

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 527 final

Brussels, 7 December 1989

Amended proposal for a
COUNCIL DIRECTIVE
on the approximation of the rates of excise duty on alcoholic
beverages and on the alcohol contained in other products

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. INTRODUCTION

1. The present proposal for a Directive concerns the approximation of the rates of excise duty on alcoholic beverages and on the alcohol contained in other products. It lays down the minimum rates to be applied not later than 31 December 1992. It is based on the need to strike a balance in the efforts to be made by Member States to approximate the rates while, at the same time, limiting the distortions of competition. In addition, it is designed to accommodate the worries expressed in connection with protection of the health of consumers. In short, the solutions proposed by the Commission are based on minimum rates that are to be applicable as at 31 December 1992 and on convergence of the rates applied in Member States on common target rates.

II. BACKGROUND

2. This proposal for a Directive amends certain articles in the proposal for a Directive (COM(87)328 of 21 August 1987) on approximation of the rates of excise duty on alcoholic beverages and on the alcohol contained in other products.

3. In the aforementioned proposal for a Directive, the Commission had advocated single Community-wide rates for each product category concerned. This attempt at harmonization as unveiled in 1987 brought to light the diversity of situations still obtaining in the Community, a diversity that is more difficult to counter in the case of alcoholic beverages because of the very different circumstances in Member States, which vary according to their production capacity.

4. Furthermore, the Member States and Parliament took the view that the introduction of an element of flexibility in the rates proposed in 1987 was the only way of progressing towards harmonization. It was with this in mind that the Commission, in its Communication to the Council and to Parliament of 14 June 1989 (COM(89)260), introduced the concept of flexibility.

III. FLEXIBILITY WILL RESPECT THE PRINCIPLE OF ABOLITION OF FRONTIERS IN 1992

5. The concept of flexibility in the case of the rates of excise duty on alcoholic beverages and on the alcohol contained in other products must be in keeping with the provisions of the Single European Act and must under no circumstances jeopardize the fundamental principle of abolition of customs and tax frontiers by 1 January 1993.

Such flexibility must take account of the regional disparities that exist within the Community with regard to alcoholic beverages and must reflect the essential requirements identified by the Commission and the Council in the public health field.

From the Commission's point of view, the solutions for introducing flexibility must remain measured and balanced so as not to create excessive problems of distortions of competition, deflections of trade and losses of revenue.

This being so, most of the products concerned by the proposal for a Directive are intended, if anything, for final personal consumption as opposed to industrial use. Accordingly, the competition problems must be seen in perspective, including in the light of the special geographical situations concerned.

6. The concept of flexibility must not, therefore, be viewed as a solution to the tax problems alone but, above all, must pave the way for establishment of the internal market in 1992 under reasonable conditions.

IV. NATURE OF FLEXIBILITY

7. It transpires from the foregoing observations (essential requirements in the health field, regional disparities, etc.) and from the various considerations set out in the Commission Communication to the Council (COM(89)260) that flexibility in the form of minimum rates for the products concerned is justified.

8. In practice, this flexibility will have the following consequences:

8.1 On 1 January 1993, an initial move towards alignment of rates will take place, with each Member State being required, in any event, to apply rates higher than, or equal to, these minimum rates set for each product category.

8.2 After that date, this initial flexibility will entail a gradual alignment of rates on benchmark values that will be known as target rates, mainly with a view to attaining the objectives for the internal market.

At Community level, these rates will also have to be set at a level compatible with essential public health requirements.

8.3 In order to make it easier for Member States to adapt their rates, and with a view to reducing the distortions of competition associated with the continued existence of different rates, only those adjustments conducive to convergence on the target rates will be authorized.

8.4 Every two years, and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the target rates of duty and the minimum rates and shall, acting unanimously, make the necessary adjustments.

Without prejudice to the first paragraph, every two years, and for the first time not later than 31 December 1994, the Council, acting by a qualified majority on a proposal from the Commission, shall adjust the rates in order to maintain their real value.

V. SPECIFIC CONSIDERATIONS FOR EACH PRODUCT

A. INTRODUCTION

9. The Commission would recall the general considerations set out in the proposal for a Directive (COM(87)328 final/2) concerning the tax base and the constraints to be observed on account of the competition that exists between certain products at the level of consumption.

