the institutional structure of the Community"

23. In view of this judgement it would be difficult for the Legal Affairs Committee to question the validity of Articles 34 - 36 of this proposal. However, the whole management committee system continues to raise major problems - both political and institutional. The committee may wish to consider them in depth in due course.

'Einfuhr- und Vorratsstelle für Getreide und Futtermittel v Köster, Berndt and Co.' See ECR 1970 (II) pages 1161-1179 especially at pages 1170-1172.

VII. INTERVENTION CONTRIBUTION

24. It should finally be noted that the Commission has decided to delete Article 17 from its amended proposal. This article would have provided for an intervention contribution to be levied on the alcohol content of products manufactured in or imported into the Community. In its previous opinion the Legal Affairs Committee pointed out that the imposition of excise duties on agricultural alcohol and spirituous beverages within the meaning of Article 17 was inadmissible under Community law. The Committee should therefore welcome the deletion of the article from the proposal.

VIII. CONCLUSIONS

25. The Legal Affairs Committee notes with satisfaction the deletion of Article 17 (intervention contribution) from the proposal.

26. It notes that a Management Committee similar to that proposed in Article 34 has been held valid by the European Court of Justice, but was of the view that further consideration should be given to the political and institutional problems raised by the Management Committee system in general.

27. It is of the opinion that:

- (a) there is no legal basis for the inclusion of spirituous beverages except for spirituous beverages made from cereals for export in the scope of the Regulation;
- b) there is no legal basis for the prohibition in Article 9 of the use in "reserved sectors" of ethyl alcohol other than of agricultural origin;
- c) the intervention arrangements under Article 8 (3) offend against the principle of proportionality and are therefore invalid.

SUPPLEMENTARY OPINION OF THE LEGAL AFFAIRS COMMITTEE

Draftsman: Mr K. MALANGRE

On 19 July 1979 the amendment was referred to the Committee on Agriculture as the committee responsible and to the Legal Affairs Committee, the Committee on Budgets, the Committee on External Economic Relations and the Committee on Economic and Monetary Affairs for their opinion.

At its meeting of 9/10 October 1979 the Legal Affairs Committee appointed Mr Malangré draftsman. On 20/21 November 1979 the committee considered the proposal on the basis of a draft opinion.

On 19/20 December 1979 the committee considered the revised draft opinion and adopted it by 7 votes to 2.

By letter of 1 July 1981 the Committee on Agriculture requested the Legal Affairs Committee to deliver a supplementary opinion on the basis of new legal factors.

On 20 October 1981 the Legal Affairs Committee considered the draft supplementary opinion and adopted it by 10 votes to 7.

Present: Mr Ferri, chairman; Mr Luster, Mr Turner and Mr Chambeiron, vice-chairmen; Mr Malangré, draftsman; Mr Dalziel, Mr D'Angelosante, Mr Donnez, Mrs Ewing (deputizing for Mr Vié), Mr Guertsen, Mr Janssen van Raay, Mr Megahy, Mr Peters (deputizing for Mr Plaskovitis), Mr Prout, Mr Sieglerschmidt, Mr Tyrrell and Mr Vetter

I. INTRODUCTION

1. In its opinion of 20 December 1979¹ on

~~the amendment to the amended proposal for a Regulation on the~~
common organization of the market in ethyl alcohol of agricultural origin and laying down additional provisions for certain products concerning ethyl alcohol (Doc. 209/79)

the Legal Affairs Committee pointed out the following legal objections:

- (a) there is no legal basis for the inclusion of spirituous beverages in the scope of the regulation except for spirituous beverages made from cereals and intended for export.
- (b) there is no legal basis for the prohibition in Article 9 of the proposal for a regulation on the use in 'reserved sectors' of ethyl alcohol other than of agricultural origin;
- (c) the intervention arrangements under Article 8(3) infringe the principle of proportionality and are therefore invalid.

2. The legal problems of the common organization of the market in alcohol were exhaustively discussed at a meeting of the Committee on Agriculture on 21 May at which the chairman of the Legal Affairs Committee and representatives of the Commission were present. In this connection discussions centred upon the possible amendments which might result:

- on the basis of the inclusion of whisky in the common organization of the market in cereals pursuant to Protocol No 19 to the 1972 Act of Accession, which has occurred in the meantime²;
- from the decisions of the Court of Justice of the European Communities in Cases 138 and 139/79 (Isoglucose³) of 29 October 1980.

II. LEGAL APPRAISAL

3. This opinion is therefore confined to an examination of whether new legal developments since the adoption of the last opinion in December 1979 make it necessary for the Legal Affairs Committee to alter its view.

