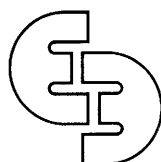


The Economic and
Social Committee
supports
the removal of
fiscal frontiers

Brussels - July 1988

HORIZON 1992



ECONOMIC AND SOCIAL COMMITTEE

HORIZON 1992

The Economic and Social Committee
supports

“The Removal of Fiscal Frontiers”

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REMOVAL OF FISCAL FRONTIERS

Eight Opinions on the harmonization of indirect taxation

The Economic and Social Committee voted by a very large majority in favour of the harmonization of indirect taxation as from 1 January 1993. The approval of this fiscal package proposed by the Commission is in keeping with the stands taken by the Committee in this area over the last ten years. While giving its approval the Committee made various requests for clarification, specific suggestions and comments of a technical nature the significance of which will not be lost on those who are required to implement and apply the decisions taken by the Community in one of the areas which most directly affect the citizens and economic operators of Europe.

1. The Committee has in the past repeatedly reaffirmed its support for the establishment of the internal market and the removal of fiscal frontiers. As early as 1978, in its Information Report on Tax Harmonization⁽¹⁾, the Committee stressed the advantages of harmonization in this field and said that it was a unique opportunity to make significant headway towards a rational and at the same time less burdensome tax system more in keeping with the interests of both the individual citizen and the tax authorities and avoiding the taxpayer discontent which results from a lack of transparency in the tax system.

For the economy in general and for the tax authorities a rational tax system - and one which both services the interests of the citizen and minimizes costs - is one which manages with as few operations and resources as possible and is still as fair as is humanly possible.

In its Opinion on Completion of the Internal Market - Commission White Paper of 27 November 1985⁽²⁾ - the Committee reiterated its support for the Commission in its attempt finally to abolish frontier checks by reducing indirect tax divergences. On that occasion the Committee already highlighted the various problems which are to be found in the Commission's current proposals on the harmonization of indirect taxation.

In its Opinions on the Proposal for imposing a standstill on VAT and excise duties of 22 May 1986⁽³⁾, on financial integration in the Community of 27 November 1986⁽⁴⁾ and on turnover taxes applicable to small and medium-sized business of 28 January 1987⁽⁵⁾, the Committee pointed out that the harmonization of indirect taxation must be considered as a necessary step towards a true common market. This harmonization must be structured to include generous transitional phases, and where necessary compensatory measures; its aim must be a gradual alignment of those aspects of taxes connected with financial integration.

Tax structures and even concepts of taxation vary enormously; nonetheless, action must aim to achieve the maximum fiscal neutrality, to allow capital movements to be guided by economic decisions rather than by tax considerations.

(1) Rapporteur: Mr FREDERSDORF, (CES 846/78 of 12 July 1978).

(2) Rapporteur: Mr POETON - Co-Rapporteur: Mr ROUZIER (OJ No. C 344 of 31 December 1985).

(3) Rapporteur: Mr DELLA CROCE (CES 500/86).

(4) Rapporteur: Mr DRAGO (CES 970/86).

(5) Rapporteur: Mr BROICHER (CES 95/87).

Turning to direct taxation, the Committee stressed the advisability of aligning the incidence of tax burdens so that production costs, siting of investment and capital return are not significantly influenced by the tax systems of the Member States. In the area of tax problems, the Committee drew the attention of the Commission and the Council to the problems of international tax fraud and tax havens.

2. On 11 September 1987 the Council decided to consult the Economic and Social Committee on the global Communication from the Commission on completion of the internal market: approximation of indirect tax rates and harmonization of indirect tax structures (COM(87) 320 final) and on a series of eight draft Regulations and Directives on rates of VAT and excise duty.

— **The Commission's response to the challenge posed by completion of the internal market.**

3. In January 1985 the Commission undertook to draw up and carry out a detailed programme for the dismantling of the Community's internal frontiers. The present package is not intended to bring into being an ideal tax system for the Community but simply to remove fiscal frontiers. The Commission has therefore adopted a pragmatic approach to the approximation and structure of VAT rates, derogations and exemptions, zero-rating, excise duties, the overall budgetary effect and the implementation timetable.

— **The Committee's support for the Commission's proposals.**

4. The Committee fully endorses the aim of removing all frontiers and all border checks by 1 January 1993, including those checks now made for the collection of indirect taxes (VAT and excise duties). The Committee is pleased that the Commission has adopted a pragmatic approach.

It may be necessary to adopt some interim measures to obtain agreement from Member States, in particular derogations for zero-rating or for higher rates in countries with particular revenue needs. Although there is a case for an extended time period, it is generally desirable to work to the 1992 deadline.

The Committee regrets that the Commission has not found a solution to a whole array of technical problems (supervision of the actual collection of VAT in trade, budget and social problems, clearing system, etc.) which give rise to concern about whether the planned abolition of tax frontiers would actually be an improvement on the present situation, which is one of rigorous observance of equal competition in Community trade.

It is important that public support be generated for proposals to complete the internal market. Political leaders in the Member States should be engaged in stressing the economic benefits which will arise following the completion of the internal market.

Tax convergence is not the only prerequisite for European integration but should be seen as part of the total process of trying to achieve economic and social cohesion and monetary and political union.

– **The specific VAT proposals.**

5. The five and six percentage point bands proposed in the draft Directive on the approximation of VAT rates (COM(87) 321 final/2) appear to be too wide for goods and services supplied to final customers.

Since after the abolition of intra-Community frontiers final customers will be able to purchase goods freely in any Member State, competition may be seriously distorted by such differences in rates.

It must not be forgotten here that final consumers include not only private individuals but also public authorities, other organizations not entitled to deduct input tax and firms which, by virtue of being small etc., are not entitled to deduct input tax.

The proposed bands should therefore be narrowed. If not all Member States can approve an immediate reduction in the bands, the Commission proposal should be regarded as only a transitional scheme.

6. Apart from purely drafting changes, the Commission proposal on the removal of fiscal frontiers (COM(87) 322 final/2) introduces some new rulings with certain material consequences. These primarily affect provisions which the removal of internal fiscal frontiers will render obsolete or which, if retained, would have undesirable results. The provisions on the taxation of credit institutions are among the most important Articles.

7. The introduction of a VAT clearing mechanism for intra-Community sales (COM(87) 323 final/2) is a working document rather than a proposal for a Directive. The Committee finds it complex and rather confused.

The term "removal of fiscal frontiers" used by the Commission in its proposal is likely to arouse considerable interest and enthusiasm. However, we must remain aware of the difficulties and constraints that lie ahead, and avoid illusions. As Europe is still far from being a political unit, the single market will have to make allowances for the autonomy and prerogatives of the Member States. One of their main prerogatives is that of levying taxes.

On the other hand it must be remembered that any system for levying taxes on business turnover will pose complex problems when it comes to monitoring. Checks are vital in order to ensure fair and equal competition.

Nevertheless, the Member States have officially undertaken to form a single European market. A market guaranteeing freedom of competition and reducing the administrative obligations of firms is therefore in the interests of all.

The elimination of tax barriers and the introduction of rules to ensure that VAT is collected as if the Community were one and the same country are scheduled for 1992; it might therefore seem that definition of a clearing system is not an urgent matter.

However, there are two reasons for making an immediate start laying down the details of the clearing system: (a) it is a key component of the overall blueprint and (b) Member States need to be given specific assurances that the new system will not place VAT revenue from imported goods in jeopardy and that VAT will continue to be charged on final consumption.

8. With regard to the process of convergence of VAT and excise duty rates (COM(87) 324 final/3), by 1992 all Member States should have two VAT rates, varying within precise limits, and should set single excise duty rates. It therefore seems ill-judged simply to formalize the obligation not to widen existing divergences and to "allow" movement towards the rates scheduled for 1992.

Given the difficulties which Member States have had in the past when amending their tax systems, there is a danger of arriving at 1992 with the present situation virtually unaltered. This would pose a serious threat to harmonization, as it would mean carrying out a complex and onerous operation in one fell swoop. It would seem more sensible to propose a Directive which formally obliges all Member States to move gradually towards the final goal.

The present divergences from the harmonized rates (in minimum and maximum figures) should thus be calculated. They should then be phased out in annual stages to be calculated in percentage terms. Achievement of the final goal could even be scheduled for a date after 1992, as this would seem unlikely to seriously hinder the removal of tax frontiers and the completion of the single market.

Not only would gradual harmonization make the operation less risky and onerous; it would also mean that the advantages and disadvantages could start being assessed at once.

— **The specific excise duty proposals.**

9. With regard to cigarettes and manufactured tobacco products other than cigarettes (COM(87) 325/326 final/2), the lack of alternative schemes, the lack of data and analyses of the effects of different taxation regimes and other factors on the tobacco industry and the failure to present proposals for the methods of assessment and collection together mean that the Economic and Social Committee finds it difficult to reach firm Opinions on the current Commission proposals.

10. The aims of the Commission's proposals for the harmonization of rates of excise duty of mineral oils (COM(87) 327 final/2) are welcomed. But the practical achievement of these objectives raises problems which the proposal for a Directive fails to solve or which could be solved differently.

Products subject to mineral oil excise duty are generally fuels or raw materials used as inputs for other products or services. In this sense mineral oil duty is different from other types of excise duty which are generally levied directly on the consumer good.

The adoption of an arithmetic average rate for petrol is not considered appropriate. A weighted average would reflect existing tax structures more accurately.

If for example, as suggested in the Global Commission Communication on the harmonization of indirect taxes, the intention is to set up tax depots through which all taxable goods must pass when entering another Member State, this would amount to the retention of tax frontiers. And this would radically alter the views expressed on the excise duty proposals. The Commission should therefore submit its proposals with regard to the method of distribution without delay.

11. Adoption of the proposal on alcoholic beverages and the alcohol contained in other products (COM(87) 328 final/2) would result in the abolition of border controls although a number of significant barriers would still remain. Since products would, as now, be taxed at the place of consumption, a system of customs depots, national identification tab procedures and special way-bills would still be needed.

Needless to say procedures and regulations should also be standardized in such a way that they are not dissimilar to arrangements already in force in each Member State.

In this connection we must regret the failure of the Commission to propose rules and regulations on customs depots or free warehouses.

OPINION

on the

**Completion of the Internal Market:
Approximation of Indirect Tax Rates and
Harmonization of Indirect Tax Structure**

Global Communication from the Commission

(COM(87) 320 final/2)

Gist of the Commission Proposal

The package proposed by the Commission is not an attempt to design an ideal fiscal system for the Community but merely a blueprint for the abolition of fiscal frontiers.

The abolition of fiscal frontiers will mean the abolition, in intra-Community trade, of the existing system of relieving goods from tax at export and of imposing tax at import, as has been the case ever since the First VAT Directive was adopted twenty years ago.

In addition, the removal of fiscal frontiers necessitates approximation of VAT and the main excise duties (on tobacco, mineral oils and alcoholic beverages) if unacceptable levels of distortion of competition, diversion of trade, and tax fraud are to be avoided.

The Commission is also proposing a VAT clearing mechanism to ensure that, after frontier controls have been abolished, the Member States continue to receive the revenue to which they are entitled. This will ensure that output tax collected on export sales in one Member State is passed on to the Member States in which the supplies are finally consumed.

There are, of course, other indirect taxes within the Community, such as taxes on vehicles, and on the purchase of houses, which vary considerably from Member State to Member State. Those variations can be such as to cause distortions of competition and deflection of trade. But they do not impede the free movement of goods in the sense that the differences between them do not give rise to controls or formalities at frontiers.

It is intended that Community rates for VAT and excise duties should enter into force no later than 31 December 1992. It will be the responsibility of the individual Member States to work towards these rates in the intervening period.

The Commission is however putting forward a Convergence Proposal which aims to ensure that Member States do not diverge from the overall objective in the meantime.

The individual proposals are set out in documents COM(87) 320 - 328.

INDIRECT TAXATION

Rapporteur: Mrs ROBINSON

OPINION of the Economic and Social Committee (CES 739/88)

On 11 September 1987 the Council decided to consult the Economic and Social Committee under Article 198 of the Treaty establishing the European Economic Community, on the

Global Communication from the Commission on the Completion of the Internal Market: Harmonization of Indirect Tax Structure
(COM(87) 320 final).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 11 and 12 April 1988. The Rapporteur was Mrs ROBINSON.

At its 257th Plenary Session (meeting of 7 July 1988), the Economic and Social Committee adopted the following Opinion by 112 votes to 8 with 11 abstentions:

1. Introduction

The Commission's proposals can be summarized as follows: the creation of an internal market will promote economic growth; this requires (among other things) the abolition of fiscal frontiers and to this end the Commission proposes that the concept of imports and exports between the Member States should end and that VAT on sales between Member States should be as on domestic sales. A clearing house should be established to ensure a proper distribution of VAT revenues. In order to prevent distortions of trade and competition following the removal of border adjustments for VAT the Commission proposes an approximation of VAT rates. Two rates of VAT are proposed with individual countries allowed a band of between 14 and 20% standard rate and 4 to 9% reduced rate. The bases of excise duties on cigarettes, tobacco, alcohol and mineral oils are to be standardized, and the rates equalized. Member States are free to choose their own routes to this goal provided that it is attained by 31 December 1992.