10. Under the previous approach involving single rates, the rate levels had, in view of the above considerations but due regard also being had to the budgetary repercussions, been fixed in such a way as to limit the effects of distortions of competition.

This was the reason why, for example, whereas an excise duty on wine needed to be introduced in the producer countries, it was also desirable that the duty should be at a low level.

11. The reasons for introducing a measure of flexibility in the form of minimum rates applicable in this field during a transitional period do not affect the nature of the Commission's proposals regarding the need to maintain a balance between the rate levels for the different product categories.

B. BEER

12. The Commission's new approach towards flexibility in the rates levied on beer involves setting the following rates:

- On 1st January 1993, the rates of excise duty in Member States may not be lower than the minimum rate of ECU 0.748 per hl/degree Plato;
- Ultimately, Member States will apply the target rate of ECU 1.496 per hl/degree Plato.

13. Beer is a product which generally has a fairly low price on which a relatively low level of tax is levied.

The target rate proposed and to be applied ultimately is reasonably low.

14. The level of this rate takes account of the substitution problems at the consumption level.

15. As regards the degree of flexibility to be introduced, the Commission takes the view that the minimum rate for beer can reasonably be fixed at 80% of the final target rate.

16. The target rate has been increased substantially (by 10%) relative to the 1987 proposal in order to take greater account of the health aspect in particular.

C. STILL WINE

17. An analysis of the problem of wine must take into consideration the tax balance that needs to be maintained relative to beer in particular but also relative to other alcoholic beverages. The fact that five Member States do not levy excise duty on wine must also be taken into account.

A low minimum rate must, therefore, be fixed.

18. The Commission's new approach towards flexibility in the rates levied on still wine involves setting the following rates:

- On 1st January 1993, Member States will have to apply an excise duty that may not be lower than the minimum rate of ECU 9.35 per hl;
- Ultimately, Member States will apply the target rate of ECU 13.7 per hl.

19. Accordingly, a rate identical to that for beer (by reference to each litre of product) has been chosen as the basis for the calculation.

The minimum rate has, therefore, also been fixed at the same level of 80% of the target rate.

In the case of expensive wine, the amount of the excise duty does, of course, represent only a small percentage of the final selling price. Its effect on the selling price is minimal.

By contrast, for low-priced wine, which is more likely to compete with beer, the impact of the excise duty on selling prices will be of the same order of magnitude.

20. The target rate has been increased substantially (by 10%) relative to the 1987 proposal in order to take greater account of the health aspect in particular.

D. SPARKLING WINE

21. Sparkling wine is generally more expensive than still wine and represents a different segment of the market.

A tax balance must, however, be maintained relative to other expensive alcoholic beverages.

The target rate proposed is, therefore, higher than that for still wine, the minimum rate being fixed at 80% of the latter in order to limit distortions of competition during the transitional period.

22. The Commission's new approach towards flexibility in the rates levied on sparkling wine involves setting the following rates:

- On 1st January 1993, Member States will have to apply an excise duty that may not be lower than the minimum rate of ECU 16.5 per hl;
- Ultimately, Member States will have to apply the target rate of ECU 33 per hl.

23. The target rate has been increased substantially (by 10%) relative to the 1987 proposal in order to take greater account of the health aspect in particular.

8. POTABLE ALCOHOL

24. The rates proposed (around ECU 4 per standard bottle of product) for potable alcohol are naturally higher than those proposed for beer and wine.

Potable alcohol attracts a high rate of duty, with the actual amount of duty representing a large percentage of the selling price.

25. Under the circumstances, the risks of distortion are high. The margin of flexibility must be viewed in this light and must be reduced.

Nevertheless, given the spread of rates according to particular geographical locations (from the north to the south of the Community), it is reasonable to fix a minimum rate equal to 80% of the target rate.

26. The Commission's new approach towards flexibility in the rates levied on potable alcohol involves setting the following rates:

- On 1st January 1993 the rates of excise duty in Member States may not be lower than ECU 1 118.5 per hl of pure alcohol;
- Ultimately, Member States will apply the target rate of ECU 1 398.1 per hl of pure alcohol.

27. The target rate has been increased substantially (by 10%) relative to the 1987 proposal in order to take greater account of the health aspect in particular.