(a) Scope of the proposed regulation

4. The Legal Affairs Committee has hitherto always taken the view that within the framework of the common organization of the market in alcohol of

¹ PE 59.884/fin

² Council Regulation (EEC) No. 1187/81 of 28 April 1981, O.J. No. L 121 of 5 May 1981, p. 1 et seq. following the Opinion of the European Parliament of 9 February 1981, OJ No. C 50 of 9 March 1981, p. 15.

³ ECR (1980) pp. 3333 and 3393.

agricultural origin there is no power to include other spirituous beverages. The reasons formerly¹ given for this were that the Council had omitted to add these products to those contained in the list in Annex II to the Treaty within the two-year period laid down in the second sentence of Article 38(3) of the EEC Treaty so that therefore Article 235 of the EEC Treaty was not applicable as there was no legislative lacuna. In its most recent Opinion², although the Legal Affairs Committee acknowledged that Protocol No 19 to the 1972 Act of Accession amended Annex II to the EEC Treaty and was of equivalent legal status to it, it stated that this amendment related however only to spirituous beverages obtained from cereals and in particular those intended for export but not to other spirituous beverages.

5. A minority of the members of the committee consider that a new legal situation has arisen as a result of Regulation No. 1187/81³, which brings whisky into the common organization of the market in cereals, and that this calls for action on the basis of Article 235 of the EEC Treaty.

According to this view, the special provisions including whisky in the common organization of the market in cereals result in preferential treatment to the disadvantage of other spirituous beverages. So as to observe the prohibition on discrimination laid down in Protocol No 19 the other spirituous beverages, not only those made from cereals, must be included in the regulation on ethyl alcohol. The inclusion of the other spirituous beverages may be based on Article 235 of the EEC Treaty, completing Article 38(3) of the EEC Treaty and taking into account the requirement laid down in Protocol No 19. Community action seems to be necessary in this case in order to close a loophole which has arisen because spirituous beverages are exposed to adverse effects if they are not included in the common organization of the market in ethyl alcohol of agricultural origin.

6. The majority of the members of the committee adhere to the view that Article 235 of the EEC Treaty cannot be used as the legal basis for the application of provisions of this Regulation to spirituous beverages.

The Council did not make use of the power provided by Article 38(3) of the Treaty to decide, within two years of the entry into force of the Treaty, to add spirituous beverages to the list in Annex II. Article 235 cannot be used to create Community powers which existed initially but were not utilized; this would be flouting the two-year deadline laid down in Article 38(3).

Nor does the Protocol No 19 to the Act of Accession of 1972 make it necessary to modify this view.

¹ Supplementary Opinion of the Legal Affairs Committee (Draftsman: Mr Bangemann)
Doc. 472/77, Annex II, pp. 7-9

² PE 59.884/fin. p. 8

³ see footnote 2, p. 3 above

The majority of the members of the committee note that this Protocol is of equivalent legal status to the EEC Treaty and is therefore capable of amending the Treaty. Nevertheless, Annex II to the Treaty is amended by Protocol 19 only inasmuch as it allows the Regulation to cover spirituous beverages obtained from cereals and in particular those intended for export. Other spirituous beverages are still excluded from the scope of a common organization of the market.

(b) The treatment of alcohol of agricultural origin and synthetic alcohol

7. The Legal Affairs Committee has hitherto taken the view that the differences in the treatment of alcohol of agricultural origin and synthetic alcohol under Article 8(3) and 9 of the proposed regulation infringe the principles of non-discrimination and proportionality¹, for the following reasons:

- under Article 8 (3) the danger would arise that agricultural alcohol produced in excess of that required for the reserved sectors would undermine the market for synthetic alcohol which is not subsidized and with which it is in direct competition;
- Article 9 of the proposed regulation would give rise to distortion of competition between agricultural and synthetic alcohol which would be in breach of Article 3(f) of the EEC Treaty and would therefore not be legally binding.

8. The Legal Affairs Committee ~~does~~ not consider it necessary to revise negative opinion with regard to these two articles of the proposal for a regulation in the light of the most recent case-law of the Court of Justice of the European Communities.

The judgments in Cases 138 and 139/79 not only recognized that the due consultation of the European Parliament by the Council is a basic democratic principle and an essential procedural requirement. The Court of Justice also observed in these judgments that agricultural policy takes precedence over other objectives laid down in the Treaty, expressly over those in the field of competition.

9. The relevant paragraphs of the Court's decision in Case 139/79 read as follows:²

23 The institution of a system of competition which is not distorted is not the only objective referred to in Article 3 of the Treaty which also provides in particular for the

¹ See the MALANGRE Opinion (PE 59.884 fin), Pages 8 and 9
See the BANGEMANN Supplementary Opinion (Doc. 472/77, Ann. II) page 9 et seq.

