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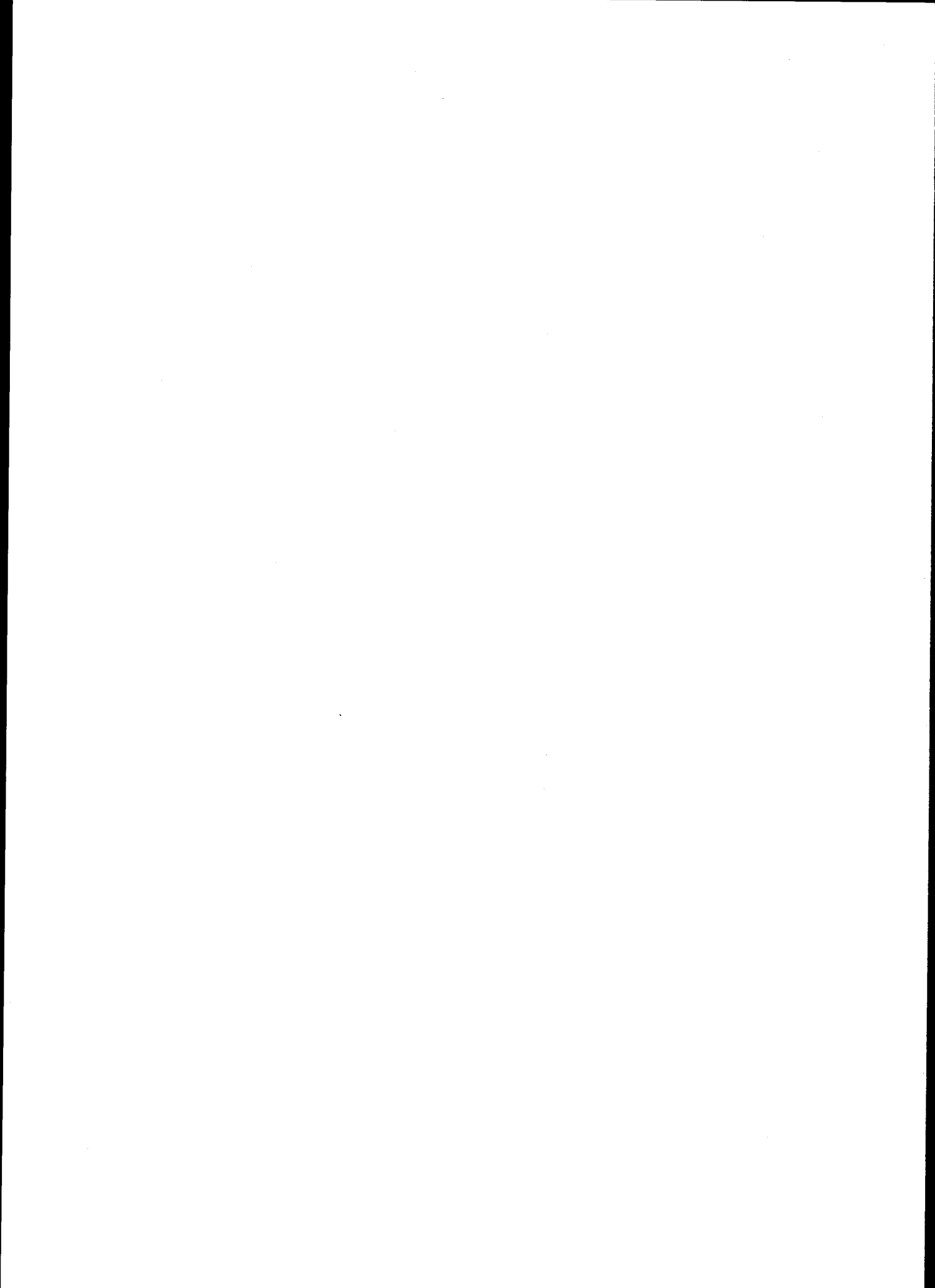
DOCUMENT 15/74

Report

drawn up on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council (Doc. 4/72 – II) for a directive on the harmonization of excise duties on alcohol

Rapporteur: Mr H.K. ARTZINGER



By letter of 22 March 1972 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposals for Council directives in the field of special excise duties and taxes having equivalent effect: Part II, proposal from the Commission of the European Communities for a directive on the harmonization of excise duties on alcohol.