F. INTERMEDIATE PRODUCTS

28. The Commission's new approach towards flexibility in the rates levied on intermediate products involves setting the following rates:

- On 1st January 1993, the rates of excise duty in Member States may not be lower than ECU 74.8 per hl;
- Ultimately, Member States will apply the target rate of ECU 83.5 per hl.

29. The target rate applicable to the products concerned has been fixed at a level which broadly reflects the results that would be obtained if the proposed rates for alcoholic beverages were applied to these products where, theoretically, they made up "an intermediate product".

30. The target rate has been increased substantially (by 10%) relative to the 1987 proposal in order to take account of the health aspect.

31. Since the amount of the excise duty represents a relatively high percentage of the selling price, the risks of distortion are high. The margin of flexibility must, therefore, be reduced.

32. This is why it seems reasonable to fix a minimum rate equal to 80% of the target rate, in line with the proposal for potable alcohol.

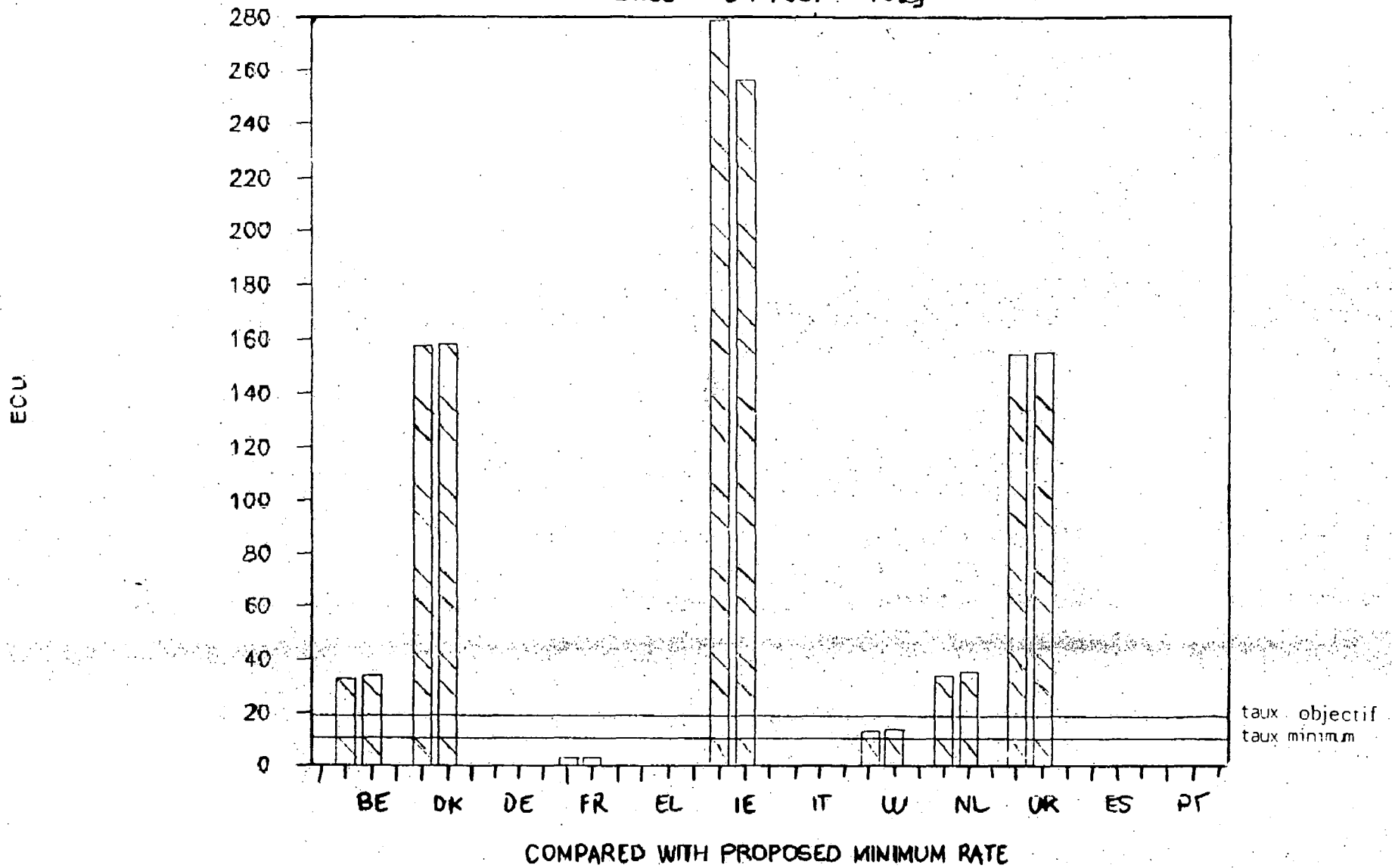
G. ALCOHOL CONTAINED IN PERFUME, TOILETRIES AND COSMETICS

33. The Commission's original proposal envisaged a reduced rate for such alcohol. The application of such a rate made it possible to resolve the difficulties involved in defining common conditions for denaturing.

The common rules on denaturing, which are examined in the Commission's proposal on structures, and the low level of revenue generated by this type of product, have led the Commission to drop its original proposal.