2. General comments

2.1. The Commission has argued that abolition of "fiscal frontiers" will have a regenerative effect on the economy of the European Community and provide economic growth, but it has presented little indication on the totality of benefits and disadvantages that may be expected. The Commission has not yet collected and collated evidence from Member States on the costs (budgetary, social and economic) to them of the current proposals for harmonization/approximation of indirect taxation. The Commission should, as a matter of urgency, require the Member States to submit the requested reports on the effects of the proposed changes, and should draw up an account of the benefits and the costs of the proposals for fiscal harmonization.

2.2. In view of the necessity to make arrangements for the removal of fiscal frontiers, the Committee greets with great interest the Commission's detailed proposals for Approximation of Indirect Tax Rates and Harmonization of Indirect Tax Structures outlined in the Global Communication under consideration (COM(87) 320 final).

2.3. The Committee has already stated in earlier Opinions that it supports fully the objective of the creation of the internal market. It is necessary, if this objective is to be achieved, that border checks related to fiscal adjustments are eliminated by 1992.

2.4. The Committee fully endorses the aim of removing all frontiers and all border checks by 1 January 1993 including those checks now made for the collection of indirect taxes due (VAT and excise duties). The concepts of "export" and "import" shall cease to apply to intra-Community trade. The Committee agrees that this change is necessary to permit free movement of goods and services within the Community (see the ESC Opinion on COM 322 Removal of Fiscal Frontiers).

2.5. The Committee accepts that it may be desirable to create some sort of compensation system such as a clearing house to assign VAT revenues to Member States. It considers that this proposal still requires further study, as it raises complex problems which are not adequately solved by the Commission proposals in their present form.

2.6. The Committee's views on the Commission's proposals for excise duties are set out in the Opinions on the convergence of rates (COM(87) 324 final), excise duties on alcohol (COM(87) 328 final) and excise duties on mineral oils (COM(87) 327 final). It is regretted that the Commission has not yet brought forward its views on the operation of the bonded warehouse system.

3. VAT and competition

3.1. The provision that VAT on sales between Member States should be charged on exactly the same basis as on domestic sales removes the need for border checks in respect of trade between VAT-registered businesses.

3.2. If Member States were left free to set their own rates of VAT there would be no distortion of competition between VAT-registered businesses. The VAT rate would be that prevailing in the country of consumption whether a good was home-produced or purchased in another Member State. But there would be a problem with cross-border shopping by those not registered for VAT, i.e. consumers, and, more generally, the problem of trade between Member States by non-VAT registered businesses such as banks and insurance companies, public bodies, and some small firms and farmers.

It must be ensured, however, that the removal of border checks does not seriously disrupt the operation of the Single Market, as the present situation guarantees strict equality between countries and products as regards competition.

3.3. If VAT rates were completely harmonized there would be no distortion of competition between registered businesses. Also tax advantages of cross-border shopping by non-registered persons would be eliminated. But complete harmonization would create the maximum difficulties for Governments. They would lose all control over indirect taxes. Some

Member States would face acute revenue problems; and Member States could no longer pursue their own social objectives or reflect their national traditions through their indirect tax rates.

3.4. The Commission has proposed a pragmatic scheme which represents an intermediate position between total freedom and complete harmonization of rates. It may be argued that the Commission's proposals are more restrictive on Member States than is *necessary* to attain the desired objective. The Commission's proposals restrict considerably Member States' freedom to use indirect taxes for revenue or social purposes; they create severe revenue problems for some countries such as Ireland and Denmark and conflict with the social objectives of other countries such as the United Kingdom and Portugal. Tax structures and the pattern of government finance would also be thrown into complete disarray, as will happen in the Grand Duchy of Luxembourg.

3.5. The extent of cross-border shopping by non-registered persons rests very much on geographical considerations. Modifications or derogations, ought to be permitted if they do not impede the attainment of the objective of removing border controls without distorting competition. For example, the United Kingdom and Ireland have no land borders with Member States except each other. If both retained zero rating for foodstuffs it seems unlikely that this would generate distortion from cross-border shopping. Similarly, it is difficult to see how different VAT rates (including zero) on goods and services of an essentially social character and principally traded internally within Member States' own borders, would distort competition.

3.6. The Committee therefore urges the Commission to examine alternatives to its present proposals. It should look, in particular, at where and in what products cross-border shopping for goods and services by non-registered persons might constitute a serious problem. As an alternative it should also examine methods, such as user taxes, which might be adopted to counter the problem.

4. Excise duties and competition

The existing structures and rates of excise duties vary greatly, and the products subject to excise duty have a high unit value. Consequently, after 1992 the cross-border purchasing power of non-VAT registered individuals and traders and the potential for thwarting the fiscal regulations (smuggling) or for fraud will be considerable. This could lead to a serious loss of revenue over the Community as a whole. At all events, the harmonization of excise duty structures and rates will cause serious problems for some Member States.

5. Detailed comments

5.1. Since the Commission's proposals concerning VAT and excise duties present many difficulties for Member States, the Commission should present further proposals to eliminate, or as far as possible attenuate, such difficulties by means of adequate measures affecting budget and social policies and facilitating the transport of goods and persons.

5.2. The combined effect of a certain number of the Commission's various detailed proposals will cause a substantial increase in fares for intra-Community air and sea passenger transport. This will weaken the competitiveness of the Community's internal market in tourism. The Commission should take these factors into account when preparing the proposed separate Directive on passenger transport.

5.3. Other aspects of the taxation and social security contributions system may be at least as distorting to competition as differences in VAT.

6. Conclusion

6.1. The Committee welcomes the Commission's pragmatic approach in its proposal on the Approximation of Indirect Tax Rates and Harmonization of Indirect Tax Structure whereby fiscal frontiers will be able to be abolished by 1992.

Whatever decisions are finally made should permit as much flexibility to the Member States (to reflect their revenue, social and economic objectives) as is compatible with the attainment of free competition in the internal market. The Commission should reconsider the need for approximation of VAT rates on goods and services which are not normally traded across borders by non-VAT-registered persons and where different VAT rates within the Community will not distort competition. In determining precisely what margin of flexibility might be permitted to Member States, the Commission should consider alternatives to their calculation based on the current rates prevailing.

6.2. It may be necessary to adopt measures to obtain agreement from Member States, in particular derogations for zero-rating or for higher rates in countries with particular revenue needs. Although there is a case for an extended time period, it is generally desirable to work to the 1992 deadline.

The Committee regrets that the Commission has not found a solution to a whole array of technical problems (supervision of the actual collection of VAT in trade, budget and social problems, clearing system, etc.) which give rise to concern about whether the planned abolition of tax frontiers would actually be an improvement on the present situation, which is one of rigorous observance of equal competition in Community trade.

6.3. Greater attention should be given to the need to improve monitoring, control and co-ordination of national revenue departments to bring technical standards up to the highest levels so as to eliminate the possibilities for fraud and tax evasion. Control may prove easier once centred on local administrations freed from the necessity to concern themselves with intra-Community trade flows. Furthermore, once Member States no longer have to employ customs staff to deal with intra-Community trade, a far more effective service can be created to deal with trade with, and the movement of citizens to and from, third countries, the movement of animals and agricultural products to prevent the spread of disease, drug smuggling and terrorism.

6.4. It is important that public support be generated for proposals to complete the internal market. Political leaders in the Member States should be engaged in stressing the economic benefits which will arise following the completion of the internal market.

6.5. The Committee also considers that the proposals on indirect taxation will in some cases give rise to significant changes in the structure of government budgets in the EEC.

The planned White Paper on direct taxation should be published as rapidly as possible and should be the subject of a specific Committee Opinion.

6.6. Quite independently of any criticisms of the various micro-economic proposals submitted by the Commission, tax convergence, which clearly must also include direct taxes and parafiscal charges, cannot be considered as an absolute prerequisite for the establishment of the single market. This will require a global strategy aimed (a) at the parallel elimination of technical, physical, tax and administrative barriers, and (b) embracing essential macro-economic back-up policies. 1992 is not the end of this process, but marks a new and significant phase along the way.

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N.B. Appendix overleaf.

APPENDIX

to the Opinion of the Economic and Social Committee

The following amendments, which were supported by at least a quarter of the votes cast, were defeated during the debate:

Page 4

Add at the end of 3.6.:

“The Commission should also consider whether the tax of the country of destination could be used, instead of that of the country of origin. The fact that this would make matters slightly more complicated would be far outweighed by the elimination of any serious VAT-related distortion of competition. This system could at least be applied, in the form of a derogation and possibly on a temporary basis, to the most problematic cases: public contracts, mail order and the sale of registered vehicles.”

Reasons

Certain Member States have protested vigorously about the distortions of competition created by the Commission and the cost to these Member States' budgets of eliminating them. In the light of this, it seems extraordinary that the Commission has not sought ways of solving the problem. The proposed amendment puts forward what seems the most effective solution.

Voting

For: 35 // Against: 62 // Abstentions: 17

Page 5, point 6.1.

Add a new paragraph:

“The Commission should propose appropriate compensatory measures when the loss of excise revenue in any Member State is so significant that it creates serious revenue needs, as a direct result of tax harmonization, as well as social and economic difficulties which could lead to wider disparities between the regions of the Community.”

Reason

Self explanatory.

Voting

For: 35 // Against: 50 // Abstentions: 21

Page 5

At the end of the first sentence of 6.2. after the words "... with particular revenue needs" add:

"and derogations for the VAT system to be used in the case of non-VAT-registered persons."

Reasons

Certain Member States have protested vigorously about the distortions of competition created by the Commission and the cost to these Member States' budget of eliminating them. In the light of this, it seems extraordinary that the Commission has not sought ways of solving the problem. The proposed amendment puts forward what seems the most effective solution.

Voting

For: 33 // Against: 59 // Abstentions: 20

OPINION

on the

**Proposal for a Council Directive
supplementing the Common System of Value Added Tax
and amending Directive 77/388/EEC
- Approximation of VAT Rates -**

(COM (87) 321 final/2)

Gist of the Commission Proposal

The approximation of VAT rates - a key stage in the tax harmonization necessary for achieving the internal market - poses three technical problems, viz. the number of rates to be applied, their level and the allocation of products to the rates.

A dual rate VAT system has been chosen. It is true that, in theory, a single VAT rate system is the most simple but since all the Member States (with the exception of Denmark and the United Kingdom) apply at least two VAT rates, a reduced rate and a standard rate, it would seem desirable not to upset the tax structure of the majority of Member States.

The standard rate in each Member State can vary between 14% and 20% and the reduced rate between 4% and 9%.

The reduced rate is to be applied to transactions relating to the following goods and services:

- foodstuffs, excluding alcoholic beverages;
- energy products for heating and lighting,
- water supplies;
- pharmaceutical products;
- books, newspapers and periodicals;
- passenger transport.

Number and level of current VAT rates

	Reduced rates	Standard rate	Increased rate
Belgium ⁽¹⁾ ⁽²⁾	1 & 6	19	25 & 25 + 8
Denmark ⁽¹⁾	—	22	—
France	2.1; 4; 5.5 & 7	18.60	33 1/3
Germany	7	14	—
Greece	6	18	36
Ireland ⁽¹⁾	2.4 & 10	25	—
Italy ⁽¹⁾	2 & 9	18	38
Luxembourg	3 & 6	12	—
Netherlands	6	20	—
Portugal ⁽¹⁾	8	16	30
Spain	6	12	33
United Kingdom ⁽¹⁾	—	15	—

Rates applicable as at 1.4.1987

(1) Also applies an exemption with a right to refund (i.e. a zero rate) to certain domestic transactions. (N.B. All Member States apply the zero rate for exports and like transactions.)

(2) Also applies an intermediate rate of 17%.

APPROXIMATION OF VAT RATES

Rapporteur: Mr BROICHER

OPINION of the Economic and Social Committee (CES 741/88)

On 11 September 1987 the Council decided to consult the Economic and Social Committee, under Article 198 of the EEC Treaty, on the

Proposal for a Council Directive supplementing the Common System of Value Added Tax and amending Directive 77/388/EEC⁽¹⁾ - Approximation of VAT Rates
(COM(87) 321 final/2).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 May 1988. The Rapporteur was Mr BROICHER.

At its 257th Plenary Session (meeting of 7 July 1988) the Economic and Social Committee adopted the following Opinion by a large majority, with eight dissenting votes and three abstentions.

1. General comments

1.1. The aim of the Commission proposal is to align the level and number of tax rates and stipulate which rates are to apply to which products. It is a crucial part of the package of proposals for harmonizing the VAT system. The effects of the planned alignment will stretch way beyond Member States' financial and budgetary policies: economic and social policies may be radically affected too. These general issues have been discussed in detail and dealt with in the Opinion on the Commission's Global Communication (COM(87) 320 final/2).