On 29 March 1972 the President of the European Parliament referred these proposals for directives to the Committee on Budgets as the committee responsible and the Committee on Agriculture and the Committee on Economic and Monetary Affairs for their opinion.

On 16 May 1972 the Committee on Budgets appointed Mr Artzinger rapporteur.

The draft report was considered by the Sub-Committee on Tax Harmonization at its meetings of 21 June 1972, 30 November 1972, 8 October 1973 and 11 February 1974.

The Committee on Budgets adopted the following motion for a resolution at its meeting of 18 March 1974 by 11 votes for and 1 against, with 1 abstention.

The following were present: Mr Aigner, acting chairman; Mr Rossi, vice-chairman; Mr Artzinger, rapporteur; Mr Bangemann (deputizing for Miss Flesch), Lord Bessborough, Mr Boano, Mr Concas, Mr Fabbrini, Mr Gerlach, Mr Maigaard, Mr de la Malène, Mr Pêtre, Mr Pounder, Mr Radoux, Mr Terrenoire, Mr Wieldraaijer and Mr Wohlfart.

The opinions of the Committee on Agriculture and the Committee on Economic and Monetary Affairs are being distributed separately.

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A

The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the harmonization of excise duties on alcohol

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
- having been consulted by the Council in an instance where such consultation was not mandatory (Doc. 4/72),
- having regard to the report of the Committee on Budgets (Doc. 15/74),
- having regard to the opinions of the Comitée on Economic and Monetary Affairs and the Committee on Agriculture,

1. Considers that the Commission's proposal will lead to a progressive harmonization of excise duties on alcohol in the Member States;
2. Emphasizes the considerable fiscal importance of excise duties on alcohol in all the Member States;
3. Consequently proposes the retention of this duty which is also desirable for reasons of public health;
4. Invites the Commission to formulate without delay, after the Excise Committee has been set up, proposals designed to eliminate certain elements affecting in various ways the cost price of alcoholic beverages in Member States and so having an unfavourable impact upon competition, such as the various regulations relating to the lodging of deposits in cases of deferred payment of the excise, time-limits for payment, control regulations, etc;

¹ OJ No C43 29 April 1972, p.25

5. Welcomes the fact that the tax is to be applied to alcoholic beverages only and that other products or means of production in particular medicaments, are to be exempt - a fact which brings out clearly the reasons of public health motivating this tax;
6. Regrets, however, that the articles of the directive do not give clear expression to the notion of tax exemption for industries using alcohol as a primary or auxiliary ingredient and suggests that the proposal be amended accordingly;
7. Is of the opinion that the harmonization of excise duties on alcohol is necessary only to the extent that present regulations distort competition in trade between the Member States, and accordingly declares its support for special arrangements without any special time-limit for the taxation of products of small-scale distilleries of purely local importance;
8. Regrets that harmonization limited for the time being to fiscal structures, which will have few economic repercussions, will not eliminate inequalities of competition;
9. Asks the Commission to concentrate in particular upon the harmonization at an early date of taxation rates;
10. Requests the Commission to incorporate the following amendments in its proposal, pursuant to Article 149, paragraph 2, of the EEC Treaty;
11. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

PROPOSAL FOR A DIRECTIVE

on

the harmonization of excise duties on alcohol

Preamble and recitals unchanged

Articles 1 - 6 unchanged

Article 7

Official English version of this
text: not available

Article 7

The following shall be exempt from
excise duty:

1. unchanged
 - (a) unchanged
 - (b) unchanged
 - (c) unchanged
 - (d) unchanged
 - (e) for the manufacture of products -
other than beverages - of the food-
stuffs and confectionery industry
having an alcohol content of less
than 6%
2. unchanged
3. unchanged
4. unchanged

Articles 8 - 28 unchanged

¹ For complete French, German, Dutch and Italian texts see OJ No. C 43 of
29 April 1972, p. 25

Text proposed by the Commission of
the European Communities

Amended Text

Article 29

Article 29

Member States may retain special provisions departing from the present directive which are already in force at the time of its publication, provided that they concern matters of minor importance, that no trans-frontier trade is involved, and that they have no unfavourable impact on conditions of competition.

