

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 795 final

Brussels, 5th December 1980

## PROPOSAL FOR A COUNCIL REGULATION (EEC)

laying down general rules for granting special refunds on certain  
spirituous beverages obtained from cereals and the criteria for  
fixing the amount of such refunds, and amending Regulation (EEC) No ...../80  
concerning certain products not covered by Annex II to the Treaty

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(presented by the Commission to the Council)

COM(80) 795 final



## EXPLANATORY MEMORANDUM

As provided for in Protocol No 19 to the Act of Accession these measures fall within the framework of a general Community policy for alcohol. They are based on Article 16 of Regulation (EEC) No 2727/75 on the common organization of the market in cereals<sup>1</sup>.

The measures consist of refunds to be granted in a special form so as to take account of the difficulty of applying the normal rules on export refunds to beverages for which long ageing is compulsory.

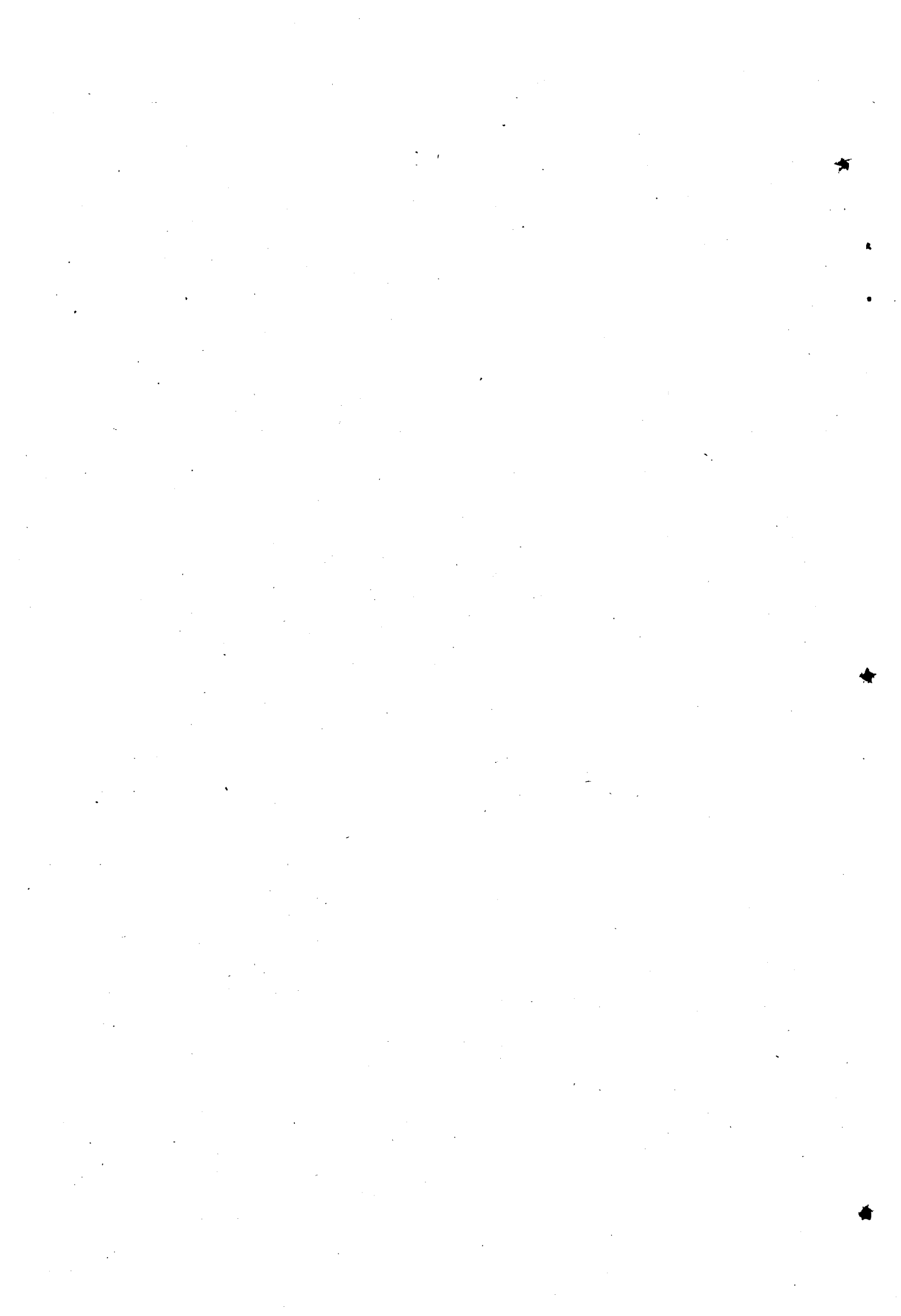
The proposal therefore provides for the grant of refunds from the time the Community raw materials are warehoused and equivalent quantities of spirituous beverages are exported.