1.2. It is to be assumed when examining the Commission proposal that imports will no longer be taxed and exports will no longer qualify for tax remissions from 1993 onwards. The conditions and formalities governing VAT will be the same for all entrepreneurs throughout the Community.

The discussion took into account the Opinion produced by the Committee on the Global Communication from the Commission (COM(87) 320 final). In particular, it noted the opening paragraph of the Conclusion of that Opinion that

"The Committee welcomes the Commission's pragmatic approach in its proposal on the Approximation of Indirect Tax Rates and Harmonization of Indirect Tax Structure whereby fiscal frontiers will be able to be abolished by 1992.

Whatever decisions are finally made should permit as much flexibility to the Member States (to reflect their revenue, social and economic objectives), as is compatible with the attainment of free competition in the internal market. The Commission should reconsider the need for approximation of VAT rates on goods and services which are not normally traded

(1) OJ No. L 145 of 13 June 1977.

across borders by non-VAT-registered persons and where different VAT rates within the Community will not distort competition. In determining precisely what margin of flexibility might be permitted to Member States, the Commission should consider alternatives to their calculation based on the current rates prevailing."

The discussion also produced the following comments, despite the Commission's failure to present any statistics on the financial impact of the changes in each Member State making it very difficult to form any opinion, in particular, on the number of rates to be applied.

2. Specific comments

Article 1(1)

a) Number of tax rates

2.1. The proposed restriction of the number of rates to two met with very wide approval. However, there would be practical problems. Six of the twelve Member States would have to abolish the higher rates they charge at present, one Member State would have to introduce a reduced rate and five Member States would have to amalgamate two or more reduced rates in one.

2.2. The ending of these tax gradations will have an undeniable effect, *inter alia*, on the relevant Member States' wage, price and social policies. However, it would seem right to opt for two rates on administrative grounds, too (and especially with a view to the clearing procedure). If there is to be a wide variety of rates, the classification of goods and services alone may pose great problems. For example, views on what should be regarded as a luxury will vary considerably from country to country and will make it even more difficult to agree on a definition.

b) Level of tax rates

2.3. The Commission does not propose uniform rates but merely specifies an upper and lower limit in each case. The standard rate will be able to vary by six percentage points (between 14 and 20%) and the reduced rate by five points (between 4 and 9%). However, these bands appear to be too wide for goods and services supplied to final customers. They are as high as, and in some cases higher than, the average net profits of industry in the Member States measured as a percentage of turnover.

2.4. Since after the abolition of intra-Community frontiers final customers will be able to purchase goods freely in any Member State, competition may be seriously distorted by such differences in rates. This will apply in particular to high-value goods (e.g. motor vehicles, jewellery and furs), mail-order selling and the sale of goods and services to final consumers in border areas. It must not be forgotten here that final consumers include not only private individuals but also public authorities, other organizations not entitled to deduct input tax

and firms which, by virtue of being small etc, are not entitled to deduct input tax. There are also cases where the deduction of tax is not allowed at all on the purchase of goods and services. The Commission should also seize this opportunity to harmonize the indirect taxation of banking, financial and insurance operations and to discuss whether the exemptions which exist in this field are really justified.

2.5. The proposed bands should therefore be narrowed. Two partly conflicting sets of interests should be taken into consideration when the requisite adjustments are made.

Because of their budgetary situations or the other aforementioned reasons, Member States will not always be in a position to go through with such an approximation as a matter of course. However, if the aim is to be that VAT on goods and services in an internal market free of tax barriers should be neutral, a reduction in the differences between rates to around three percentage points would normally be likely to make tax-related distortions of competition bearable. However, one exception to this would be large orders which are placed by public authorities or other non-taxable persons, i.e. by customers who are not entitled to deduct input tax. This category includes banks, insurance companies and also religious or charitable organizations. A price advantage of as little as one percentage point can be decisive in securing such an order, and the governments of Member States where a higher tax rate operates may be under immense pressure in such instances to agree to further alignment. This may cause considerable budgetary problems.

2.6. If not all Member States can approve an immediate reduction in the bands, the Commission proposal should be regarded as only a transitional scheme. The bands would then be gradually reduced by laying down a schedule for their further phased approximation, which would force Member States to act by a certain deadline without depriving them of the chance to adjust beforehand. It is to be hoped that the transitional nature of the proposed wide bands will deter industry from capitalizing on competitive advantages on a large scale and, for example, setting up supply depots in Member States where taxes are lower.

c) The assignment of tax rates to goods and services

2.7. The proposal to confine the reduced rate to major everyday goods and services is welcomed. The obligation to align tax rates should also not apply to the sale of goods and services which are not likely to distort competition (e.g. building plots, water, hospital services). The individual items call for the following comments:

- *Foodstuffs*: All foodstuffs for human consumption and animal feedingstuffs should qualify for the reduced rate. For the sake of simplicity it does not seem right to draw a distinction between basic and luxury foodstuffs. The existing zero rating for foodstuffs can be retained providing that it can be reasonably established that distortions of competition will not result. At the end of a certain period a check should be made to see whether competition is distorted. If necessary, adjustments will have to be made.
- *Energy products for heating and lighting*: All sources of primary energy (coal, crude oil, natural gas, etc.) and secondary energy (electricity, heat, etc.) should be included under this heading.

- *Water supplies*: This is taken to include water for domestic and industrial consumption.
- *Pharmaceutical products*: A precise definition is required here in keeping with Directive 65/65/EEC⁽²⁾. Apart from medicines, prostheses (e.g. artificial limbs and hearing aids) and other appliances for the sick (e.g. wheelchairs) must also qualify for the reduced rate. The same applies to dental prostheses. The Committee has already rejected complete exemption of dental prostheses from VAT in an Opinion of 3 July 1985⁽³⁾ on the proposal for an 18th Directive on the harmonization of Member States' VAT legislation.
- *Books, newspapers and periodicals*: The application of the reduced rate to these items meets with approval. Audio-visual media should also be eligible.
- *Passenger transport*: The application of the reduced rate to passenger transport is also approved in principle, provided that no new aspects emerge from the passenger transport Directive on which the Committee still has to deliver its Opinion.

Work in the housing sector should also be added to the list of goods and services to which the reduced rate is to apply, with the Commission being left to determine the eligibility criteria.

Article 2

2.8. Article 2 is too sweeping and cannot be approved. Although 31 December 1992 should be retained in principle as the date for the approximation of tax rates and the abolition of intra-Community borders, certain exemptions and special schemes for individual Member States should not be ruled out. As pointed out above, both the reduction in the number of tax rates and the alignment of tax levels may cause considerable problems in the fields of taxation and economic and social policy in some Member States. Mention should be made at this point of the zero-rating practised in some Member States. In order that these Member States can give their fundamental approval to the approximation of VAT rates, special temporary schemes must be possible on a case-by-case basis, as provided for in Article 15 of the Single European Act.

Thus, the Commission ought to be able to propose special temporary schemes (e.g. tax charged at the rate applicable in the country of destination) during the transitional period in areas where competition is likely to be most heavily distorted (in particular public procurement and mail-order selling).

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N.B. : Appendix overleaf

(2) OJ No. 22 of 9 February 1965.

(3) OJ No. C 218 of 29 August 1985.

APPENDIX

to the Opinion of the Economic and Social Committee

The following amendments, which received a quarter of the total votes cast, were rejected in the course of the discussions:

Point 2.7 - fifth indent (books, newspapers and periodicals)

After "with approval", insert:

"However, several Member States currently apply a zero rate, on the principle that it is wrong to tax knowledge, information, education and literacy. As in the case of foodstuffs (see above), this right should be retained".

Reasons

Self explanatory.

Voting

For: 22 // Against: 47 // Abstentions: 6

OPINION
on the
Proposal for a Council Directive
completing and amending Directive 77/388/EEC
- Removal of Fiscal Frontiers -
(COM(87) 322 final/2)

Gist of the Commission Proposal

The removal of fiscal frontiers means that intra-Community sales and purchases of goods and services will be treated in the same way as those transacted within Member States so that frontier controls on taxable persons as well as on private individuals can be discontinued.

This new situation, which was envisaged from the outset and clearly foreshadowed in the Sixth Directive on the common system of value added tax (Directive 77/388/EEC), necessarily involves the abolition of VAT exemption at export and taxation at import within the Community, plus the adaptation of certain "territorial application rules" relating to supplies of services. Consequently, several provisions of the Sixth Directive have to be amended or supplemented and certain Directives which were adopted to offset the disadvantages caused by the existence of fiscal frontiers have to be either amended or repealed.

The abolition of the remission of taxation on exports and of the charging of tax on imports must not, in respect of Community trade between taxable persons, interfere with the principle that the tax revenue arising from the application of the tax at the final consumption stage should be assigned to the Member State where that final consumption occurs. This question is dealt with in a separate Communication to the Council; nevertheless, certain amendments to the existing VAT system, required as a consequence of the introduction of the clearing mechanism, are included in this proposal.

REMOVAL OF FISCAL FRONTIERS

Rapporteur: Mr BROICHER

OPINION of the Economic and Social Committee (CES 740/88)

On 11 September 1987, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the:

Proposal for a Council Directive completing and amending Directive 77/388/EEC - Removal of Fiscal Frontiers
(COM(87) 322 final/2).

The Section for Economic, Financial and Monetary Questions which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 June 1988. The Rapporteur was Mr BROICHER.

At its 257th Plenary Session (meeting of 7 July 1988) the Economic and Social Committee adopted the following Opinion by a large majority with 3 votes against and 9 abstentions:

1. General comments

1.1. The proposal seeks to amend and clarify the wording of Directive 77/388/EEC⁽¹⁾, which will be necessary in the event of the completion of the internal market. The removal of internal frontiers will, in particular, require a new definition of the terms "importation" and "exportation", since import and export procedures will no longer apply within the Community, but only in relation to third countries. Most of the amendments in the Commission proposal deal with the re-wording of Directive 77/388/EEC.

As this is an inevitable consequence of the abolition of internal fiscal frontiers, which is not in itself the subject of the following Opinion, there is no call here to adopt a position specifically on this issue.

1.2. A large proportion of cross border trade within the Community is reportedly being carried out at present between companies belonging to the same group. Under present rules companies in the same group within a Member State may elect to be treated as a single entity so that VAT does not have to be paid on transactions between them. It is suggested that an examination should be undertaken into the feasibility of extending the same principle to intra-Community sales, as this would greatly reduce administrative burdens both for companies and national governments.

2. Specific Comments

Apart from making purely drafting changes to Directive 77/388/EEC, the Commission proposal introduces some new rulings with certain material consequences. These primarily affect provisions which the removal of internal fiscal frontiers will render obsolete or which, if retained, would have undesirable results.

The following are the most important articles in the proposal:

(1) OJ L 145 of 13 June 1977

Article 1(4): Re-definition of the location of a transport operation

Up to now, the basis for charging VAT has been the distance travelled within each Member State. Since the distance travelled during one operation may cover several Member States, and hence areas under different fiscal jurisdictions, the removal of internal frontiers makes the existing ruling impracticable. The new fiscal basis for transport operations will be the place of departure. We would endorse this solution in principle. However, in this case a mandatory procedure for deduction of tax by the customer should be included in Article 21(1)(b). It is moreover assumed that the separate Draft Directive which is to be issued on passenger transport will deal with further specific issues arising as a result of the removal of internal frontiers.

Article 1(5): Re-definition of the location of services

Certain services (e.g. consultations, data processing, licensing etc.) are at present always deemed to be supplied in the country where the customer, if taxable, has his business or permanent address. In future the place of supply will be the supplier's country if the latter is a taxable person with a business or permanent address within the EC. Otherwise, the existing provisions will still apply. No material disadvantages arise in view of the general deduction of input tax. Thus the place where such services are supplied is always deemed to be where the supplier is established as long as the customer's business is within the EC (regardless of whether he is a taxable person or not). The resulting standardization and simplification will be suitably practical.

Article 1(8): Supplies of gold to central banks

Supplies of gold to central banks are at present exempt from tax and also qualify for the right of deduction of input tax. Hitherto, exports within the Community have been exempt from tax by virtue of being exports. After the transition to the internal market, such trade will no longer be treated as exports. Tax exemption coupled with the right to deduct input tax must therefore be guaranteed by an amendment to Directive 77/388/EEC. This correction is in line with the considerations underlying the provisions for supplies of gold to central banks and should be supported.

Article 1(9): Option for financial and banking transactions

The new proposal would abolish the right of option introduced by Art. 13 C-b of the sixth Directive 77/388, which applies inter alia to banking loan transactions. These would in future be exempt from tax in all Member States, as is the case for insurance and re-insurance transactions. This decision is premature.

The present situation is in any case not satisfactory. It runs counter to the idea of a large single market and a common financial area, hinders the Community-wide provision of services across frontiers and distorts competition in contravention of Article 3(f) of the Treaty. The Commission is therefore asked to review the issue and propose a suitable solution.