Article 30

deleted

Article 31

deleted

Article 32

deleted

Articles 33-37 unchanged

EXPLANATORY STATEMENTPreliminary remarks

1. It has already been stated, in the report on the outline directive concerning the harmonization of excise duties at Community level, that the Commission proposes the retention and harmonization of excise duties on alcohol¹.

In its explanatory memorandum, the Commission points out that several of the discrepancies in taxation which led to discrimination with regard to imports have already been eliminated on the basis of Articles 12 (elimination of customs duties between Member States) and 95 (fiscal provisions) of the EEC treaty.

The abolition of such discrimination is, however, not sufficient in itself to achieve, in the alcohol sector, fiscal conditions that are neutral from the point of view of competition.

I. The Commission's explanatory memorandum on the harmonization of excise duties on alcohol

2. The harmonization of excise duties on alcohol should contribute to the achievement of Economic and Monetary Union, one aim of which is the establishment of neutral conditions of competition in trade between Member States.

In the final stage, this harmonization will also contribute towards suppressing countervailing charges in international trade and controls at internal frontiers.

3. While the Commission, in its Explanatory memorandum, does not refer to the actual principle of retaining excise duties on alcohol it does enumerate some of the main elements of a fiscal nature which create unequal conditions of competition and necessitate a harmonization of this tax.

¹See Doc. 4/72.

II. Principal discrepancies in the structures of excise duties on alcohol

4. These discrepancies are mainly to be observed:

- in the scope of the tax,
- in the granting of reduced rates,
- in the manner of collecting the tax,
- in the point in time at which the tax falls due,
- in the manner in which liability to excise is controlled by the fiscal authorities.

5. The Commission cites the following examples:

- differentiation of the excise according to the manner of consumption of alcoholic beverages: in France, the tax is higher on aperitifs than on digestifs;
- in Italy, denatured alcohols intended for industrial use are not exempt (reduced tax);
- in several Member States, the homologues of ethyl alcohol (propyl, isopropyl, methyl and amyl alcohols) are subject to excise;
- in Italy, the excise is divided into a manufacturing tax and a State tax, the two having different functions;
- in France, warehouses for the storage of alcohol are supervised through the accounting records whereas in the other Member States the permanent presence of officials of the administration is required;
- in Germany, trade in alcohol is exempt from all control as soon as the excise has been paid;
- in Belgium, the excise is paid when the alcohol leaves the distillery, whereas in the other Member States it is paid when the product is delivered to the consumer;
- the time-limits allowed for paying the duty range from 15 days, on average, in Italy to five months in Germany.

6. The Commission's statement that the cost price of alcoholic products may show considerable discrepancies as a result of these differences, which are sufficient to distort the conditions of competition between Member States, is therefore obviously accurate.

III. Assessment of the proposal for the harmonization of excise duties on alcohol

a) General observations

7. The consideration on which the entire Commission proposal seems to be based is the need to harmonize excise duties on alcohol in order to establish equal conditions of competition in this sector and so do away finally with countervailing charges on exports and imports and with the frontier controls which they entail.

8. It is regrettable that the Commission proposal merely refers in passing to considerations of public health and their implications as an argument in favour of excise duties on alcohol, for quite apart from the question of revenues, this is the principal argument in favour of retaining this duty and it cannot fail to influence, among other things, the structures and level of taxation.

9. It is a well-known fact that levels - and consequently rates - of taxation are the principal means of controlling or limiting the consumption of strong alcoholic beverages through the increase in cost resulting from the tax on their consumption.