It is also proposed that the Regulation concerning products not covered by Annex II to the Treaty be amended.

A detailed financial statement is attached to show the amounts corresponding to cereals warehoused from 1 August 1973. Provision is also made for payment of the amounts due under this heading by instalments.

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<sup>1</sup> OJ No L281, 1.11.1975, p. 1.



PROPOSAL FOR  
COUNCIL REGULATION (EEC)

laying down general rules for granting special refunds on certain  
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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 2727/75 of 29 October 1975 on the  
common organization of the market in cereals<sup>1</sup>, as last amended by Regulation  
(EEC) No 1870/80<sup>2</sup>, and in particular Article 16(4a) and (5) thereof,

Having regard to the proposal from the Commission,

Whereas Article 16 (4a) of Regulation (EEC) No 2727/75 provides that export  
refunds may be replaced by special refunds to the extent necessary to enable  
the production and, in particular, the ageing characteristics of certain  
spirituous beverages obtained from cereals to be taken into account; whereas  
it is necessary to provide for a special refund for certain spirituous beverages  
for which a period of ageing of three years is an obligatory part of the  
manufacturing process;

Whereas there must be established a relationship between the cereals used and  
the spirituous beverages exported during the same period;

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<sup>1</sup> OJ No L 281, 1.11.1975, p. 1

<sup>2</sup> OJ No L 184, 17.7.1980, p. 1.

Whereas, in cases where the quantity of spirituous beverages exported within the period laid down was lower than the quantity in respect of which the refund was paid, provision should be made for reimbursement to the competent authorities of an amount reflecting the quantities not exported and of interest thereupon; whereas, however, in order to take account of any sizeable growth of such exports, arrangements should be made for this provision to be implemented with some flexibility;

Whereas in order to ensure that refunds are paid as soon as the raw materials for the production of alcohol are employed, a control system providing for the lodging of a security must be established;

Whereas account should be taken, when the amount of the special refund is being fixed, of the relationship between the world prices and the Community prices for cereals and of the average level of protection granted to cereals;

Whereas the operation referred to in this Regulation ends, in principle, on export of the spirituous beverages; whereas, however, it should be made clear that the said operation is also completed when the product is placed in a customs warehouse, in a free zone or under the Community transit system provided for in Council Regulation (EEC) No 222/77<sup>3</sup> as amended by Regulation (EEC) No 4;  
whereas provision should be made, in cases where the goods are returned into Community territory, for the provisions of Article 2 of Council Regulation (EEC) No 754/76<sup>5</sup> to apply if the special conditions are fulfilled;

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<sup>3</sup> OJ No L 38, 9.2.1977, p. 1

<sup>4</sup> OJ No L

<sup>5</sup> OJ No L 89, 2.4.1976, p. 1

Whereas, prior to 1 January 1981, Community cereals were placed under control and were used in the manufacture of spirituous beverages for export; whereas suitable measures to deal with them must accordingly be taken;

Whereas, on the basis of a minimum period of ageing of three years, Community cereals placed under control after 1 August 1973 cannot have given rise to exports of spirituous beverages until after 1 August 1976;

Whereas, moreover, on account of the effect on the budget of the amount to be paid in this respect, provision should be made for the phasing of payments in respect of products exported during the period between 1 August 1973 and 31 December 1980;

Whereas, in view of the widening of the scope of export refunds in this sector, certain consequential amendments should be made to Council Regulation (EEC) No /80 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and the criteria for fixing the amount of such refunds<sup>6</sup>,

HAS ADOPTED THIS REGULATION:

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<sup>6</sup> OJ No L

Article 1

The special refunds referred to in Article 16 (4a) of Regulation (EEC) No 2727/75 may be granted for Community cereals used in the manufacture of spirituous beverages where a minimum period of ageing of three years is a part of the manufacturing process.

