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Working Documents

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Report

drawn up on behalf of the Committee on Economic
and Monetary Affairs

on the proposals from the Commission of the European
Communities to the Council for

- I. a sixth directive amending Directive 69/169/EEC on
the harmonization of provisions laid down by law,
regulation or administrative action relating to
exemption from turnover tax and excise duty on
imports in international travel (Doc. 1-227/83 -
COM(83) 117 final)
- II. a seventh directive amending Directive 69/169/EEC
on the harmonization of provisions laid down by law,
regulation or administrative action relating to
exemption from turnover tax and excise duty on
imports in international travel (Doc. 1-250/83 -
COM(83) 166 final)

Rapporteur: Mr R. DELOROZOY

By letters of 21 and 25 April 1983, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 99 of the EEC Treaty, on the proposals from the Commission of the European Communities to the Council for a sixth and seventh directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (Docs. 1-227/83 and 1-250/83).

The President of the European Parliament referred these proposals to the Committee on Economic and Monetary Affairs.

At its meeting of 26 May 1983, the Committee on Economic and Monetary Affairs appointed Mr Delorozoy rapporteur.

It considered the Commission's proposals and the motion for a resolution at its meeting of 10 September and 3 November 1983.

At its meeting of 3 November 1983 it adopted the two directives as amended and the resolution nem. con., with two abstentions.

The following took part in the vote: Mr MOREAU, chairman; Mr HOPPER, vice-chairman; Mr DELOROZOY, rapporteur; Mr BEAZLEY, Mr von BISMARCK, Mrs BONACCINI, Sir Brandon RHYS-WILLIAMS, Mr CAROSSINO (deputizing for Mr FERNANDEZ), Mrs DESOUCHES, Mr FRIEDRICH, Mr LEONARDI, Mr MÜLLER-HERMANN, Mr NORDMANN, Mr PURVIS (deputizing for Miss FORSTER), Mr VAN ROMPUY and Mr WELSH.

This report was tabled on 7 November 1983.

The opinion of the Committee on Transport is attached.

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following amendments to the Commission's proposals and motion for a resolution together with explanatory statement:

Proposal for a Sixth Council Directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (Doc. 1-227/83).

Amendments tabled by the Committee
on Economic and Monetary Affairs

Text proposed by the Commission of
European Communities

Article 1, (2) (a)

Delete subparagraph (a)

Article 1, (2) (a)

(a) The following words are added at the end of the introductory sentence in paragraph 1:
'provided that the goods fulfil, as regards travel between Member States, the conditions laid down in Articles 9 and 10 of the Treaty and have been acquired subject to the general rules governing taxation in the domestic market of one of the Member States:'

Article 1(2) new (i)

(i) in paragraph 1(b), first indent,
column 1, the words '1 standard bottle
(0.70 to 1 litre)' are replaced by the
words 'to a total of 1 litre'

Proposal for a Seventh Council Directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel. (Doc. 1-250/83)

3rd recital

Delete

Article 1(1)

The following sub-paragraph is added
to Article 2(1):

'However, the requirement that such
goods should have been acquired
subject to the general rules governing
taxation on the domestic market of one
of the Member States shall not apply
in respect of the exemption applying
to imports of goods acquired subject
to the conditions referred to in
Article 6(7) provided that their
total value does not exceed the
amount mentioned above.'

3rd recital

Whereas it would appear to be advisable
to limit the value and quantity of goods
supplied tax-free to persons travelling
between Member States and to allow such
persons an exemption at import correspon-
ding to that granted to travellers
coming from third countries; whereas
Member States should remain free to
apply more restrictive provisions to
supplies of such goods in order to
ensure that such harmonization does
not lead to an extension of sales
of this kind;

Article 1(1)

The following sub-paragraph is added
to Article 2(1):

'However, the requirement that such goods
should have been acquired subject to the
general rules governing taxation on the
domestic market of one of the Member
States shall not apply in respect of the
exemption applying to imports of goods
acquired subject to the conditions
referred to in Article 6(7) provided
that their total value does not
exceed the amount mentioned in Article 1(1)
or (2), as the case may be.'

Amendments tabled by the Committee on
Economic and Monetary Affairs

Article 1(2)

2. In Article 4:

(a) the following new paragraph 5
is inserted:

'5. For imports of goods acquired
subject to the conditions referred
to in Article 6(7), the quantities
to be exempted shall be those set
out in paragraph 1, column II'.

(b) unchanged

Text proposed by the Commission of
the European Communities

Article 1(2)

2. In Article 4:

(a) the following new paragraph 5
is inserted:

'5. For imports of goods acquired
subject to the conditions referred
to in Article 6(7), the quantities
to be exempted shall be those set
out in paragraph 1, column I.'