COMPARISON OF EXCISE RATES PER HL. OF

STILL WINE : 1987 - 1989

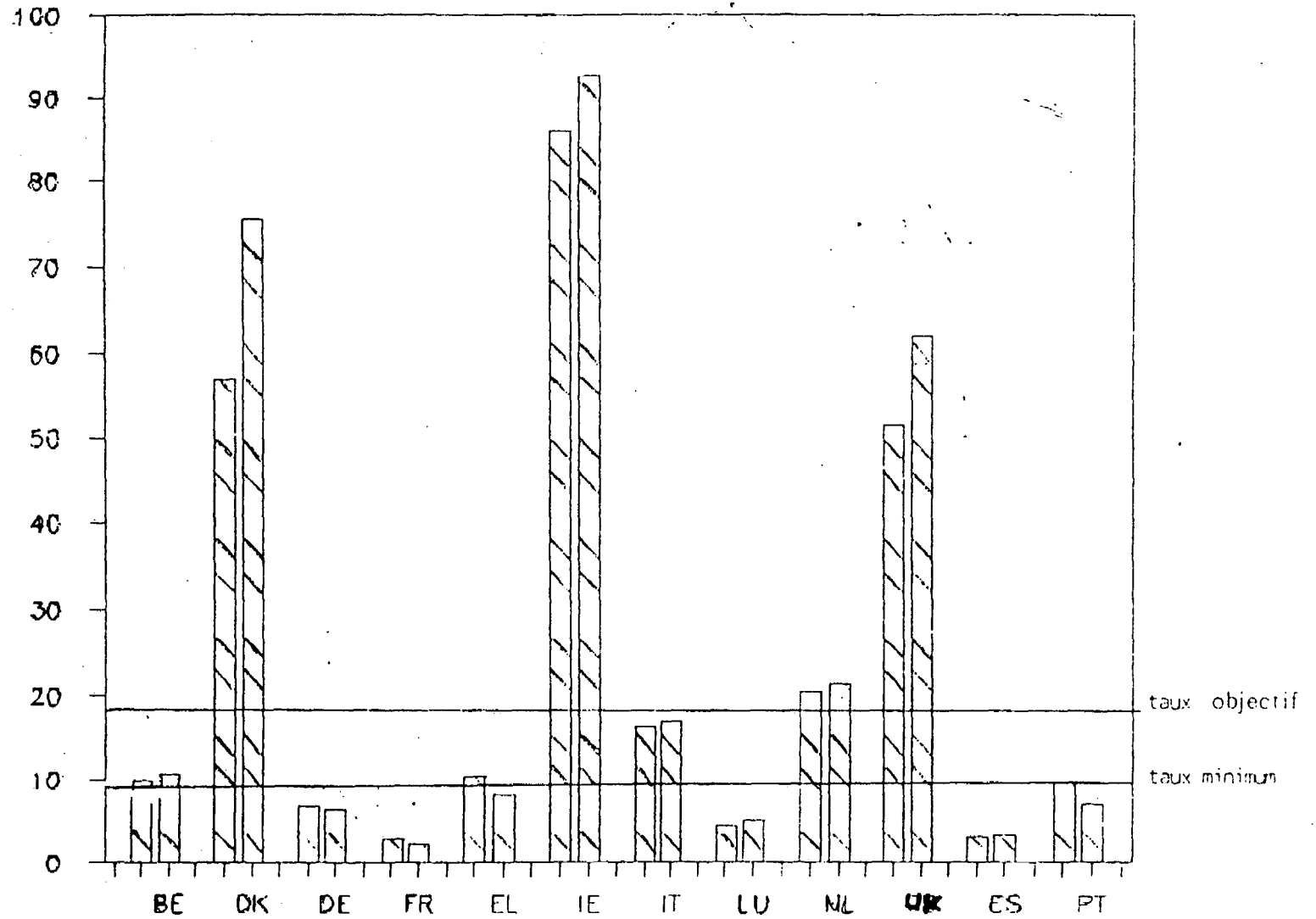


- notes
1. Minimum rate of 9.35 per hectolitre of wine
 2. Some part of the movement in national rates expressed in Ecu may be attributable to changes in the value of the relevant national currency against the Ecu.