² Paragraphs 23 and 24 of the Court's decision in Case 139/79, ECR (1980) pp. 3421 and 3422

adoption of a common agricultural policy. Those responsible for the Treaty, conscious that the simultaneous pursuit of those two objectives could sometimes and in certain circumstances prove difficult, provided in the first paragraph of Article 42 that:

"The provisions of the Chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the Council within the framework of Article 43 (2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 39."

That simultaneously recognizes the precedence the agricultural policy has over the aims of the Treaty in relation to competition and the power of the Council to decide how far the rules on competition should apply to the agricultural sector. The Council has a wide discretion in the exercise of that power as it has in the implementation of the whole agricultural policy.

24 As consideration of the contested measures shows, the effects which they may perhaps have on competition are the unavoidable consequence of the legitimate desire of the Council to limit isoglucose production. The measures moreover permit some competition to continue in respect of price, terms of sale and the quality of isoglucose. The Council has therefore not exceeded its discretion.

10. According to the Court of Justice, the Council thus has wide discretion in deciding how far the rules on competition are applicable in the agricultural sector.

11. A minority of the members of the committee conclude from this judgment of the Court that the Commission is entitled to propose intervention measures for alcohol of agricultural origin and spirituous beverages even if these would entail competitive disadvantages for the manufacturers of synthetic alcohol.

This minority believes that preferential treatment for agricultural alcohol and thus discrimination is justified also by the fact that it is possible to prevent the destruction of agricultural products' to the benefit of distillation. It also believes that reservation of certain types of use for agricultural alcohol does not constitute too severe a protective measure since the manufacturers of synthetic alcohol in their turn are not subject to quota arrangements and accordingly have unrestricted freedom of production.

12. The majority of the members of the committee do not regard the latest judgments of the Court of Justice as departing from the existing case-law; they only reaffirm the primacy accorded by the EEC Treaty to the agricultural policy over competition policy objectives.

In the committee's view, the conclusion to be drawn from the case-law of the Court is that the Council has a wide discretionary power as to how far the rules on competition should apply to the agricultural sector. The judgments referred to concern two competing agricultural products which are subject to different market organizations.

The legal position in the alcohol sector is, however, quite different: the purpose of the Commission's present proposal is to bring ethyl alcohol of agricultural origin within the scope of a common market organization. Synthetic alcohol, on the other hand, which is in direct competition with this product, is not an agricultural product. Through the proposed provision of Article 8(3) the subsidized sales of agricultural alcohol in the non-reserved sectors would undermine the market for synthetic alcohol. The case-law of the Court of Justice accords the Council wide discretion within the agricultural sector in respect of competing agricultural products only. The judgments do not give the Council any power to destroy the competitiveness of an industrial product.

Under Article 9 of the proposal for a Regulation the ethyl alcohol used in the reserved sectors must be of agricultural origin. In other words, the use of synthetic alcohol, which is much cheaper to produce, is prohibited in these sectors. Thus the proposed organization of the market for ethyl alcohol impinges upon an industrial sector which does not come under the market organization rules and, through the system of reserved sectors, makes it impossible for the more economically produced industrial product to compete with the highly subsidized agricultural product.

In the committee's view it is not the objective of the recent judgments to extend the scope of application of the agricultural market organizations to the industrial sector. The Council's discretion in regard to the primacy of the agricultural policy over the rules on competition is confined to products included in the market organization. Since, however, under the present proposal for a Regulation that discretion would be exercised at the expense of an industrial product, the proposal infringes the principle of proportionality and non-discrimination.

On this question, too, therefore, the committee adheres to its earlier opinion.

III. CONCLUSIONS

13. In the light of a request from the Committee on Agriculture the meeting on 21 May 1981 and the additional working documents supplied by the Commission's legal services, the Legal Affairs Committee:

- Welcomes the Commission's continuing attempts to formulate proposals for the common organization of the market for ethyl alcohol of agricultural origin;
- Notes that recent judgment of the Court of Justice in no way diminish the need for proposed Community legislation to reflect the rules relating to proportionality and discrimination;

- Considers that reservations must still remain on the legality of the inclusion of other spirituous beverages by means of Article 235 of the Treaty;
- Calls upon the Commission to consider the precise effect of the workings of the non-reserved sector of the ethyl alcohol market, both as regards producers and consumers;
- * Recognizes that the Council has wide discretion in attaining the objectives of the common agricultural policy, including the common organization of the markets; stresses, however, that the proposals exceed proper exercise of that discretion, particularly where proportionality and discrimination are concerned;
- Doubts whether the prohibition on non-agricultural products from entering certain sectors of the market, as set out in Article 9, has any adequate legal basis.