The export refunds referred to in Article 16(1) of Regulation (EEC) No 2727/75 may not be granted for these products.

The spirituous beverages concerned shall be determined according to the procedure provided for in Article 26 of the Regulation referred to above.

Article 2

1. The special refund shall be paid when the cereals are placed under control, providing that within a period to be fixed an equivalent quantity of spirituous beverage is exported. When this quantity is fixed allowance shall be made for manufacturing losses. Cereals which are in one of the situations referred to in Article 9 (2) of the Treaty and which are to be used for the manufacture of the spirituous beverages referred to in Article 1, shall be regarded as "placed under control" when placed under customs control or under an administrative control providing equivalent guarantees.
2. If a smaller quantity is exported during the period referred to in paragraph 1, the person in receipt of the refund shall pay back to the competent authority a proportion of the refund corresponding to the quantity not exported, with interest, calculated on the basis of an average <sup>standard</sup> period for the manufacturing process.

Such repayment shall be deferred, however, if the person concerned undertakes to export, during a period to be laid down, a quantity greater than that laid down pursuant to paragraph 1; repayment shall not be due if the person concerned complies with this particular undertaking.



3. Exporting a greater quantity during the period referred to in paragraph 1 shall confer entitlement to an adjustment of the refund.
4. The refund shall be paid subject to a security being lodged to guarantee performance of the operations.
5. The detailed rules for the implementation of this Article and, in particular, of its provisions concerning the checks to be carried out shall be laid down in accordance with the procedure provided for in Article 26 of Regulation (EEC) No 2727/75.

#### Article 3

Special refunds shall be granted only to operators established in the Community.

These may be natural or legal persons, or groups thereof, who provide proof that the Community cereals have been placed under control, processed into spirituous beverages and exported, who lodge the security referred to in Article 2 (4), and who state that they are willing to provide, when requested to do so, all the particulars required in connection with the fulfilment of these obligations.

#### Article 4

1. The amount of the special refund shall not exceed the difference between the prices of the cereals on the world market and in the Community at the time when they were taken under control.
2. The amount of the special refund shall take account in particular of the average level of protection granted to cereals.
3. The amount of the special refund shall be that on the day when the raw materials to be processed for the production of alcohol, are placed under the control provided for in Article 2. The said amount shall be converted into national currency at the representative rate in force on the same day.
4. The special refund shall be paid by the intervention agency of the Member State on whose territory the raw materials for the production of alcohol have been placed under the control referred to in Article 2.

Article 6

1. The operation shall be concluded when the spirituous beverages concerned have been either exported from the geographical territory of the Community or placed in a customs warehouse, in a free zone or under the Community transit system for subsequent export from the geographical territory of the Community.
2. Although they <sup>may</sup> fulfil the conditions laid down in Article 9(2) of the Treaty, the spirituous beverages subject to the formalities listed in paragraph 1
  - shall be placed under the Community external transit system
  - shall be subject to the customs provisions applicable to products from non-member countries.
3. Within the meaning of Regulation (EEC) No 754/76 the spirituous beverages referred to in paragraph 1 shall be considered as having complied with the customs export formalities required for the granting of the export refund. The said beverages may not be placed in free circulation unless an amount corresponding to the special refund paid, plus interest, is reimbursed or unless the import charge on products from non-member countries is paid.
4. The products referred to in paragraph 1 may not be released for consumption in a Member State unless an amount corresponding to the special refund paid, plus interest, is reimbursed or unless a flat rate sum equivalent to the total import duties applicable to an identical product from non-member countries is paid.

1. A special refund shall be paid in respect of Community cereals qualifying for an export refund and placed under control between 1 August 1973 and 31 December 1980, providing an equivalent quantity of spirituous beverages was exported between 1 August 1976 and 31 December 1980.
2. The amount of the special refund shall be calculated on the basis of world market prices and the Community prices for cereals at the time when they were taken under control.
3. The special refund shall be paid in instalments. Payments for 1981 shall not exceed 30 million EUA.
4. The detailed rules for the application of this Article, and in particular the arrangements for the phasing of the payments, shall be laid down in accordance with the procedure provided for in Article 26 of Regulation (EEC) No 2727/75.