COMPARISON OF EXCISE RATES PER HL. OF

AVERAGE BEER : 1957 - 1959

ECU



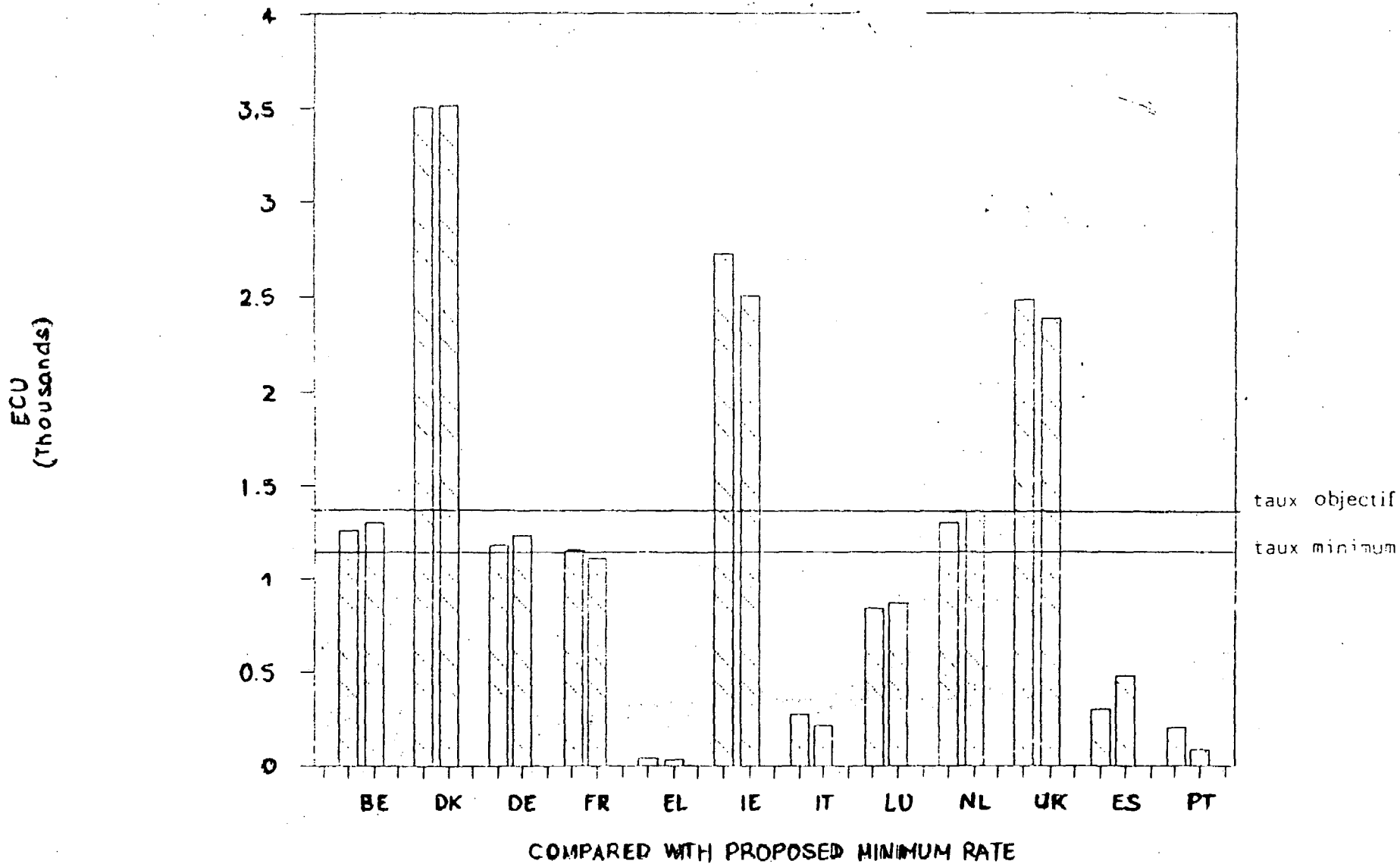
COMPARED WITH PROPOSED MINIMUM RATE

Notes

1. Minimum rate for beer is 0.748 Ecu per hectolitre per degree plato. For average strength - i.e. 12.5° plato, this would be 9.35 Ecu.
2. Some part of the movement in national rates expressed in Ecu may be attributable to changes in the value of the relevant national currency against the Ecu.

COMPARISON OF EXCISE RATES PER HL. OF

PURE SPIRITS : 1987 - 1989



Notes

1. Minimum rate of 1118,5 Ecu per hectolitre of pure alcohol
2. Some part of the movement in national rates expressed in Ecu may be attributable to changes in the value of the relevant national currency against the Ecu

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ORIGINAL PROPOSAL (COM (87) 328 final)

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

unchanged

Having regard to the proposal from the Commission,

unchanged

Having regard to the opinion of the European Parliament (1),

unchanged

Having regard to the opinion of the Economic and Social Committee (2)

unchanged

Whereas Council Directives (3) lay down provisions relating to the structures of excise duties applicable respectively to alcohol, wine, beer and intermediate products.

unchanged

Whereas for the purpose of establishing an internal market without frontiers it is necessary to apply common rates of excise duty to each of these products.

Whereas, to establish a convergence process, it is necessary to fix target rates of excise duty on alcohol, wine, beer and intermediate products;

Whereas it is necessary to provide for the periodic adjustment of those common rates.

Whereas it is necessary to make provision for adjustment of these target rates in order to take account of the requirements of sectoral policies;

Whereas these target rates cannot be applied immediately because of the diverse situations in Member States; whereas, therefore, flexibility of rates should be introduced in the form of minimum rates in order to achieve an internal market without frontiers on 1 January 1993;