(b) former paragraph 5 becomes paragraph
6.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposals from the Commission for a sixth and seventh Council directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

The European Parliament,

- having regard to the Commission proposals¹,
- having been consulted by the Council (Docs. 1-227/83 and 1-250/83)
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Transport (Doc. 1-1003/83),
- having regard to the result of the votes on the Commission's proposals,

A. recalling its resolutions of 18 April 1980² and 13 February 1981³,

1. Observes once again that the variations in the rates of turnover tax and excise duty in the Member States are severely hampering the workings of the internal common market and the passage across frontiers by travellers;
2. Regrets that, since 1972, the increase in the tax-free allowances granted to travellers has not taken sufficient account of the progression in the real value of commodities;
3. Voices its complete satisfaction at the fact that the Commission, meeting the wish expressed by Parliament in April 1980, has decided in favour of a gradual increase in the real value of tax-free allowances, an increase in the quantitative limit applying to still wines and the gradual phasing out of the quantitative limits on coffee and tea;

1 OJ No C 114, 28.4.1983, p.4 and 7

2 OJ No C 117, 12.5.1980

3 OJ No C 50, 9.3.1981

4. Considers the Commission's proposal to make a distinction, for travel within the Community, between goods acquired subject to the general rules governing taxation on the domestic market of one of the Member States and goods acquired in tax-free shops to be unacceptable; this will involve extra checks which will be intolerable both to the authorities and travellers, at a time when the European Parliament is seeking, by all the means at its disposal, to eliminate checks at the Community's internal frontiers;
5. Hopes therefore on the one hand that a legal basis will be established for the retention of tax-free shops and, on the other, for an assurance that such tax-free sales effected at various points on international journeys would be subject to rules on the quantities of goods that may be purchased tax-free by travellers between one Member State and another;
6. Believes that the exemptions should be identical in all EEC countries, regardless of the conditions of purchase of those goods for circulation within the Community;
7. Requests the Commission to amend its proposals, pursuant to the second paragraph of Article 149 of the Treaty establishing the European Economic Community;
8. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT

1. The Commission has submitted two proposals for directives on opportunities for travellers to transport goods tax-free from one Member State to another.

The proposal for a sixth directive¹ amends Directive 69/169/EEC by increasing the value of exemptions, while the aim of the proposal for a seventh directive² is to clarify the legal status of points of sale for tax-free goods to intra-Community travellers - duty-free shops in airports, seaports or on board aircraft or ships.

2. Either of these directives could be adopted regardless of the fate of the other, but the deliberations of the Committee on Economic and Monetary Affairs have highlighted the interaction between them, and we shall be considering various arguments which apply to both proposals.
3. The European Parliament would strongly emphasize its desire for simplification of frontier checks on travellers between Community countries and for fewer hindrances to free movement. It therefore sees the need for clear rules which are easy both to enforce and monitor, and therefore to adopt identical provisions covering all EEC countries treating all European travellers equally, regardless of the form of transport they are using and the origin of the goods they are transporting.
4. The proposals in the sixth directive partly meet these wishes, pending total harmonization of turnover taxes and excise duties, by gradually increasing tax-free allowances from 210 ECU on 1 January 1983 to 400 ECU on 1 January 1987.

The limits for wine being increased from 4 to 6 litres and the quantitative limits on tea and coffee being phased out.

The Committee on Economic and Monetary Affairs notes with satisfaction that the Commission has taken up the resolution tabled by Mr von WOGAU in plenary sitting of Parliament on 18 April.³

 1 COM(83) 117 final
 2 COM(83) 166 final
 3 OJ

The raising of tax-free allowances, together with the introduction of a European passport and the relaxation of identity checks, should enable frontier formalities within the Community to be reduced to a minimum.

4. The Committee on Economic and Monetary Affairs does not wish to comment on all the details of the Commission proposal, but would like to express its complete disagreement with the distinction in both the proposed sixth directive and proposed seventh directive affecting goods purchased in shops under customs control at airports and seaports and on board aircraft, ships and hovercraft.

The Commission is aware that at present:

- several Member States apply the same restrictions to goods bought in tax-free shops and goods from non-Community countries;
- other Member States do not make this distinction and allow practically uncontrolled circulation at the highest level of allowances;
- others apply specific rules relating to specific commodities.

In practice, far higher quantities of goods are transported unchecked by travellers because of the variety of provisions which have become inapplicable, by reason of the varying interpretations given to them by different countries. In these circumstances travellers are able to purchase valuable items on preferential terms at the expense of national exchequers and taxpayers.