#### Article 7

Article 4 (4) of Regulation (EEC) No /80 is amended to read as follows:

"Except in the case of cereals, no refund shall be granted for the products used in the manufacture of the alcohol contained in the spirituous beverages falling within the following subheadings of the Common Customs Tariff:

22.09 C. Spirituous beverages:

II Gin

IIIa Whisky (other than Whisky "Bourbon")

ex IV Vodka with an alcoholic strength of 45.4% vol or less

V Other."

Article 8

In Annex B to Regulation (EEC) No /80, subheading No 22.09 C V shall be replaced by the following:

"22.09 C. Spirituous beverages:

II Gin

IIIa Whisky (other than Whisky "Bourbon")

ex IV Vodka with an alcoholic strength of 45.4% vol or less

V Other."

Article 9

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1981.

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

Done at Brussels

For the Council  
The President

# FINANCIAL STATEMENT

9

Date : 17 November 1980

1. BUDGET HEADING : Item 6012: other production refunds APPROPRIATIONS: 1981  
90+60 million EUA

2. TITLE : Proposals for a Council Regulation  
1) amending Regulation No 2727/75 on the common organization of the market in cereals.  
2) laying down certain rules for quantity special refunds on certain spirituous beverages obtained from cereals.

3. LEGAL BASIS : Article 43 of the Treaty  
Protocol No. 19 to the 1972 Treaty of Accession

4. AIMS OF PROJECT : Payment of special refunds, under Article 16 of the common organization of the market in cereals, for exported spirituous beverages obtained from cereals.

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (1980)	FOLLOWING FINANCIAL YEAR (1981)	
5.0 EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) $\Delta$ - NATIONAL ADMINISTRATION - OTHERS 5.1 RECEIPTS - OWN RESOURCES OF THE EC - LEVELS/RESOURCES/NOTES - OTHERS	31 million EUA <sup>2</sup>	0	31 million EUA (for 1981)	
	1982	1983	1984	
5.0.1 ESTIMATED EXPENDITURE	31 (annual)	31	31	
5.1.1 ESTIMATED RECEIPTS	45 (balance for 1973-80)			

5.2 METHOD OF CALCULATION  
See Annex

- 6.0 CAN THE PROJECT BE FINANCED BY TRANSFERS BETWEEN CHAPTERS OF THE CURRENT BUDGET? YES/NO
- 6.1 CAN THE PROJECT BE FINANCED BY TRANSFERS BETWEEN CHAPTERS OF THE CURRENT BUDGET? YES/NO
- 6.2 ~~DOES THE PROJECT REQUIRE A REVISION OF THE BUDGET?~~ YES/NO
- 6.3 WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY? YES/NO

OBSERVATIONS :

1. In the 1981 draft budget, 90 million EUA have been included under item 6012 and a provisional appropriation of 60 million EUA is entered in Chapter 100 to cover expenditure incurred under the present proposals.
2. Not including the period 1973-80: See Annex.

ANNEX

The calculation that follows is based on the refund for barley, in malt equivalent, making up for the difference between the Community price and the world price. Adjustment is made to allow for any monetary compensatory amounts and accession compensatory amounts.

A. Estimated refunds for one year

1) Scotch and Irish whisky (special refunds)

Of the 535 000 tonnes of Community malt used, 59% is for export and eligible for refunds (estimated at 90 EUA/t) totalling 29 million EUA. Irish whisky comes to about 1% of the figure for Scotch whisky.

The average annual cost above is likely to vary in the short term in tune with the trends on the world market.

2) Other spirituous beverages obtained from cereals (gin, vodka, etc)

These come to about 8% of the export figures for whisky, i.e. 2 million EUA.

3) Total for for one year

31 million EUA.

B. Refunds for the period 1 August 1973 to 31 December 1980 (whisky only)

During this period, about 58% of the whisky produced was exported to non-member countries.

Applying the same proportion to the Community cereals used gives an estimated total refund of about UKL 43 million, equivalent to 75 million EUA, 30 million of which are payable in 1981 and the balance later.

Note

In the above figures, allowance is made for losses during 3 years of ageing, which are estimated as follows:

handling (racking, etc)	: 4%
ageing, for the prescribed minimum of 3 years:	about 10%
Total for 3 years	: 14%