Whereas the minimum and objective rates should be adapted to the trend in prices, and that it is pointed out these decisions shall be taken by the Council under a simplified procedure;

Whereas a reduced rate should be applied to undenatured alcohol used in the preparation of perfumes, toiletries and cosmetics.

unchanged

(1)

(2)

(3)

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ORIGINAL PROPOSAL

Whereas the excise duty on intermediate products should be charged by reference to their volume,

Whereas different rates of excise duty should be applied to still wine and sparkling wine,

Whereas the excise duty on beer should be charged by reference to the original gravity of the product,

HAS ADOPTED THIS DIRECTIVE:

AMENDED PROPOSAL

Whereas the most appropriate method of levying excise duty on intermediate products is based on volume;

Whereas the consumption pattern of sparkling wine differs from that of still wine; whereas, in line with practices in Member States, different rates should be applied to these two types of product;

Whereas the method of taxation for beer differs from that for wine in a large number of Member States; whereas, however, there must be some balance between the levels of taxation resulting from these different methods;

Whereas the only possible basis for levying excise duty on the alcohol contained in other beverages is the volume of pure alcohol;

Whereas, lastly, Member States may unilaterally adjust their rates of excise duty provided that they move closer to the target rates,

HAS ADOPTED THIS DIRECTIVE:

ORIGINAL PROPOSAL

Article 1

Not later than 31 December 1992 Member States shall apply common rates of excise duty on alcoholic beverages and on the alcohol contained in other products in accordance with this Directive.

Article 2

The products covered by this Directive are:

- alcohol and alcoholic beverages as defined in Directive ...
- intermediate products as defined in Directive ...
- wine as defined in Directive ...
- beer as defined in Directive ...

