

COMMISSION OF THE EUROPEAN COMMUNITIES

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THIRD REPORT BY THE COMMISSION TO THE COUNCIL

on the derogation accorded to the Kingdom of Denmark relating to the rules governing turnover tax and excise duty applicable in international travel (Council Directive No 69/169/EEC of 28 May 1969 amended by Directives Nos 72/230/EEC of 12 June 1972, 78/1032/EEC and 78/1033/EEC of 19 December 1978)

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Third report by the Commission
on the derogation accorded to the Kingdom of Denmark
relating to the rules governing turnover tax and
excise duty applicable in international travel
(Council Directive No. 69/169/EEC (1) of 28 May 1969
amended by Directives Nos. 72/230/EEC (2) of 12 June 1972,
78/1032/EEC (3) and 78/1033/EEC (3) of 19 December 1978)

I. Introduction

On 19 December 1977, the Council adopted a directive according to Denmark a new derogation from the Community system of allowances.

On this occasion, the Commission undertook to draw up each year, starting in 1978, a report on the evolution of the prices of alcoholic drinks and tobacco products in Denmark and Germany, on the evolution of fares for travellers in Denmark, and on the fiscal policy of the Danish Government. A first report (COM(78) 774) covering the period to end-September 1978 was submitted on 17 January 1979, and a second report (COM(80) 33) covering the period from 1 October 1978 to end-September 1979 was submitted on 1 February 1980.

This third report fulfils the undertaking for the 12 months, 1 October 1979-30 September 1980.

II. The derogating provisions

1. Annex VII, Part V (Taxation) of the Act of Accession to the European Communities of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland authorised Denmark, until 31 December 1975, to exclude from the tax allowances relating to turnover taxes and

(1) OJ No. L 133 of 4.6.1969

(2) OJ No. L 139 of 17.6.1972

(3) OJ No. L 366 of 28.12.1978.

excises applicable in international passenger travel, the following goods:

- tobacco products;
- distilled beverages and spirits, of an alcoholic strength exceeding 22% vol;
- beer, only for quantities exceeding 2 litres.

2. On the expiration of this period, in accordance with paragraph 1(c) of part V of the Annex concerned, the Council prolonged the authorisation on two occasions (1), first until 31 December 1976 and then until 31 December 1977.

3. The Danish Government subsequently requested a further period in order fully to apply the Community system of allowances. In contrast to the two previous derogations, which were limited to one year, the Council adopted on 19 December 1977, a Directive granting a derogation to Denmark from the regime in question until 31 December 1982 (2). This derogation provides for a progressive alignment of the Danish system with the Community rules.

III. Quantities of the tax allowances since 1 January 1978

Products	Danish residents having stayed in another Member State		Community residents staying in Denmark	
	less than 72 h(3)	more than 72 h (1)(3)	less than 24 h (2)	more than 24 h (1)
cigarettes or cigarillos or cigars or smoking tobacco (grams)	40 (4)	300	40	300
distilled beverages (litres)	-	1.5	-	1.5
beer (litres)	2	no quantity limit	2	no quantity limit

(1) These quantities are those applicable under the Community system.

(2) From 1.1.1980 the 24 hour condition no longer applies.

(3) From 1.1.1981 to 31.12.1982, the 72 hour condition will be reduced to 48 hours.

(4) From 1.1.1982 the 40 cigarette allowance will be increased from 40 to 60.

(1) Directive 76/134/EEC of 20.1.1976 (OJ No. L 21 of 29.1.1976);
Directive 77/72/EEC of 18.1.1977 (OJ No. L 23 of 27.1.1977).

(2) Directive 77/800/EEC of 19.12.1977 (OJ No. L 336 of 27.12.1977).

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From 1.1.1980 the special 24 hour derogation for Community residents staying in Denmark was abolished. The Danish Government have not reported any negative effects resulting from abolition of this rule.

IV. Tax legislation

1. Denmark

The value added tax rate was increased from 20.25 % to 22.0 % on 29 June 1980, where it remained during the rest of the period under examination. This increase in the VAT rate meant that the average retail price level was raised by about 1.5 %. As a consequence of this increase in the VAT rate the excise duty on cigarettes was amended. The specific excise on cigarettes went from 40.11 øre to 41 øre per piece and the proportional element was reduced from 23.4 % to 21.68 % of the retail price. The total tax burden, inclusive of VAT, on a packet of 20 cigarettes rose from 14.60 Kr to 14.91 Kr.

On 27 February 1980 the European Court announced its decision in the case brought by the Commission against Denmark for breach of Article 95 on excises levied on alcoholic drinks. The Danish two-tier excise on spirits was condemned by the Court. The Danish Government proposed a new mixed specific/ad valorem system for taxing spirits. This system was adopted by the Folketing and came into force on 1 June 1980.

The excise duty on spirits in the mixed system is : 95 Kr per litre 100 per cent ethanol strength plus 37.5 per cent of the taxable value of the product (including the specific and ad valorem duty).

The excise duty on beer has not been changed during the period under report.

2. Germany

No changes in the rates of taxes relating to the products which are the subject of the present report took place during the period under examination.