For some people harmonization of exemptions within a simpler system would reduce their 'allowance', but it would restore a degree of fairness as between EEC travellers.

It would seem inconsistent to allow any Member State to deviate from harmonized rules and to leave open the possibility of setting exemptions lower than the allowances set in the EEC directive.

The proposal to restrict the allowance for travellers within the Community to 45 ECU cannot remain, as it is unrealistic and disproportionately small in relation to the present situation and the quantitative limits set for alcohol and tobacco.

This provision would involve more and stricter checks on arrival and would add confusion to the existing unfairness. It will not be possible to dissipate this confusion, while the price paid for the goods transported, apart from tobacco and alcoholic beverages, wherever purchased, will have been almost the same, the advantage of 'tax-free' sales being greatly exaggerated.

Moreover, as the 45 ECU limit does not apply to alcohol or tobacco (for which the limits are quantitative by volume), the effect would often be to encourage the consumption of alcohol and tobacco at the expense of all other regional products.

For all these reasons, the Committee on Economic and Monetary Affairs believes that quantitative limits by value or by volume should be harmonized and applicable without distinction for travellers within the Community between goods acquired in tax-free shops and those purchased under normal market conditions.

The seventh directive sets out to clarify the legal status of shops under customs control, which meets the wish expressed by Parliament in paragraph 8 of its Resolution of 18 April 1980¹ requesting the Commission to report to it on the problems connected with tax-free shops.

Tax-free sales of goods to travellers are an international tradition dating back to 1860, starting on ocean liners, being extended to aircraft and, more recently, since the 1950s, to airports.

These duty-free shops have achieved enormous sales. The excitement of travel encourages impulse buying at prices very near to and sometimes even identical with those charged by retailers paying all taxes - apart from a difference of about 20 % on alcohol and perfumes and a substantial but more variable reduction on tobacco, where the combination of exemption from indirect taxation and excise duties allows greater price differences, but where the savings are by no means all passed on to the consumer.

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There are tax-free shops in about 300 international airports throughout the world. About 85 airlines sell goods on board, not to mention sales on board cruise ships and ferries. There are also tax-free shops in free zones between certain territories.

At the moment these shops represent essential showcases for regional products in every country, on offer to international travellers. This helps encourage sales and trade, for the products are then advertised by their consumers throughout the world.

Whisky, cognac, vodka, aperitifs and tobacco are the most prominent products, the prices, with VAT and excise duty exemptions, varying between 15 and 20 % below normal retail prices.

In some countries, duty and tax account for 60 to 70 % of the retail price; a small part of this saving is passed on in lower prices, the rest being swallowed up by higher overheads (special daily accounting practices, multi-lingual sales staff, etc.,.....), mainly because the operators of these shops have to pay high rents and charges to the port or airport authorities, running at between 25 % and 45 - 50 % of turnover, which makes a considerable inroad in profits.

Leaving alcohol and tobacco aside, there are increasing numbers of clothes, jewellery, radio, photographic equipment, leather goods and gift shops. A single traveller will frequently buy goods in these shops to values sometimes exceeding 1,000 ECU. This is way above any acceptable duty-free allowance for intra-Community travel; the situation shows the size of the gap between the theoretical and practical application of Community legislation.

There can be no systematic checks on travellers, so it is vital that measures adopted are practical, simple, more effective and realistic, and less expensive to all parties.

It is no longer possible to consider abolishing these tax-free shops, in view of the way the authorities have let them flourish. There would be substantial economic, social and psychological implications, and no benefit to Europe, while they would continue to exist in the rest of the world.

On the other hand, if sales to non-Community countries are not to be regulated, justice and fairness towards consumers demand that limits be fixed to transactions with residents travelling within the EEC.

In view of the need to lay down clear rules, as the Commission desires, which are easy to apply and monitor and do not hinder the free movement of travellers in the Community, exemptions should be harmonized by fixing them uniformly throughout the Community, treating all European citizens on an equal footing, whatever means of transport they use and whatever the origin of the goods they are transporting.

Strictly applied rules for the operation of tax-free shops, completely banning sales to travellers within the Community of amounts by value or volume exceeding the general exemptions, would improve on the present chaotic situation and regularize the situation of these shops in law and in equity.

Systematic control arrangements at the time of sale, involving the assumption of responsibility by both the traveller and the seller, would avoid subsequent checks on travellers and would inevitably raise the moral standards of tax-free sales as a whole.

Far from jeopardizing further progress towards complete fiscal harmonization throughout the EEC, the measures recommended above would help promote it. At the final stage of harmonization, tax-free sales would of course be justified only for goods exported to third countries, as free movement would then be complete and there would be no reason for any 'allowances'.

OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on Transport

Draftsman: Mr J. MOORHOUSE

On 18 October 1983, the Committee on Transport decided to ask for the proposal from the Commission of the European Communities to the Council for a Seventh Directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (Doc. 1-250/83) to be referred to the committee for its opinion and appointed Mr MOORHOUSE draftsman.

The President of the European Parliament gave his authorization on 28 October 1983.

The committee appointed Mr James MOORHOUSE draftsman and considered the draft opinion at its meeting of 3 November 1983. It adopted the conclusions unanimously.

The following took part in the vote: Mr Seefeld, chairman; Dame Shelagh Roberts and Mr Kaloyannis, vice-chairmen; Mr Moorhouse, draftsman; Mr Albers, Mr Buttafuoco, Mr Cottrell, Mr Gabert, Lord Garmar-Nicholls, Mr Janssen van Raay (deputizing for Mr Hoffmann), Mr Key, Mr Klinkenborg, Mr Nyborg (deputizing for Mrs Scaroni), Mr Ripa di Meana and Mr Vandewiele.

During its consideration of two current reports, the report by Mr HOFFMANN on the construction of airports in the European Community and the report by the draftsman of this opinion on airport and landing taxes in the European Community, the Committee on Transport was called on to consider duty-free sales in airports and their considerable importance for the financing of those airports.

For this reason, the Committee on Transport felt it necessary to submit an opinion to the Committee on Economic and Monetary Affairs on the text of the proposal from the Commission to the Council for a Seventh Directive amending Directive 69/169/EEC on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel (Doc. 1-250/83).

The Commission stated that this text had been drawn up to meet the need for clarification of the legal situation of texts relating to the remission of tax on goods acquired by travellers using air or sea transport within the Community, in order to harmonize the national provisions applied in this field.

In practical terms, the Commission proposal entails:

- a limit on duty-free sales under the conditions described above equal to the values and quantities of the allowances granted to travellers from third countries;
- recognition and hence legalization of this type of selling;
- secondarily, a certain responsibility for the seller as regards the limits and conditions imposed on these sales.

In seven Member States of the European Community, duty-free sales organized by airlines and shipping companies in airports and ports are currently based on allowances granted to travellers moving between Member States whereas the remaining Member States adopt a more restrictive position in line with the Commission proposal, i.e. sales are based on allowances granted to travellers arriving from third countries.

We can only approve the principle of measures to harmonize national provisions in this field. However, the adoption of more stringent standards than those currently in force in the majority of the Member States, as required by the implementation of this text, would undoubtedly lead to a sharp decrease in the volume and value of duty-free sales. It should be pointed out, in this connection, that duty-free sales in the Community's airports represent a substantial percentage of their commercial revenue given that duty-free sales to those travelling within the Community represent 40% to 70% of total duty-free sales and 25% to 50% of commercial dues.

As regards transport savings, which is our field, and according to the information we have received, some of it from the Commission, the repercussions of this measure would be as follows:

- a substantial increase in airport taxes, which the Committee on Transport feels are already high,
- an increase in airline and shipping fares for intra-Community transport, which would directly penalize travellers,
- jobs lost in the sectors concerned,
- rerouting of traffic to third countries (e.g. Switzerland, Austria).

The Committee on Transport cannot therefore look on impassively as a source of finance for air and sea transport systems is put in jeopardy.

In the light of the above, the Committee on Transport wishes the Committee on Economic Affairs to adopt the following conclusions:

- The limits on duty-free sales under the conditions laid down in the Seventh Directive are likely to curtail duty-free sales and are therefore unacceptable in their present form.
- The text of the Seventh Directive should therefore be amended so as to bring the duty-free allowance into line with the allowances currently granted by the majority of the Member States, i.e. the allowances granted to those travelling within the Community. However, bearing in mind the concept of fixing allowances whose value must increase continually until complete freedom of movement of goods is achieved, it would be necessary to maintain the present limit of 210 ECU in value with the corresponding quantitative restrictions for duty-free sales, which could be index-linked

to the rate of inflation within the Community. This seems to be a basis for a compromise which would preserve the means of financing airports, ports, airlines and shipping companies, without prejudice, however, to the eventual situation where taxes and excise duties will have been completely harmonized as between Member States.

- However, the provision laid down in Article 1(8) to the effect that the seller must provide the buyer with a copy of the invoice or of any other document issued in lieu of an invoice specifying the nature and price of the goods sold is an interesting idea without placing any responsibility on the seller for the value and quantity of goods purchased. However, provision must be made at the point of sale for clearly informing the buyer of the value and quantity of goods that may be purchased free of tax.