It would seem more appropriate to make optional tax exemption mandatory in all Member States with no restrictions. Accordingly it is proposed that Article 13(C) of Directive 77/388/EEC of 17 May 1977 be amended as follows:

"C. Options

a) Member States may allow taxpayers a right of option for taxation in cases of:

- 1. letting and leasing of immovable property;*
- 2. the transactions covered in B(g) and (h) above.*

Member States may restrict the scope of this right of option and shall fix the details of its use.

b) Member States shall allow taxpayers a right of option for taxation in the case of the transactions covered in B(d) above."

OPINION
on the
Completing the Internal Market
- the introduction of a VAT clearing mechanism for intra-Community sales
(COM(87) 323 final/2)

Gist of the Commission document

The primary objective is the creation of a soundly based and reliable system to attribute to the appropriate Member State VAT collected on intra-Community sales, after the abolition of fiscal frontiers. The system must provide broadly speaking for a transfer of VAT collected in a Member State of sale to a Member State of consumption.

A further important objective must be to propose a system which imposes the minimum additional burden on traders. A certain degree of additional administrative control would be acceptable in return for the advantages to be gained by abolition of frontier controls including the abolition of formalities concerning zero-rating on export, but it is important not to upset the balance of advantage.

Another objective should be to ensure that the clearing mechanism fits into the existing VAT administrative structure of Member States with the minimum of disruption. A corollary of this is that the clearing mechanism must be grafted onto existing national tax collection systems, based on self-assessed periodical declarations of the tax payable. The aim here also must be to impose the minimum additional burden on national fiscal administrations.

While a clearing mechanism which is not based on the matching of individual transactions cannot be completely accurate, a system based on a purely macro-economic approach is unlikely to provide an acceptable level of accuracy as it would not be based on actual tax revenue flow figures. Credible control and verification procedures would be very difficult to establish under such a system.

Finally, any clearing system which is proposed must be self-financing, that is to say, over time and allowing for leads and lags in the system, the reimbursement of claims must not be allowed to exceed the flow of funds into the system.

VAT CLEARING MECHANISM

Rapporteur: Mr DELLA CROCE

OPINION of the Economic and Social Committee (CES 742/88)

On 11 September 1987, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on

Completing the Internal Market - the introduction of a clearing mechanism for intra-Community sales

(COM(87) 323 final/2).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 May 1988. The Rapporteur was Mr DELLA CROCE.

At its 257th Plenary Session of 7 July 1988, the Economic and Social Committee adopted by a large majority, with 2 dissenting votes and 8 abstentions, the following Opinion:

1. Introduction

As part of measures to complete the internal Community market described in the White Paper of 14 June 1985, and with the aim of abolishing tax frontiers, the Commission is proposing a VAT clearing mechanism to ensure that tax collected in the exporting country is reimbursed to the importing country.

The removal of fiscal frontiers will mean abolishing controls on the carriage of goods from one Member State to another, with intra-Community sales and purchases being subject to the same treatment as transactions conducted within Member States.

VAT would consequently be paid at the point of purchase, and would later be reclaimed by the taxable purchaser.

The proposal therefore consists of the following:

1.1. Output VAT would be charged by the vendor in the Member State of exportation, and input VAT would be reclaimed by the taxable purchaser in the Member State of importation.

1.2. A clearing mechanism would be introduced whereby the output tax collected on export sales in a Member State would be reimbursed to the other Member States in which input tax is reclaimed.

1.3. The mechanism would essentially consist of a central account managed by the Commission services. Net exporting countries would be required to pay into this account and net importing countries would receive payments from it.

Payments and refunds would be made on the basis of a monthly declaration from each Member State of its total VAT (input plus output) figures for intra-Community trade.

Net exporting Member States would be debited because output VAT on exported goods would exceed input VAT on imported goods. Conversely, net importing countries would be credited.

Each Member State would be responsible for calculating its final position vis-à-vis the clearing account.

1.4. Payments and reimbursements would be calculated by each Member State on the basis of VAT declarations submitted by taxable exporting and importing firms.

1.5. As declarations would only be made on the basis of applications by taxable persons seeking to reclaim input VAT paid on imported goods and could not include VAT on sales to private persons and companies eligible for exemption, the central account would register a constant surplus.

1.6. This surplus is to be distributed amongst the Member States in proportion to the volume of trade undeclared by importers. The method of calculation has not yet been specified and will be worked out in greater detail at a later stage.

2. General comments

2.1. We are dealing with a Commission working paper - and a rather confusing and intricate one at that - as opposed to a draft directive.

2.2. As a result, it consists more of a descriptive analysis of the proposal, based on general rather than specific aspects.

The Commission proposal is divided up into a number of points, which will have to be examined individually.

2.3. The Commission has set out its overall plans to harmonize indirect tax structures in COM(87) 320 final/2, and has issued a draft Directive for the removal of fiscal frontiers (COM(87) 322 final/2).

As the clearing mechanism is part and parcel of the Commission scheme and, by extension, of the specific proposal to remove fiscal frontiers, it can only be examined by the Committee on the assumption that the overall scheme and proposal set out in COM(87) 322 final/2 will meet with general approval.

2.4. The terminology used by the Commission in its proposal for the removal of fiscal frontiers is likely to arouse considerable interest and enthusiasm. However, we must remain aware of the difficulties and constraints that lie ahead, and avoid illusions. As Europe is still far from being a political unit, the single market will have to make allowances for the autonomy and prerogatives of the Member States. One of their main prerogatives is that of raising taxes.

On the other hand it must be remembered that any system of raising taxes on business turnover will pose complex problems when it comes to monitoring. Checks are vital in order to ensure fair and equal competition.

Nevertheless, the Member States have officially undertaken to form a single European market. A market guaranteeing freedom of competition and reducing the administrative obligations of firms is therefore in the interests of all.

2.5. The elimination of tax barriers and introduction of rules to ensure that VAT is collected as if the Community were one and the same country, is scheduled for 1991; it might therefore seem that definition of a clearing system is not urgent.

However, there are two reasons for making an immediate start laying down the details of the clearing system: (a) it is a key component of the overall blueprint and (b) Member States need to be given specific assurances that the new system will not place VAT revenue from imported goods in jeopardy and that VAT will continue to be charged on end consumption.

2.6. The Commission's format for a clearing mechanism is not the only one possible, and there are a number of alternatives to a clearing mechanism.

It should however be added that other proposals should be examined in conjunction with the global communication or in the light of specific suggestions arising from criticisms of COM(87) 322 final/2.

2.7. We shall therefore confine ourselves here to an Opinion on the proposal as it stands, regardless of possible alternatives and, most importantly, starting from the premise that the VAT mechanism is to operate as if transactions were being carried out domestically.

2.8. There does not seem to be much point in the Committee discussing the possibility of doing without a clearing system; in view of the inevitable opposition that would come from net importing countries, this does not seem realistic.

3. Specific comments

3.1. The proposed system is straightforward in appearance only. In practice it will require extremely strict checks by national governments and the setting up of a sizeable Community administrative body.

3.2. The Commission should take this opportunity to ascertain whether there are grounds for some exemptions in the field of banking, financial and insurance transactions.

3.3. Only taxable persons wishing to reclaim tax would be covered by individual Member States' calculations of credit due. This would exclude:

- all goods exported as a result of the movement of persons;
- all goods delivered to non-taxable bodies or persons;

— all goods exported by small firms with a turnover of less than ECU 35,000.

3.4. This would lead to a substantial surplus in the central account, which the Commission envisages distributing amongst Member States on the basis of macroeconomic calculations. It will prove extremely difficult to make such calculations without collecting statistical data at frontiers.

3.5. The Commission makes it clear that mail order sales among Member States will be covered by the clearing system. However, it does not explain how.

3.6. Net-exporting Member States, which would immediately collect VAT on all exports, would not be adversely affected.

A special effort should be made to increase the efficiency of tax authorities with the most scant resources (in many cases these are located in the less-developed, net-importing Member States).

If it is not to be detrimental to net-importing Member States, however, the mechanism will have to function flawlessly and the effects of any obvious defects or hidden loopholes will have to be assiduously rectified.

3.7. The Commission does not explain how VAT refunds are to be calculated for transactions involving more than two Member States ("triangular" trade) or passing through a non-Member State.

3.8. One advantage of the proposed mechanism for firms is that their obligations will be very modest, mainly the addition of two extra columns in the VAT declaration forms, covering the amount of tax relating to purchases and sales.

The main disadvantage for importing firms is that VAT on imports has to be paid in cash at the time of purchase and cannot be reclaimed until later, by which time exchange rates may have fluctuated considerably (in addition, interest rates may be high).

Similarly, exporters will be saddled with the cost of paying VAT to the national government before they themselves are paid for their goods (credit of between 90 and 120 days is frequently allowed). This may be aggravated by the different rates specified by the VAT bands.

3.9. The Commission claims that the Member States will have the advantage of being able to calculate their own debits and credits and settle them quickly with the central fund, rather than having to deal with their various trading partners.

However, this will be offset by a total lack of transparency in bilateral trade between two given Member States.

3.10. Considerable checks will be required to ensure that the mechanism operates correctly. The Commission itself proposes coordinated control measures at Community level, including clearly defined audit requirements, administrative cooperation between Member States, greater use of sampling techniques and reliability checks.

Accompanying national measures will be required; these will have to be harmonized at Community level to permit checks and enable effective administrative cooperation.

3.11. A legal system of monitoring and assistance is therefore needed; as things stand, it is reasonable to question Member States' intentions of taking prompt action in this direction, as they make little use of existing directives in this field.

3.12. It must be stressed that the mechanism demands meticulous accuracy on the part of all Member States and complete mutual trust. Errors or carelessness would disrupt the central account, necessitating ex post facto investigations and checks in all Member States, which would pose enormous difficulties.

3.13. All Member States should make a special effort to eradicate tax evasion and fraud. The new mechanism could offer greater opportunities for VAT fraud, which is already common, for whereas at present individual Member States can check on both exporting firms and importing firms, under the proposed system they would only be able to check on the latter.

The question arises whether it should not be one of the Community administration's tasks to cooperate in curbing such fraud and whether the Commission should not be given certain powers to this end. This is all the more necessary in that a tax authority which detects fraud by one of its nationals with respect to another Member State will generally be required to pay the amount in question into the clearing fund.

Conversely, once transfrontier transactions are treated in the same way as domestic ones, false invoices and non-invoice sales could become more common unless an additional series of measures is introduced, which would be far from easy to apply.

3.14. In addition to opening a central account, a complex Community administrative body, as described in paragraphs 10.2.1. to 10.2.5. of the Commission document, would have to be set up in order to run the whole scheme.

This would certainly be fairly expensive. What is less certain is whether the cost could be offset by a reduction in the administrative burden of national governments.

4. Conclusions

Despite having decided not to study possible alternatives, the Section would offer guarded support to the Commission proposal, especially as the aim is to create a single European market where commercial transactions may be conducted under the same conditions as domestic transactions within an individual Member State.

4.1. Measures to harmonize indirect taxes and introduce a clearing mechanism, as with any other solution, will be effective only if they are backed up by a new body of rules facilitating trade between Member States, reducing to a minimum any bureaucratic obstacles and abolishing the documents at present required for border crossings.

4.2. In any event, the difficulties outlined in Chapter 3 must be resolved before the clearing mechanism (if it is finally adopted) can work properly.

4.3. For the long term at least, we must aim for single rates of indirect taxation throughout the Community, to simplify matters and facilitate competition.

OPINION

on the

**Proposal for a Council Directive
instituting a process of convergence of rates of value-added tax
and excise duties**

(COM(87) 324 final/3)

Gist of the Commission document

Now that the Commission has presented its detailed proposals in the field of indirect taxation described in the Global Communication, the proposed standstill Directive as at present drafted is no longer appropriate. Instead, the Commission proposes a new Draft Directive which would prohibit any divergence in the number and level of VAT rates at present applied by the Member States whilst at the same time allowing, and indeed encouraging, convergence towards the number and level of VAT rates which the Commission proposes should apply by 31 December 1992 at the latest.

Similarly, for excise duties on alcoholic drinks, tobacco products and mineral oils, only changes which converge towards the rates of duty proposed by the Commission would be allowed. The introduction of new excise duties which give rise to controls at internal frontiers would be prohibited.

CONVERGENCE OF RATES OF VAT & EXCISE DUTIES

Rapporteur: Mr DELLA CROCE

OPINION of the Economic and Social Committee (CES 743/88)

On 11 September 1987 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the

Proposal for a Council Directive instituting a process of convergence of rates of value-added tax and excise duties
(COM(87) 324 final/3).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 May 1988. The Rapporteur was Mr DELLA CROCE.

At its 257th Plenary Session (meeting of 7 July 1988), the Economic and Social Committee adopted the following Opinion by a substantial majority, with 4 dissenting votes and 3 abstentions:

1. Introduction

1.1. On 21 November 1985, the Commission presented the Council with a proposal for a Directive imposing a standstill on VAT and excise duties.