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V. Danish crown/German mark

As mentioned in the second report, the German mark was revalued by 2 % and the Danish crown was devalued by 3 % against the six other EMS-currencies in the first realignment of parities within the EMS on 24 September 1979, and the Danish crown was again devalued on 30 November 1979 by 5 %.

The average exchange rate in September 1980 (when the period under report came to an end) was 309.59 Dkr = 100 DM. In the price comparison on page 6 an exchange rate of 289 Dkr = 100 DM has been used for end-September 1979 and 309.59 Dkr = 100 DM for end-September 1980. During the period under report the Danish crown had thus effectively depreciated by 7.1 % vis-à-vis the German mark.

VI. Relative evolution of retail prices of the products in Denmark and in Germany

Following the pattern established in the first two reports, the price comparison has been made between end-September 1979 and end-September 1980.

The evolution in Denmark and in Germany of the prices of tobacco products and of alcoholic drinks between end-September 1979 and end-September 1980 is summarised in Table I. The products used as the basis for comparison are the same products as shown in the same table in the first and second reports.

The prices shown have been furnished by the Danish Government. They represent average prices in Denmark of the products concerned and an attempt to establish typical prices for the same products on sale in Germany in the region close to the Danish border. The German prices have been confirmed as being broadly correct by the German authorities.

1. Tobacco products

The VAT rate increase in Denmark meant that the retail price of cigarettes on the Danish market went up by 2.6 %. On the German market the prices of Danish brands of cigarettes remain unchanged, expressed in DM, but expressed in Dkr they have been increased by 7 %. This means that the total effect has been a minor reduction of the gap between prices of

cigarettes in Denmark and Germany, and therefore also a reduction in the absolute amount which the Danish traveller will save by buying in Germany.

As far as smoking tobacco is concerned, prices in Denmark and Germany were still close to each other at September 1980.

2. Spirits

In the period under observation most of the retail prices on spirits were changed substantially on the Danish market. For spirits of the more expensive quality and aquavit the retail prices were increased but for other spirits the retail prices were in general reduced. As shown in Table 1, the Danish retail prices for cognac and aquavit increased by 5 - 8 %, whereas branded whisky and gin were reduced in price by about 15 %. On the German market, the retail prices of cognac and whisky were reduced, whereas the retail prices of gin and aquavit increased.

The total consequences of the new taxation system in Denmark, the price changes and the devaluation of the Danish crown, have been that the gap between Danish and German spirits prices has been widened for expensive products but narrowed for other products. (see also Chapters IV and IX).

3. Beer

As mentioned in the second report, it would be preferable to compare the evolution of prices for the same product in the two countries, instead of comparing the price of Danish beer in Denmark and the price of German beer in Germany. The Commission has now obtained the necessary information in order to compare the evolution of prices of Danish beer in Denmark as well as in Germany.

During the period under report, the figures supplied to the Commission suggest that the price of Danish beer in Germany increased by about 15 % in DM⁽¹⁾ but has only been increased by about 6 % in Denmark. This, in combination with the devaluation, means that the price advantage of buying in Germany in September 1979 at 40 % has been reduced to about 31 % by September 1980.

(1) Part of this price increase could be that the September 1980 price includes deposit on the bottle.

TABLE 1

Evolution of the retail prices of typical tobacco products and
alcoholic drinks in Denmark and Germany

PRODUCTS	Date Sept.	1	2		3	4
		Danish price in Dkr	German price in Dkr*	DM	Diff. in Dkr.	3 as % of 1
<u>Cigarettes (300) Danish brand</u>	1979	247.50	130.05	45.00	117.45	47.5 %
	1980	253.80	139.32	45.00	114.48	45.1 %
Change 1979-1980		2.6 %	7.1 %	0.0	- 2.5%	-2.4 %
<u>Smoking tobacco, 50 g</u>	1979	8.50	8.67	3.00	-0.17	-2.0 %
	1980	8.90	8.67	2.80	0.23	2.6 %
Change 1979-1980		4.7 %	0	6.7 %	-	4.6 %
<u>Cognac*** 70 cl</u>	1979	175.00	67.92	23.50	107.08	61.2%
	1980	188.00	61.86	19.98	126.14	67.1 %
Change 1979-1980		7.4 %	-8.9	-15.0	17.8%	+5.9%
<u>Whisky (5 years) 70 cl.</u>	1979	135.00	49.10	16.99	85.90	63.6 %
	1980	115.00	49.07	15.85	65.93	57.3
Change 1979-1980		-14.8%	-0.1 %	-6.7%	-23.2%	-6.3 %
<u>Gin, 70 cl</u>	1979	134.00	40.40	13.98	93.60	69.9 %
	1980	113.00	55.60	17.96	57.40	50.8 %
Change 1979-1980		-15.7 %	37.6%	28.5%	-38.7%	-19.1%
<u>Aquavit, 70 cl (Danish)</u>	1979	80.00	45.60	15.78	34.40	43.0 %
	1980	85.00	55.66	17.98	29.34	34.5 %
Change 1979-1980		6.3 %	22.1%	13.9%	-14.7%	8.5 %
<u>Beer Pilsen 6 bottles of 0.33 l (Danish beer)</u>	1979	19.30	11.50	3.98	7.80	40.4%
	1980	20.40	14.09	4.55	6.31	30.9 %
Change 1979-1980		5.7%	22.5 %	14.3%	-19.1 %	-9.5 %

*Exchange rate used:

end-September 1979 : 100 DM = 289 Dkr

" " 1980 : 100 DM = 309.59 Dkr.