Article 3

The common rates of excise duty laid down in this Directive shall be adjusted periodically in accordance with provisions to be established before 1 January 1989 in a Directive adopted by the Council acting on a proposal from the Commission.

Article 4

1. The common rate of excise duty on alcohol contained in alcoholic beverages other than those referred to in Articles 5 to 7 below and on the alcohol contained in foodstuffs shall be 1 271 ECU per hectolitre of pure alcohol.
2. A reduced rate of 424 ECU per hectolitre of pure alcohol shall be applied to undenatured ethyl alcohol contained in perfumes, toiletries and cosmetics.

AMENDED PROPOSAL

Article 1

Member States shall apply target rates of excise duty on alcoholic beverages and on the alcohol contained in other products in accordance with the rules laid down in this Directive.

Article 1a

Not later than 1 January 1993 Member States shall apply minimum rates of excise duty in accordance with the rules laid down in the Directive;

Article 2

unchanged

Article 3

Every two years, and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the target rates and the minimum rates and shall, acting unanimously, make the necessary adjustments.

Without prejudice to the first paragraph, every two years, and for the first time not later than 31 December 1994, the Council, acting by a qualified majority on a proposal from the Commission, and after consultation with the European Parliament shall adjust the rates in order to maintain their real value.

Article 4

The target rates of excise duty on the alcohol contained in beverages other than those referred to in Article 5, 6 and 7 and on the alcohol contained in foodstuffs shall be Ecu 1398,1 per hectolitre of pure alcohol.

Article 4a

The minimum rate of excise duty on the alcohol contained in beverages other than those referred to in Article 5a, 6a and 7a and on the alcohol contained in foodstuffs shall be Ecu 1 118,5 per hectolitre of pure alcohol.

ORIGINAL PROPOSAL

Article 5

The common rate of excise duty on intermediate products shall be 85 ECU per hectolitre of product.

Article 6

The common rate of excise duty on wine shall be:

- as regards still wine, 17 ECU per hectolitre of product,
- as regards sparkling wine, 30 ECU per hectolitre of product.

Article 7

The common rate of excise duty on beer shall be 1,32 ECU per hectolitre/degree Plato of finished product at a temperature of 15 °C.

Article 8

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

Article 9

This Directive is addressed to the Member States.

Done at

For the Council

AMENDED PROPOSAL

Article 5

The target rate of excise duty on intermediate products shall be ECU 93,8 per hectolitre of product.

Article 6a

The minimum rate of excise duty on intermediate products shall be ECU 74,8 per hectolitre of product.

Article 6

The target rate of excise duty on wine shall be:

- as regards still wine, ECU 18,7 per hectolitre of product;
- as regards sparkling wine, ECU 33 per hectolitre of product.

Article 6a

The minimum rate of excise duty on wine shall be:

- as regards still wine, ECU 9,58 per hectolitre of product;
- as regards sparkling wine, ECU 16,8 per hectolitre of product.

Article 7

The target rate of excise duty on beer shall be ECU 1,498 per hectolitre/degree Plato of finished product.

Article 7a

The minimum rate of excise duty on beer shall be ECU 0,748 per hectolitre/degree Plato of finished product.

Article 7b

With effect from 1 January 1993, Member States may adjust their excise-duty rates provided that they move closer to the target rates laid down in this Directive.

Article 8

Unchanged

Article 9

Unchanged

Done at

For the Council

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FINANCIAL STATEMENT

I. Will application of the present proposal for a Directive result in an increase in Community resources?

The effect of the proposal for a Directive cannot be quantified as regards VAT own resources.

STATEMENT OF IMPACT ON SMEs AND EMPLOYMENT

The approximation of excise duties on alcoholic beverages and on the alcohol contained in other products is necessary if tax frontiers are to be abolished and is an integral part of the measures for completing the internal market.

I. Administrative obligations on businesses arising from application of the present Directive

None.

II. What are the advantages for businesses?

- The advantages resulting from the approximation of rates could not be determined.

III. Are there any drawbacks for businesses in terms of additional costs?

- Application of the present Directive will not impose any additional costs on businesses.

IV. Effects on employment

- The possible effect of the approximation of rates on employment in the sector concerned cannot be determined.

V. The two sides of industry have not been consulted.

VI. No less binding alternative is available with a view to abolishing tax frontiers.

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DOCUMENTS

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