1.2. The European Parliament generally supported the proposal, but asked for a number of amendments to be made. One of these was accepted by the Commission, which altered its original proposal.

1.3. The Economic and Social Committee issued a favourable Opinion (OJ No. C 207 of 18 August 1986, Rapporteur: Mr DELLA CROCE), but noted that:

- a) the adoption of the Directive should not serve as an excuse for curbing or slowing down the harmonization which was vital for the building of the internal market;
- b) the term "standstill" was inappropriate for the proposal of an optional procedure for bringing rates closer together;
- c) it was regrettable that the proposal did not include provision for the drawing-up of lists of goods and services subject to the various VAT rates in the Member States' systems;
- d) the proposal did not consider the problem of goods and services which were zero-rated in some Member States;
- e) an effective, formal obligation should be placed on the Member States to move towards convergence;
- f) the number of VAT rates should be reduced;
- g) the approximation of standard VAT rates should be based on the average standard rate in the Community, and should be weighted to take account of trade levels;
- h) it seemed ill-advised to exclude manufactured tobacco, alcoholic beverages and mineral oils from the provisions on excise duties, unless the Commission presented a specific proposal on these.

1.4. The Council has not yet taken a decision on the above Commission proposal.

1.5. With COM(87) 324 final/2, the Commission has now presented a new proposal to introduce optional convergence of the number and level of VAT rates, prohibit the introduction of new excise duties or the raising of existing ones, and set out levels towards which any changes in excise duties on alcoholic beverages, tobacco and mineral oils should move.

2. General comments

2.1. The present Opinion is of necessity linked to the Commission's other recent proposals on the harmonization of indirect taxation rates, particularly (COM(87) 321 and 322 final). Here too we must stress the importance and complexity of the subject; a thorough analysis is needed both of the present situation and of the possible implications for Member States' tax revenue, company competitiveness, consumer purchasing power and hence overall demand.

2.2. Acceptance of the general thrust of the overall Commission proposal would mean a substantial change in the conditions which engendered the 1985 proposal, and would also make the present proposal appear inappropriate.

2.3. By 1992, all Member States should have two VAT rates, varying within precise limits, and should set single excise duty rates. It therefore seems ill-judged simply to formalize the obligation not to widen existing divergences and to "allow" movement towards the rates scheduled for 1992.

2.4. Given the difficulties which Member States have had in the past when amending their tax systems, there is a danger of arriving at 1992 with the present situation virtually unaltered. This would pose a serious threat to harmonization, as it would mean carrying out a complex and onerous operation in one fell swoop.

2.5. It would seem more sensible to propose a Directive which formally obliges all Member States to move gradually towards the final goal.

2.6. The present divergences from the harmonized rates (in minimum and maximum figures) should thus be calculated. They should then be phased out in annual stages to be calculated in percentage terms.

2.7. Achievement of the final goal could even be scheduled for a date after 1992, as this would seem unlikely seriously to hinder the removal of tax frontiers and the completion of the single market.

2.8. Not only would gradual harmonization make the operation less risky and onerous; it would also mean that the advantages and disadvantages could start being assessed at once.

2.9. The difficulties which taxation directives and draft directives have invariably come up against in the past are a further cause for concern. These difficulties stemmed from the specific needs of the individual Member States, who have in any case traditionally been reluctant to accept Community rules in this field.

2.10. It is hoped that the reports which the Commission is to present in 1988 and 1990 will give a more encouraging picture of the situation.

3. Specific comments

3.1. Article 1(3) should be amended to read as follows:

"3. Obligatory convergence of the tax rates

Member States must:

a) alter the levels of their reduced and normal rates, moving them towards the limits laid down for harmonization on 1 January 1993, by an annual percentage equal to 25% of the differences between the current levels of the rates and those which are to apply on 1 January 1993. The first reduction must be made by 31 December 1989.

b) abolish their increased tax rates or reduce them gradually by an annual proportional percentage so that they are completely abolished by 31 December 1992."

3.2. Article 2(4) should be amended to read as follows:

"4. Member States must alter the levels of the excise duties levied on the products mentioned in Point 3, moving them towards the limits laid down for harmonization on 1 January 1993, by an annual percentage equal to 25% of the difference between the current levels of the rates and those which are to apply on 1 January 1993. The first reduction should be made by 31 December 1989."

3.3. In line with Point 2.7. above, if convergence were obligatory, complete harmonization of indirect taxes could even be postponed until after the scheduled date of 1 January 1993 (e.g. until 1995). In this case, the figure of 25% proposed in Points 3.1. and 3.2. above should be altered accordingly.

The Commission could suggest to the individual Member States appropriate compensatory measures when the loss of excise revenue in any Member State is so significant that it creates serious revenue needs, as a direct result of tax harmonization, as well as social and economic difficulties which could lead to wider disparities between the regions of the Community.

OPINION

on the

Completion of the Internal Market:

**Proposal for a Council Directive
on the approximation of taxes on cigarettes**

(COM(87) 325 final/2)

**Proposal for a Council Directive
on the approximation of taxes on manufactured tobacco
other than cigarettes**

(COM(87) 326 final/2)

Gist of the Commission proposals

1. Approximation of Taxes on Cigarettes (COM(87) 325 final/2)

The taxes levied on cigarettes under Directive 72/464/EEC comprise:

- a) a specific excise duty per unit of the product;
- b) a proportional excise duty calculated on the basis of the maximum retail selling price; and
- c) a VAT proportional to the retail selling price.

The harmonization, provided for in this Directive, of the ratio between the specific excise duty and the sum of the proportional excise duty and VAT does not make it possible to harmonize the rates of taxation. Having reviewed the progress made to date in harmonizing the structure of cigarette taxation, the Commission has come to the inescapable conclusion that a different approach from that pursued so far is essential if the necessary degree of tax approximation is to be achieved.

The Commission proposes to lay down a combined rate for ad valorem excise duty plus VAT and a common rate at Community level for the specific excise duty. It has taken the arithmetic average of existing cigarette duties as the basis for the calculation of the proposal.

This gives:

- a) a specific excise duty whose basic amount is fixed at 19.5 ECU per 1,000 cigarettes and which is to be adjusted in line with the general consumer price index in the Community, taking 1987 as the reference year;
- b) a proportional excise duty whose rate is to be fixed in such a way that the combined incidence of this rate and the VAT rate lies between 52% and 54% of the retail selling price inclusive of all taxes.

The result of this combination of elements is to produce a level of taxation which will be higher for nine Member States and practically the same for two others (UK, Ireland). It entails a significant fall in the level of taxation in one Member State (Denmark), where the current level of taxation is extremely high.

**2. Approximation of Taxes on Manufactured Tobacco Other Than Cigarettes
(COM(87) 326 final/2)**

The Council has so far not adopted any specific provisions for harmonizing the structure of excise duties on manufactured tobacco other than cigarettes. The purpose of this proposal is not only to establish a common structure and basis of assessment for the excise duty, but at the same time to determine the rates.

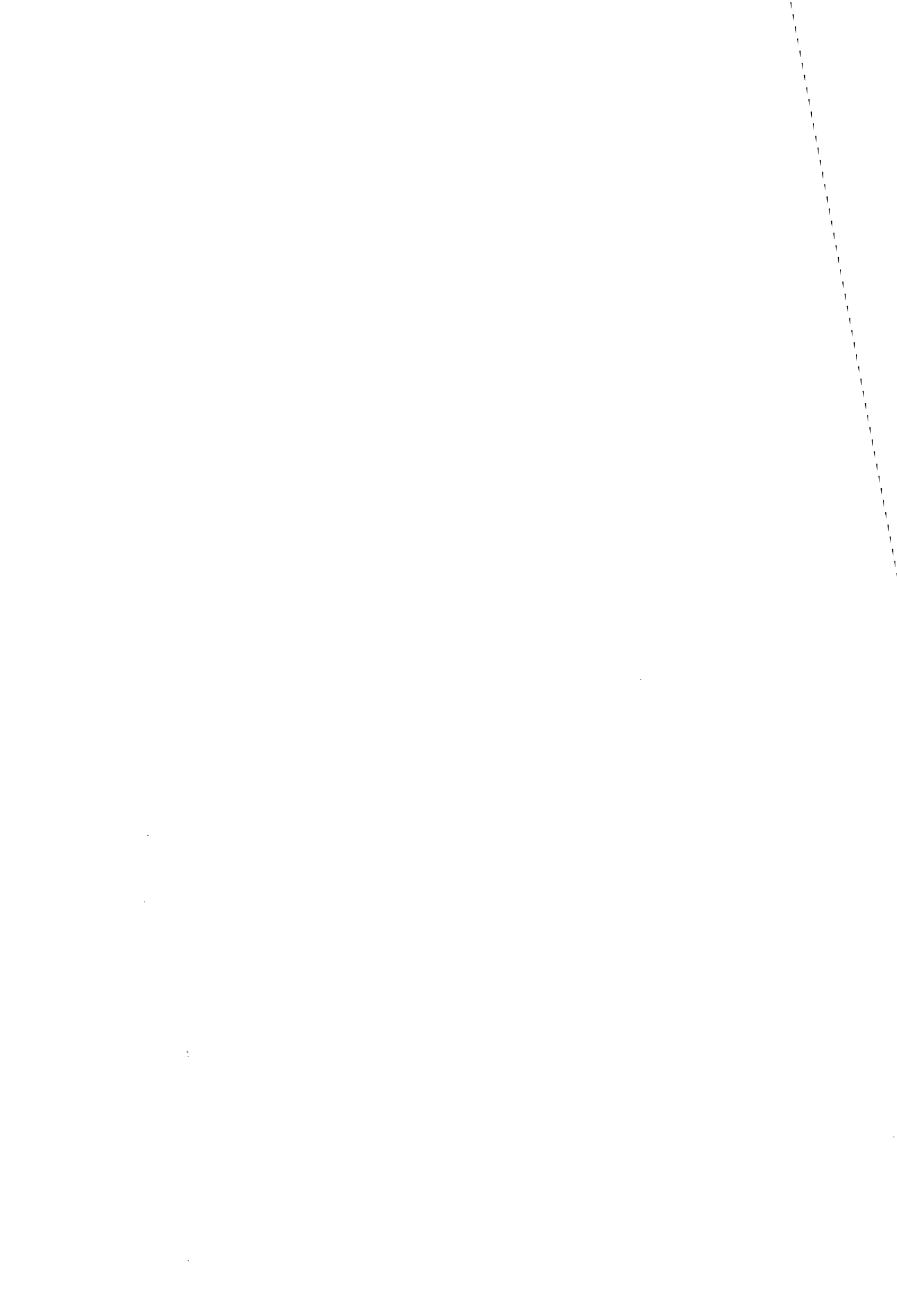
The Commission feels that the best choice for a Community scheme would be a purely ad valorem system based on retail selling prices freely determined by manufacturers or importers pursuant to Article 5 of Council Directive 72/464/EEC, especially as such a system is already applied in nine Member States for cigars and cigarillos and in seven Member States for smoking tobacco, snuff and chewing tobacco.

The Commission proposes that an ad valorem rate of excise duty be applied in such a way that the total tax burden resulting from the combination of the excise duty and VAT would be :

— for cigars and cigarillos:	between 34% and 36%	} of the retail selling price inclusive of all taxes
— for smoking tobacco:	between 54% and 56%	
— for snuff and chewing tobacco:	between 41% and 43%	

In the case of cigars and cigarillos, taxes and prices will rise in Belgium, Luxembourg, the Netherlands, Germany, Greece and Spain but fall in the other Member States.

In the case of smoking tobacco, little change is expected in the Netherlands and Germany, while taxes and prices will rise in Belgium, Luxembourg, Spain and Portugal and fall in the other Member States.



CIGARETTE/TOBACCO TAXES

Rapporteur: Mrs ROBINSON

OPINION of the Economic and Social Committee (CES 744/88)

On 11 September 1987, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the

Proposal for a Council Directive on the approximation of rates on cigarettes

and the

Proposal for a Council Directive on the approximation of taxes on manufactured tobacco other than cigarettes.

(COM(87) 325 and 326 final/2).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 June 1988. The Rapporteur was Mrs ROBINSON.

At its 257th Plenary Session (meeting of 7 July 1988), the Economic and Social Committee adopted the following Opinion by a large majority in favour, with 2 votes against and no abstentions.

1. Introduction

1.1. In the context of the removal of border controls in 1992 the approximation of taxation on tobacco products is particularly important because of their special characteristics: they are goods of high value, low bulk, and widespread consumption, and can be transported across borders with ease.

1.2. The Commission has brought forward two different proposals: one for cigarettes which comprise over 90% of the market and the second for manufactured tobacco other than cigarettes. These proposals replace previous proposals for the progressive harmonization of tobacco excise duties.