VII. Relative evolution of taxes on the products in Denmark and Germany

Chapter VI dealt with the evolution of retail prices in the period under report. But as some of the retail prices are affected by temporary or atypical fluctuations, such as discount sales, special offers and the like, a comparison of "total tax" on each product category in the two countries is, in the Commission's view, a more reliable guide.

The basic data are the excise duty plus the VAT levied on that rate. The "total tax" thus determined in Germany for each product category has been converted from DM to Dkr on the basis of the average exchange rates applying in the months referred to in Table 2. The total tax in Germany equals 100 in each case. The figures shown in Table 2 are the total tax in Denmark as a percentage of that in Germany.

Table 2

Index for the "total tax" in Denmark compared with Germany (Germany = 100)

	<u>Jan. 1978</u>	<u>Sept. 1978</u>	<u>Sept. 1979</u>	<u>Sept. 1980</u>	<u>Sept. 1980</u>			
Cigarettes	221	218	255	240	273			
Cognac	}	}	}	510	580			
Whisky				511	502	486	373	425
Gin							371	422
Aquavit	333	327	316	315	358			
Beer	833	818	792	750	853			
100 DM =	272 Kr	277 Kr	289 Kr	309.59 Kr	272 Kr			

As stressed in the second report, Table 2 offers a useful additional reference point in indicating what changes in the differences between Danish and German tax levels will be required in order that the present large differences in retail prices may be substantially reduced.

The index shows that in Denmark in September 1980 the tax on cigarettes was relatively higher than at the beginning of the five year derogation period, that the relative tax on beer had been slightly reduced and that, for spirits, the relative situation remained more or less unchanged.

The last column in Table 2 shows how the situation would have been, if the exchange rate between DM and Dkr had remained unchanged from January 1978 until September 1980. In this situation, all three product categories would have been relatively higher priced in September 1980 than they were in January 1978. In isolation, the effect of the fiscal policy followed in Denmark since 1978 has therefore been to widen the gap, rather than to narrow it.

VIII. Transport costs in Denmark

Table 3: Transport costs

Departure point	Distance from the frontier in km.	Return prices in Dkr.			Typical petrol costs by car*	
		by organised bus		by train	Sept. 1979	Sept. 1980
		Sept. 1979	Sept. 1980	Same price Sept. 1979 and Sept. 1980		
Aalborg	270	25	1	202	205	257
Aarhus	175	20	1	150	133	166
Odense	150	15	1	116	114	143
Fredericia	100	10	1	74	76	95
Vojens	50	10	7	34	38	48

*Based on a car using 1 l petrol (3.80 Kr/l in Sept. 1979 and 4.75 Kr/l in September 1980) per 10 km.

Table 3 shows that the "price" for organised day-trips or "shopping excursions" by bus is virtually nil. The explanation lies in the practice of German border supermarkets to pay the bus companies ever higher subsidies per passenger brought to the supermarket from Denmark. The Commission has earlier drawn attention to the problem of the unrealistically low costs for bus passengers, and views their factual abolition with concern.

In the period under report, the transport costs by private car increased by 25 %, whereas the costs by train remained unchanged.

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IX. Conclusions

During the period under review there has been a negligible decrease in the price gap between the price of cigarettes and beer in Denmark and Germany. This effect is solely due to the depreciation of the Danish crown, relative to the DM.

The new mixed system for taxing spirits means that the price gap between the cheaper spirits products sold in Denmark and in Germany has decreased. On the other hand, for the more expensive products sold on the two markets, the gap has widened. Moreover, the substantial ad valorem element in the mixed system has the effect of multiplying differences in pre-tax prices by a factor of 2 or more (depending on the size of the retailer margin). Consequently, the price gap between the more expensive products on sale in Denmark and Germany will in future be much less sensitive to any devaluation in the Danish crown relative to the DM. This price sector is of course the area where the greatest savings can be made by buying in Germany. It follows that the mixed system has aggravated the situation for expensive spirits, a situation which only can be reversed by a reduction of the ad valorem element of the spirits excise.

As regards the coming year, the Commission has no firm information of planned changes in the excise duties covered in this report, whether in Denmark or Germany, although the Danish Minister of Fiscal Affairs is understood to be considering reducing the excise duty on wine. Such a step would undoubtedly ease the border trade problem.

In conclusion, the Commission notes that in general - as in 1978 and 1979 - no significant progress has been achieved in 1980 in reducing the differences between the prices of the products concerned. On the contrary, the introduction of the mixed system for taxation of spirits in Denmark has introduced a new problem aggravating the situation for expensive spirits.