1.3. The Commission's proposal for cigarettes keeps to the structure of a mixed excise (part specific and part *ad valorem*) as laid down in Directive No. 72/464/EEC. It also lays down a common specific duty and a band of *ad valorem* rates covering the proportional excise duty and VAT.

1.4. In the case of manufactured tobacco other than cigarettes, where there is no existing Community law beyond a common system of product classification, the Commission proposes a common *ad valorem* structure and sets rate bands for the various products covering both the excise duty and the VAT.

1.5. The Commission has not yet produced firm proposals on the mechanics of these taxes - how they are to be assessed and collected in the new context of a border free European Community. However, it would appear that a system of linked bonded warehouses is envisaged.

2. General comments on the Commission's proposals

2.1. The move from a customs union to an internal market

The Economic and Social Committee appreciates the desire of the Commission to present a pragmatic set of proposals for the harmonization of tobacco excise duties so as to cause the least possible changes for Member States when the Community moves from a customs union to an internal market. The Commission's proposals are based on a harmonization of the existing structures and rates of tobacco excise duties which were established to lay the foundation for the progressive movement, in stages, towards a tax regime which would ensure free competition in a customs union in which border checks were maintained. In the event, progress through the stages to the final stage of harmonization of *structures* for tobacco duties has been very limited. Equally there has been limited progress with the approximation of tobacco excise duty rates. So long as border checks operate on both traders and individuals some differences in excise duty *rates* can be tolerated within a harmonized *structure* since means can be taken to ensure that all tobacco products bear the tax rate of the country of consumption. The existing structures and rates which reflect the needs and circumstances of a customs union do not necessarily provide a sound basis for tobacco duties in a single, border-free, internal market. The circumstances of an internal market without border checks are so different and give rise to such different problems of collecting and controlling excise duties that a more radical approach might have been more appropriate. The approximation of rates, as proposed by the Commission, is not so important for registered traders (whichever method of collection and control is adopted) since they will sell their products at the rates of tax prevailing in the country of consumption. The nature and value of tobacco products, and the fact that excise duty represents a high proportion of their price, means that cross-border shopping by individuals will be encouraged by the absence of border controls. Thus a new problem of control is created. Neither alternative systems of excise duty for tobacco products, nor alternative methods of tax collection have been put forward by the Commission.

2.2. Lack of data and analysis of the competition effects of excise duties and other factors affecting tobacco manufacture and purchase

The Commission has presented very little up-to-date data or analysis relating to the effects of their proposals on prices and the consequent effects on tobacco growing, tobacco manufacturing and employment and importation from outside the Community. Nor do we have an analysis of the relative effects of excise duties and other factors on competition in the tobacco industry. The Economic and Social Committee regrets that the Commission has not undertaken and published the full social and economic study of the effects of different possible harmonized fiscal structures and other factors affecting competition in Community markets which it urged in its Opinion on the Commission's proposal for a Council Directive amending Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco (OJ C 138, p. 47 ff. 9 June 1981), which request was a reiteration of a request made in a previous Opinion of 1976 (OJ C 204, 30 August 1976). The Economic and Social Committee repeats its earlier requests for such data and analysis.

2.3. Difficulty in presenting a firm opinion

The lack of alternative schemes, the lack of data and analyses of the effects of different taxation regimes and other factors on the tobacco industry and the failure to present proposals for the methods of assessment and collection together mean that the Economic and Social Committee finds it difficult to reach firm opinions on the current Commission proposals. The proposals will, as far as is possible, be judged in the light of criteria for an excise on tobacco products in an internal market.

2.4. Criteria for an excise for tobacco products in an internal market

There are two sets of criteria on which proposals for the structures and rates of tobacco excise duties in an internal market should be judged, namely (1) factors relating to competition and (2) collection and control of duties. Any tax system introduced for the internal market should reinforce free competition, secure sources of supply and variety of supply and of prices, and at the same time should not impose an undue burden on any country. The Economic and Social Committee has emphasized in its earlier Opinions on tobacco excise duties that:

"The primary objective of harmonization, laid down in the Treaty of Rome, is to create conditions of undistorted competition within the Community as a single domestic market, and that the possibility of greater interpenetration of the national markets of the Member States is to be assured as a consequence of the achievement of undistorted competition in the Community market as a whole".

To this aim must now be added the objective of permitting free movement of goods without the need for border checks.

3. Cigarettes

3.1. The present system

3.1.1. Under the present system, as required by the *Council Directive on taxes (other than turnover taxes) on the consumption of manufactured tobacco*, all Member States apply a mixed tax structure to cigarettes comprising (1) a *specific* component - an amount per 1,000 cigarettes and (2) a proportional component consisting of two elements: an *ad valorem* excise duty and VAT both expressed as percentages of the retail selling price.

3.1.2. As laid down in Directive No. 77/805/EEC the amount of *specific* excise duty must lie within the range 5 to 55% of total tax burden calculated on the basis of the price of cigarettes in the most popular price category. The *ad valorem* excise duty is calculated on the maximum retail selling price inclusive of all taxes (the *specific* excise duty, the VAT, and the *ad valorem* excise duty itself). The VAT is calculated in a similar manner. Proportional or *ad valorem* taxes based on the final selling price have the effect of multiplying differences

in the manufacturer's pre-tax selling prices into larger differences in retail prices. Trade margins which are expressed as a percentage of the maximum retail prices further add to the multiplier effect. Differences between the manufacturer's prices for different brands are thus magnified in the final price.

3.1.3. Member States have had considerable discretion in setting levels of taxation, but home-produced cigarettes and imports must be treated the same by each State.

3.1.4. As a result of the multiplier effect of *ad valorem* taxation there are considerable differences in price between brands within each Member State. These differences, however, are not so great as the price disparities between cigarettes from one Member State to another.

3.1.5. Under the existing arrangements producers and authorized traders are obliged to pay the excise duty due in the country of consumption (either immediately or when the goods are released from a bonded warehouse). There are considerable differences in the methods of collection and control employed and in the arrangements (including the periods of time before payments of tax must be made) for the collection of duties. Individuals are subject to control at borders to ensure that duties are paid at the rate prevailing in the country of consumption. An amount of duty-free is permitted.

3.2. The Commission's approach

3.2.1. The Commission therefore seeks to harmonize the level of taxation on cigarettes within the existing framework of a mixed tax structure. Prices on cigarettes between Member States have to be brought more closely together in order to ensure free competition and to permit free movement of tobacco products. Because of the multiplier effect the *ad valorem* excise duty and VAT must be jointly fixed and there can be no flexibility in the *specific* excise duty.

3.2.2. In determining the total tax on cigarettes the Commission has calculated the arithmetic average of the existing *specific* and *ad valorem* components in the 12 Member States. This results in a higher overall burden of cigarette duty in the Community as a whole than at present, and is thus in accordance with the Community's health policy⁽¹⁾.

3.3. Proposal

3.3.1. A *specific* excise of 19.5 ECU per 1,000 cigarettes (to be periodically adjusted in line with the Community consumer price index). An *ad valorem* tax (excise plus VAT) between 52% and 54% of the retail selling price inclusive of all taxes.

3.3.2. These rates are to be reached by 31 December 1992 by any route determined by the individual Members as long as they do not move away from the agreed rates.

(1) For calculation the Commission has chosen the pure arithmetic average as the most equitable approach since it gives equal weight to each Member State, irrespective of size.

4. Detailed comments

4.1.1. The choice of tax instrument

The choice of tax instrument has attracted major differences of view in the Committee, reflecting the diametrically opposed interests of a number of Member States. Those countries producing dark tobacco and accustomed to cheaper cigarettes prefer to minimize the specific element of the tax, whilst those manufacturing cigarettes from blond tobacco and accustomed to the more expensive cigarettes would prefer the duty to be only specific in form. The former argue that an *ad valorem* system is simple and would directly reflect differences in "product price". The latter argue that a specific tax would not penalize the quality product. They also ask why tobacco products should be the only excise not based on specific criteria. In practice the Commission's proposal for maintenance of a mixed system appears to be the only basis for a compromise which would lead to a decision on a common system for the internal market. It also remains to be seen whether the Commission's proposed mix of the two types of tax (specific and *ad valorem*) is the most judicious.

It is not certain whether the Commission's arithmetic approach is really the most equitable. In adding the specific rates and the *ad valorem* rates together, a certain weighting effect is inevitable to the extent that the level of these rates depends in part on actual prices in the Member States.

4.2. Effects on the European tobacco industry and employment

4.2.1. *Structure of the European tobacco industry.* The present structure of the European tobacco industry in the 12 Member States is best described as "fragmented". Several countries grow tobacco and all manufacture and distribute. Several countries have state tobacco monopolies, and patterns of taste, consumption and products vary widely. The Commission proposals do not address impediments to free competition apart from differences in excise duty. It is therefore difficult to determine the precise effect of differential excise duties against other factors distorting competition.

4.2.2. *Fixing of the retail sale price for the purposes of assessing tax.* The Commission's proposals require the manufacturer to fix the maximum retail selling price of cigarettes so that the correct amount of tax can be calculated. It has been argued that any system which requires the manufacturer of a product to fix the maximum retail price of a product (even though the actual selling price may be below this) might be inconsistent with the principles of the internal market and with the competition rules of the Treaty of Rome and that this provision might be tested in the Courts. The ESC cannot make a judgment on the matter until the proposals on collection and monitoring are known.

4.2.3. *State monopolies.* No specific action has been proposed on monopolies controlling production and/or distribution. Where monopolies exist there cannot be free competition between cigarettes produced or distributed by the home Member State and cigarettes produced and distributed by another Member State as required in the internal market.

4.2.4. *Effects on manufacturing and jobs.* In those countries where the price of locally produced popular brands is at present low and will consequently rise when the Commission's proposals are implemented the effect could be substantial reductions in home production and an advantage to cigarettes from other Member States. The substantial reductions in home production would entail substantial job losses in the countries concerned. The general effect would be a redistribution of manufacturing location with consequent effect on jobs in poorer regions.

4.3. Effects on prices and government revenues

4.3.1. *Differential price effects.* In Member States where the *specific* duty is presently predominant and which face reductions in taxation under the proposals (DK, IRL, UK) the decrease in price will be smaller for the more expensive brands. In Member States which will experience an increase in taxation, the increase in price will be greater for the most popular brands. Thus the proposal will enlarge the current price spread between cheapest and most expensive cigarettes in Denmark, Ireland, the UK, Germany and the Netherlands and narrow the price spread in other Member States, notably Greece and Portugal.

4.3.2. *Distributional consequences.* The use of the Commission's arithmetic average means that the most pronounced effect will be on the poorest people in the poorest countries where the least expensive cigarettes will cost more. In Portugal and Greece price rises are likely to be of the order of 200 to 300 per cent. The increase in price will be greatest in the countries with lowest per capita income.

4.3.3. *Smuggling.* Such large price increases in the countries which are to have higher taxation may generate an increase in smuggling from third countries.

4.3.4. *Exchange rate fluctuations.* Since the specific element of the duty is expressed in ECUs, exchange rate fluctuations are likely to require changes in tax rates.

4.3.5. *Revenue consequences.* The revenue consequences will be particularly serious for Denmark and Ireland who also stand to lose revenue under the VAT proposals of the Commission. Conversely, Luxembourg is concerned about the big increase in taxation which the proposal would impose on it.

4.4. *Agriculture.* The Commission says nothing about the effect on tobacco growing within the Community. The tobacco grown in Europe is the cheaper tobacco and the overall effect is likely to be negative on cheap products. There may also be an increased importation of light tobaccos from countries outside the Community.

5. Manufactured tobacco other than cigarettes

5.1. Present system

There is at present no common basis for excise duties on manufactured tobacco other than cigarettes amongst Member States. Countries differ, with some using a proportion of the selling price including all taxes, some specific duties and some a combination of the two. So long as the Community remains a customs union with border checks these differences can be tolerated since all sales bear the tax due at the point of consumption (with the exception of limited amounts of duty free tobacco for travellers). The purpose of the Commission's proposal is to establish a common structure and to approximate tax levels so that distortions of trade and competition do not arise once border checks are eliminated.

5.2. Proposal

5.2.1. The Commission proposes that the excise duty should be a proportional tax based on the maximum retail selling price inclusive of all taxes (excise plus VAT). Such an *ad valorem* system currently applies in the majority of countries. Nine countries employ it with respect to cigars and cigarillos and seven in relation to smoking tobacco, snuff and chewing tobacco. The Commission claims that this system has the advantage of simplicity, that it does not require rates to be varied or make necessary additional definitions.

5.2.2. The Commission proposes that the total incidence of these taxes should be determined by the arithmetic average of rates yielded by the sum of excises and VAT as follows: cigars and cigarillos 35%; smoking tobacco 55%; snuff and chewing tobacco 42%.

5.2.3. Because VAT is calculated on price inclusive of excise duty, no additional flexibility can be introduced into the excise duty. The element of flexibility is expressed as one percentage point either side of the average of the combination of excise duty and VAT.

5.3. Effects

5.3.1. The incidence of tax on tobacco would be much lower than on cigarettes. On cigars and cigarillos, prices and taxes would rise in Belgium, Luxembourg, the Netherlands, Spain, Germany and Greece (where they would more than double) and fall in the other Member States. With smoking tobacco, there would be little change in the Netherlands and Germany, a rise in Belgium, Luxembourg, Spain and Portugal and a fall in the others. Snuff, which is currently free of excise duties in the UK would once more be subject to excise duties. Total revenue, assuming unchanged consumption, would be expected to rise.

5.4. Comments

5.4.1. *Basis of approximation.* With respect to smoking tobacco, it is not relevant to claim that an *ad valorem* system is used by the majority of countries. Eighty per cent of the consumption of smoking tobacco arises in three countries only, two of those have a mixed

system of specific and *ad valorem* and those two account for 70% of total consumption. In the light of these facts it might be better to opt perhaps for a mixed system.

5.4.2. *Price of cigars and cigarillos.* Taking into account the structural crisis which the cigar and cigarillo industry is undergoing, the proposed tax rates appear to be too high and may result in loss of jobs affecting some of the less favoured regions.

5.4.3. *Substitution.* The combination of the proposals for cigarettes and the proposals for tobacco would alter the price relationship between the two products and there may be a substitution of roll-your-own tobacco for cigarettes especially in those countries which would experience a huge increase in the price of the lowest priced brands of cigarettes. It would be sensible to take account of the price relationship in those Member States where both products have a substantial market share.

5.4.4. *Snuff.* In view of the proposed abolition of other minor excise, the Committee recommends the elimination of duties on snuff on *de minimis* grounds.

6. Health

The Commission proposals have taken health policy into account in choosing rates which involved a heavier overall tax burden on tobacco products. However, countries where the price of cigarettes would fall as a result of the proposals are concerned that this is contrary to the health policies of their Governments and of groups interested in promoting health. Although there appears to be no conclusive evidence that high prices are the determining factor in discouraging people from smoking, recent studies have demonstrated that high prices can lead to reduced consumption by smokers.

7. Conclusion

Central to any appreciation of the competition and other effects of any particular form of tobacco duties is an appreciation of the effects of particular forms of collection and control. This is particularly significant now that the Community is to move from a customs union to an internal market. The Commission has suggested that either banderoles or a system of linked bonded warehouses could be the method of collection and control and appears to favour the latter. But there is no proposal currently on the table which would provide the basis for a judgement on the appropriateness of one or another set of rates. On the other hand the health policy of the Community has produced proposals for labelling which would be language (and thus in party country) specific. In view of the lack of firm proposals on the methods of assessment and collection and in view of the lack of evidence from the Commission on the effects of their proposals on the structure of the tobacco industry, on employment in that industry, on agriculture and on Government budgets and personal expenditure, the Committee is unable to come to a firm opinion on the proposals now before it. The present set of proposals merely deal with the basic structure and rates of tobacco excise duties. But unless the method of assessment and collection is known it is not possible to comment definitively on proposals for rates. In the case of excise duties we seem to have

the cart put to us before the horse. Until we know which methods of tobacco excise tax collection and control are proposed for the internal market then we cannot form a definite opinion on whether the correct structure and mix of structures is selected and whether the rates are appropriate. In particular we cannot give an opinion on whether the rates must be completely approximated or whether there is room for greater flexibility than is proposed by the Commission. Since all the revenue from tobacco excise duties belongs to the Member States there should be as much flexibility as is consonant with the requirements and the proper operation of the internal market. The converse of this statement is that there should be only that degree of harmonization of excise duties which is necessary to the operation of the internal market.

OPINION
on the
Proposal for a Council Directive
on the
Approximation of the Rates of Excise Duty on Mineral Oils
(COM(87) 327 final/2)

Gist of the Commission's proposal

In view of the diversity of taxation in Member States and the wide range of uses to which mineral oils are put, the Commission has examined each category of products individually and proposed a rate of taxation which is particularly suited to the product sector concerned and is as consistent as possible with current practice in the Member States.

The respective average rates (in ECU per 1,000 litres) for each product and the proposed rate are shown in the following table:

Product	Arithmetic Average	Weighted Average	Proposed Rate
Petrol - leaded	340	336	340
- unleaded	—	—	310
Diesel	153	177	177
Heating gas oil	62	50	50
Heavy fuel oil (per 1,000 kg)	26	17	17
Gases:			
- LPG and methane	85	61	85
Kerosene:			
- as propellant	340	336	340
- other uses	62	50	50

It is expected that, on the basis of these rates and assuming unchanged demand, five Member States (DK, F, GR, IRL, I) will lose revenue, six (B, D, L, NL, UK, SP) will gain revenue and one (P) will be virtually unaffected. The overall revenue effect for the Community as a whole will be negligible.

RATES OF EXCISE DUTY ON MINERAL OILS

Rapporteur: Mr BROICHER

OPINION of the Economic and Social Committee (CES 745/88)

On 11 September 1987 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the

Proposal for a Council Directive on the Approximation of the Rates of Excise Duty on Mineral Oils

(COM(87) 327 final/2).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 21 June 1988. The Rapporteur was Mr BROICHER.

At its 257th Plenary Session (meeting of 7 July 1988) the Economic and Social Committee adopted the following Opinion with no dissenting votes and four abstentions.

1. General Comments

1.1. The Commission's proposal for the harmonization of rates of excise duty on mineral oils is part of the overall plan for the harmonization of indirect taxes, the removal of tax frontiers and the setting-up of the internal market. Removal of tax frontiers will require the approximation not only of turnover taxes but also of special excise duties. The aims of the Commission's proposal are therefore welcomed. But the practical achievement of this objective raises problems which the proposal for a Directive fails to solve or which could be solved differently.

2. Specific Comments

2.1.1. The Commission is proposing rates of duty which, if adopted, would lead to a higher overall burden of taxation on mineral oil products in the EC. Rather than levying excise duty at the top rate, it would seem more appropriate to harmonize down to the lowest possible level in the light of the budgetary situations of the Member States. Products subject to mineral oil excise duty are generally used as inputs for other products or services. Increased costs attributable to mineral oil duty would therefore affect prices across the board. In this sense mineral oil duty is different from other types of excise duty which are generally levied directly on the consumer good.

2.1.2. It is to be regretted that the Commission has moved away from the approach adopted in the proposal for a Directive on the harmonization of excise duties on mineral oils of 1 August 1973⁽¹⁾, where it envisaged a progressive reduction in the taxation of fuel oils prior to harmonization of indirect taxation. The Commission also pointed out in this document that this tax is a tax on consumption and not a tax on production, which is liable to increase industrial production costs.

2.1.3. There might in particular be a case for abolishing all excise duties on heavy fuel oil used purely for production; apart from representing a burden on Community companies, this excise duty also distorts competition between the various energy sources.

(1) OJ No. C 92 of 31 October 1973.

2.2. The adoption of an arithmetic average rate for petrol is not considered appropriate. A weighted average would reflect existing taxation systems more accurately. The proposed lower rate of duty on unleaded petrol is particularly welcomed as a contribution to protection of the environment.

2.3. In some cases - e.g. heating oil - mineral oil excise duty is levied directly on a consumer product. An increase in the rate of tax would, inter alia, affect domestic heating costs. This raises the question as to whether it is defensible to tax heating oil alone or whether all heating sources should not be treated equally. It is contradictory to say, on the one hand, that heating oil should be treated with circumspection in view of competition from other energy sources, and, on the other, for certain countries to increase excise duties on heating oil by some 38% of the pre-VAT price.

2.4. In proposing that the same rate be applied to every product, the Commission's approach to excise duties on mineral oil is different from that adopted for VAT. The rates of special excise duty certainly need to be more uniform. Excise duties are levied as taxes on production to facilitate monitoring. Any disparities cannot be ironed out during the subsequent stages of the marketing process. The result is that lightly taxed products will be available for sale alongside more heavily taxed products. This can give rise to distortions of competition.

2.5. The Commission proposal makes no mention of tax advantages for certain economic sectors or specific uses, as currently practised in the Member States. Such tax advantages should continue in existence and be harmonized and particular attention should be paid to opportunities for tax evasion.

2.6. The harmonization of mineral oil excise duties will have a particular impact on road haulage and to a limited extent also on passenger transport. Whilst it is true that a lower rate of taxation on road diesel will, in those Member States where the tax reduction is actually put into effect, benefit these sectors, in view of the forthcoming harmonization of transport policy the taxation of vehicle fuel should not be dealt with in isolation. It is also necessary that road tax and similar charges, e.g. road tolls, be regarded as part of a single package and harmonized together.

2.7. Neither the Commission proposal nor the Commission document on the introduction of a clearing mechanism⁽²⁾ specifies the method by which - as under the VAT clearing procedure - excise duties are to be channelled to those states where consumption actually occurs. No definitive view can be expressed on this proposal, or on any other proposal for

(2) Completing the internal market - the introduction of a VAT clearing mechanism for intra-Community sales, Working Document from the Commission (COM(87) 323 final/2).

the approximation of rates of excise duty, until the details of this procedure are made known. If for example, as suggested in the Global Commission Communication on the harmonization of indirect taxes⁽³⁾, the intention is to set up tax depots through which all taxable goods must pass when entering another Member State, this would amount to the retention of tax frontiers. And this would radically alter the views expressed on the excise duty proposals. The Commission should therefore submit its proposals with regard to the method of distribution without delay.

(3) Completion of the internal market: approximation of indirect tax rates and harmonization of indirect tax structure, Global Communication from the Commission (COM(87) 320 final/3).

OPINION
on the
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

(COM (87) 328 final/3)

Gist of the Commission document

The Commission proposes the following rates of duty:

- | | | |
|-----------------------------|-----------|------------------------|
| 1. Potable alcohol | 1,271 ECU | per hl of pure alcohol |
| 2. Alcohol in perfume, etc. | 424 ECU | per hl of pure alcohol |
| 3. Intermediate products | 85 ECU | per hl |
| 4. Still wine | 17 ECU | per hl |
| 5. Sparkling wine | 30 ECU | per hl |
| 6. Beer | 1.32 ECU | per hl/degree Plato |

In the Commission's view, the rates which it proposes represent a reasonable and even-handed solution when set against the complexity and diversity of Member States' current treatment of alcohol products.

Assuming unchanged consumption, the rates proposed by the Commission are expected to produce significant increases in revenue in four Member States (GR, I, SP, P) because they do not at present tax wine and their current systems of spirits taxation apply very low rates to certain popular products. More moderate increases in revenue are to be expected in four Member States (B, D, F, L). In three Member States, (DK, IRL, UK), where current rates of tax on all alcoholic beverages are very high, significant reductions in revenue are forecast. A moderate reduction is to be expected in one Member State (NL).

RATES OF EXCISE DUTY ON ALCOHOL

Rapporteur: Mr DELLA CROCE

OPINION of the Economic and Social Committee (CES 746/88)

On 11 September 1987 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the :

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
(COM(87) 328 final/3).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 June 1988. The Rapporteur was Mr DELLA CROCE.

At its 257th Plenary Session (meeting of 7 July 1988), the Economic and Social Committee adopted the following Opinion by 80 votes to 13, with 6 abstentions:

1. Introduction

1.1. This Commission proposal is one of a series of tax harmonization proposals designed to help achieve a single large internal market by 1992.

1.2. The proposal stems from the conviction that tax frontiers can only be dismantled when common rates of excise duties are charged uniformly throughout the Community.

1.3. It is therefore proposed that a standard set of rates be charged on alcoholic beverages, and on the alcohol contained in other products, in all the Member States of the Community.

1.4. The Commission recognizes that the problem of excise duties is more complicated than that of VAT because not only the rates but also the structures of excise duties differ widely from one Member State to another at the present time.

1.5. The lowest standard VAT rate charged on the net price of a product in the Community differs from the highest standard VAT rate by only 13 percentage points, whereas rates of excise duty charged on wine differ by 280 percentage points. And if, in the case of wine, the effects of excise duties are combined with those of VAT, the rate of taxation charged on the basic price can vary from a minimum of 6% to a maximum of 380%.

1.6. As far as the taxation of alcohol contained in distilled alcoholic beverages is concerned, the difference between the highest and lowest rates of excise duty is 845%. Such extremes undoubtedly give us an exaggerated picture, but there is still no cause for optimism when we examine the whole web of existing differences in rates.

1.7. The Commission's policy on excise duties has developed over a very long period of time. As early as 1972 the Commission opted for a system whereby excise duties on wine would be determined by volume alone, alcoholic beverages would be taxed according to their alcohol content and beers would be taxed according to their original gravity.

1.8. On several occasions since then the Court of Justice has taken decisions in respect of excise duties on alcoholic beverages. All of these decisions were aimed at solving problems of competition and preventing any kind of protectionism.

1.9. The Commission is now proposing that excise duties on alcoholic beverages be standardized throughout the Community at the following rates : 1271 ECU per hl of pure alcohol in the case of potable alcohol; 85 ECU per hl in the case of intermediate products; 17 ECU per hl in the case of still wine; 17 ECU per hl in the case of beer (12.5° Plato); and 30 ECU per hl in the case of sparkling wine.

1.10. The Commission has not used a single criterion to fix the average common rates for the various categories of products. It realizes that the introduction of a single system of rates would have an extremely disruptive impact on the tax revenues of individual Member States and on the distribution of the tax burden between the different categories of beverages.

1.11. The Commission has therefore decided instead to adopt a pragmatic approach. Under the circumstances pragmatism is absolutely vital, although it does pose tremendous difficulties and inconsistencies.

1.12. The Commission has considered three alternative methods of calculating the proposed rates: an arithmetic average; a weighted average; and pure and simple approximation.

1.13. An arithmetic average is out of the question because it embraces exceedingly heterogeneous data and lumps together both small and big Member States indiscriminately; it also embraces an extremely wide range of consumption. A weighted average on the other hand would also have the drawback of allowing large, high-consuming Member States to dictate the pattern at the expense of small, low-consuming Member States. This would have a very great impact on markets and on tax revenue. The only possibility left is therefore to find the most equitable solutions on a case-by-case basis.

1.14. Assuming an unchanged pattern of consumption, it is expected that the effects of the proposed rates on national revenue will generally be as follows :

- a) in Greece, Italy, Spain and Portugal there will be a substantial increase in tax revenue;
- b) in Belgium, Germany, France and Luxembourg there will be a modest increase in tax revenue;
- c) in Denmark, Ireland and the United Kingdom there will be a sharp reduction in tax revenue;
- d) in the Netherlands there will be a moderate reduction in tax revenue.

However, the Commission neither provides background statistics nor quantifies its forecasts. This, plus the objective difficulty of evaluating trends in consumption and trade following completion of the single market, makes the task of examining the proposal all the more difficult.

1.15. It is important to point out that in some cases excise duties on alcoholic beverages and alcohol are not a major source of revenue for Member States, but in other cases they are an important fiscal resource. However, quite apart from the revenue effects, excise duties on alcoholic beverages and alcohol have a significant effect on consumer prices. In Ireland, for example, a litre of wine which costs 100 units tax-free, costs 380 units with excise duties and 480 with VAT. In Denmark the same product costs 255 with excise duties and 315 with VAT. The figures are only slightly lower in the United Kingdom. In all the other Member States the effects are much more negligible. In Germany, Greece, Italy, Spain and Portugal there are no excise duties on wine.

2. General comments

2.1. It has to be accepted that more homogenous conditions of consumer taxation will be needed in the single European market if distortions of competition are to be reduced and price disparities narrowed.

2.2. To achieve this objective, existing systems of charging and possibly excise duties themselves will need to be standardized. At the same time we cannot rule out the possibility that all excise duties will be abolished in the more or less distant future.

2.3. The Commission's proposal seeks to introduce common rates of excise duties in all the Member States of the Community. Given that its aim is to prevent unfair competition and make border controls superfluous, the proposal is as a general principle acceptable.

2.4. The extremely wide range of duties currently levied on alcohol and on alcoholic beverages can be attributed to very different traditions, and different economic and social constraints, so there might be a case for allowing a number of disparities to continue, albeit within certain limits. The newly proposed VAT system, which provides for a choice of rates within a reasonably narrow band, could serve as a model here.

2.5. Adoption of the proposal would result in the abolition of border controls although a number of significant barriers would still remain. Since products would, as now, be taxed at the place of consumption, a system of customs depots, national identification tab procedures and special way-bills would still be needed.

Needless to say procedures and regulations should also be standardized in such a way that they are not dissimilar to arrangements already in force in each Member State.

In this connection we must regret the failure of the Commission to propose rules and regulations on customs depots or free warehouses.

2.6. Like the proposed arrangements for VAT, common rates of excise duties would have to take effect no later than 31 December 1992. All Member States would be at liberty to make full or partial adjustments before this deadline. A more satisfactory solution would be to prescribe full alignment in stages.

2.7. The deadline of 31 December 1992 must remain firm. However, given the obligation to gradually align rates before this date (i.e. with the process of convergence unquestionably underway, and with prior harmonization of excise structures), it might be a good idea to build up a system of provisions and derogations which would also permit the standardization of rates after 31 December 1992.

2.8. Since excise duties increase consumer prices, their level should be set as low as possible. This is not what seems to be happening in the Commission proposal.

2.9. At the present time wine does not attract excise duties in five Member States of the Community, and in one other Member State (France) duties are extremely low. These countries account for 90% of Community consumption. It therefore seems excessive to want to make excise duties obligatory in all Member States, especially if the impetus for doing so comes from geographical areas that account for only 10% of Community consumption.

2.10. Wine should therefore be exempted from excise duties. Beer could also be exempted in order to ensure fair competition and because, like wine, it forms part of the normal everyday diet in many Member States.

2.11. The revenue generated by the introduction or reintroduction of a tax on the consumption of wine in certain Member States might not justify the extra red tape and administrative work which would be needed. Nor must we forget that wine is an agricultural product in heavy surplus. A sharp fall in consumption due to a rise in taxation would make the present difficult situation even more serious and costly to the Community.

2.12. The system of customs warehouses, which already presents problems in the case of alcohol and liqueurs, would appear to be wholly impractical in the case of beer, wine and sparkling wines, given that enormous quantities would have to be stored at special temperatures and in particular environments. Another system should therefore be devised even though it would certainly not be easy to bring it into play. The Commission has not yet proposed any such system.

3. Specific comments

3.1. Article 1 of the proposed Directive should stipulate that the full standardization of excise duties is to be completed in stages.

This requirement could include the introduction of provisions and derogations making it possible, at least for some Member States, to achieve full alignment after 31 December 1992.

3.2. It is still possible that "bands", rather than standard rates, may be proposed as they have been for VAT.

3.3. The proposed rate of excise duty on alcohol (Article 4) is too high. In four Member States it would put the price of the products concerned beyond the reach of the average consumer. The sharp rise would also work in favour of the most expensive products where the effect of taxation on price is limited. Furthermore, it is inappropriate to adopt an arithmetic average for spirits when the Commission has abandoned this approach for wine and beer.

3.4. The reduced rate proposed in Article 4(2) for undenatured alcohol contained in perfumes and cosmetics is justifiable since the Commission does not intend to introduce excise duties on the products themselves. All the Commission proposes to do is tax the alcohol contained in the products. Denatured ethyl alcohol should be exempt in keeping with the Explanatory Memorandum (COM(87) 328 final/3, point V). Reduced rates of excise duty should also apply to alcohol used as a solvent for flavours to facilitate its use and hence avoid replacement by isopropyl alcohol owing to the high cost of ethyl alcohol where it is subject to excise duty.

This exemption should not be thwarted by the lack of harmonization of national methods of denaturing.

Mutual recognition of denaturing methods could be envisaged in this connection, at least as a first stage.

3.5. The proposed common rate of excise duty on intermediate products (Article 5) is based on the principle of taxation by reference to volume. The rate is, by and large, calculated on the basis of the weighted averages of the rates currently applicable in the Member States. In general the Section approves this approach, taking into account the Commission's proposed definition of intermediate products set out in its previous proposals on the harmonization of excise duties; these proposals were approved by the Committee on 31 October 1985 with one or two reservations (cf. CES 984/85 paras 1.5 et seq.).

In this context it is important to remember that intermediate products are normally obtained from the basic product which is partially fermented must or wine representing at least 75% of the final product. The proposed excise duty for intermediate products is therefore based on the fact that the starting point is a fermented product (wine from grapes or their viticultural equivalents and/or wine from fruit) to which is added distillation alcohol in such a quantity and such a way that the product retains the character of a fermented beverage (cf. COM(85) 151, Article 2).

It is also important to remember that many of these products, which are basically made up of wine (port, sherry, Madeira, Samos, Vins doux naturels (fortified wines), vermouth, Vernaccia di Oristano, Marsala, Passito di Pantelleria, Vin Santo toscano, Mantilla, Mariles, Málaga dulce), have great traditions, are particularly important for the wine-growing countries of the Mediterranean and in some regions constitute the most important agricultural resource (e.g. port and sherry).

For this reason the taxation levied on products derived from fermentation and basically consisting of wine needs to be very light.

3.6. The provisions of Articles 6 and 7 cannot be accepted in their present form.

With regard to wine, the Section would reiterate the importance of not further reducing the consumption of this surplus agricultural product, a point made with clarity in the ESC's Opinion on the Implementation of Agricultural Stabilizers of 27 January 1988 (CES 83/88, page 6, point 2.9.).

3.7. Taxing sparkling wines differently from still wines would make no sense, since there is no difference between the two types of wine either in terms of alcoholic strength (indeed, still wines generally contain more alcohol than sparkling wines) or in terms of value (at least with some qualities). The sole difference lies in the added value, and that is determined by the labour input.

4. Final comments

4.1. The approximation of excise duty on alcohol and alcoholic beverages is a particularly complex matter which the Commission would have done well to study in greater depth.

4.2. It is absolutely vital to consult all EC Member States so that a proposal can be arrived at which, if not meeting with everyone's full approval, at least carries greater credibility for all concerned.

4.3. In particular, it is worth considering the impact of the proposal on Member States' tax revenue and attempting to forecast how trade will change as a result of the completion of the single European market.

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N.B. Appendices overleaf

APPENDIX I

to the Opinion of the Economic and Social Committee

The following members, present or represented, voted for the Opinion:

Mr/Mrs/Miss

APARICIO BRAVO	KRÖGER
ARETS	LOJEWSKI
ATAIDE	LÖW
BELTRAMI	MEYER-HORN
BENTO GONÇALVES	MORALES
BERETTA	MUHR
BROICHER	NETO DA SILVA
LOBO BRANDÃO R. CAL	NIERHAUS
CALVET CHAMBON	NIEUWENHUIZE
CAMPBELL	NOORDWAL
CAVAZZUTI	de NORMANN
CEYRAC	ORSI
COLLAS	PARDON
ALVES CONDE	PELLETIER
CORTOIS	PETERSEN
van DAM	POETON
DELHOMENIE	PROENÇA
DELLA CROCE	PROUMENS
DODD	RIBIERE
DONCK	RIERA-MARSA
DOS SANTOS	ROBINSON
DRILLEAUD	ROLÃO GONÇALVES
van EEKERT	ROUZIER
EULEN	SAÏU
FLATHER	SALMON
FLUM	SALOMONE
FRANDI	SCHADE-POULSEN
FRESI	SCHMITZ
GARDNER	SCHOEPGES
GAYETOT	SILVA
GEUENICH	SOLARI
GLESENER	SPIJKERS
GOMEZ MARTINEZ	STAEDELIN
GREEN	TUKKER
HILKENS	VERCELLINO
HOUTHUYS	VIDAL
HÖRSKEN	WAGNER
JASCHICK	WICK
KAARIS	WHITWORTH
KIRCHFELD	ZUFIAUR NARVAIZA

The following Members, present or represented, voted against the Opinion:

Mr/Mrs/Miss

ASPINALL
BODDY
CARROLL
CHRISTIE
DUNET
ETTY
HANCOCK
MORELAND
MURPHY
PRONCK
SPEIRS
TAMLIN
TIXIER

The following Members, present or represented, abstained:

Mr/Mrs/Miss

COYLE
GIACOMELLI
MARTIN ALMENDRO
PEARSON
REA
ROSEINGRAVE

APPENDIX II

to the Opinion of the Economic and Social Committee

In the course of the discussions the following amendments, which received at least one quarter of the total votes cast, were rejected:

Page 4 - point 2.10.

Amend to read as follows:

"Wine should logically therefore be exempted from excise duties. This would have to lead to the exemption of beer in order to ensure fair competition and because, like wine, it forms part of the normal everyday diet in many Member States. Nevertheless, unless some special measures are taken, this will greatly affect the competitive position of distilled products, with consequent effects on employment in certain disadvantaged regions. Consequently doubts must arise as to whether any level of rates can be set that will not distort competition."

Reason

The effect on workers in the spirits industry must not be ignored. Several thousand jobs could be threatened in Scotland and other regions of the Community where opportunities for other employment would be limited.

Results of voting

Votes in favour: 34 // Votes against: 46 // Abstentions: 2

Page 5

Add the following paragraph at the end of point 3.5.:

"Nor is it understandable why alcoholic beverages with the same strength as intermediate products (particularly aperitifs based on gentiana) are not to be taxed at the same level. This could be done by reducing the taxation on the initial alcoholic content (the first 10 or 12 degrees could be taxed like wine)."

Reason

Self-explanatory.

Results of voting

Votes in favour: 25 // Votes against: 61 // Abstentions: 6

ECONOMIC AND SOCIAL COMMITTEE
Press, Information and Publications Division

Rue Ravenstein 2
B - 1000 Brussels

Tel. 519 90 11

Telegrams ECOSEUR
Telex 25 983 CESEUR

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