That is why your committee has included the criteria of public health and the general structures of taxation on alcohol in his assessment of the proposal, including the provisions aiming for total or partial exemption of certain beverages from the tax on alcohol.

10. Even though the Commission in its explanatory statement primarily regards the tax on alcohol consumption as a source of revenue, the fact must not be overlooked that it also serves other purposes and was indeed originally justified on the grounds of public health. Everyone is aware that it is a source of considerable fiscal revenue constituting a by no means negligible item on the revenue side of national budgets; but its purely fiscal aspect should not lead us to forget its original purpose. A comparison of levels of taxation in the Member States demonstrates that the amount of this tax increases in proportion to the importance attached to considerations of public health. This applies particularly to the new Member States of the Community, which attach especial importance to this aspect of the matter.

11. The fact that the evolution of incomes is not the same in all Member States and the need for maintaining, by means of taxation, certain limits on the consumption of alcoholic beverages indicate the scale of the

difficulties which will later be encountered when harmonizing the rates of the excise. These rates must not only be approximated to one another (after the structures have been harmonized) but also - even if it be at fairly long intervals - adapted to the evolution of incomes, if the effect of limiting consumption is not gradually to disappear.

12. Equal conditions of competition cannot in fact be achieved if Member States disagree on the amount of excise to be charged on alcoholic beverages in order to keep their manufacture and consumption down to a level consonant with the demands of public health. We shall confine ourselves to recalling, by way of example, that in France a higher duty is imposed on aperitifs than on digestifs.

The table on page 13 gives a summary of the revenue collected from excise duties on alcohol in the Member States.

b) Scope of the excise

13. Article 1 of the proposal provides for a harmonized excise only on ethyl alcohol, whether unprocessed or contained in other products.

14. Information supplied by the Commission indicates that in Italy, but not in other countries, a special State duty is levied on methyl, propyl and isopropyl alcohol (1000 lire per hecto litre of pure alcohol), since these alcohols are, or may be, used instead of denatured ethyl alcohol, which is itself subject to a duty of 6000 lire per hecto litre of pure alcohol. The other homologues of ethyl alcohol (amyl alcohol, butyl alcohol etc.) are not subject to excise in any Member State.

15. Article 7 of the proposed directive exempts from excise duty denatured ethyl alcohol intended for uses other than the manufacture of beverages. The implication of the proposed directive is that the homologues of ethyl alcohol should also be exempt, since they can be only utilized as replacements for denatured ethyl alcohol, itself exempt. Their use in the manufacture of beverages, the sole case in which they should be subject to taxation is scarcely conceivable.

Revenue obtained in 1969 from excise duties
on alcohol in the Member States of the
Community, the United Kingdom, Ireland and
Denmark

	In the national currency (millions)	In u.a. (millions)	As % of revenue from indirect taxation	As % of total fiscal revenue
Germany	DM 2,142	544.0	3.16	1.7
France	FF 2,145	374.7	2.5	1.5
Italy	Lit. 62,562	101.0	0.97	0.7
Netherlands	hfl. 414	114.4	4.2	1.7
Belgium	FB 2,437	48.7	1.70	1.0
Luxembourg	FL 102	2.4	2.4	1.1
The Community (1969)		1,094.3		
United Kingdom	£ 324.0	795.2	-	2.6
Ireland	£ 14.8	352.3	-	4.0
Denmark	dkr 504.2	67.2	-	2.1

16. In addition, the application of the directive to these other alcohols would lead to difficulties of supervision etc.

17. Article 2 of the proposed directive lists the beverages to which the directive does not apply, the general criterion being that the total alcoholic content of these beverages should be less than 15° G.L.

c) Generation of liability

18. According to Article 3 of the proposed directive, liability to the excise is constituted by:

- the manufacture of ethyl alcohol,
- the processing of products to which ethyl alcohol is added,
- the despatch of products from the manufacturer's premises,
- their importation.

d) Scope of the tax and number of taxation rates

19. According to Articles 5 and 6 of the proposed directive, each Member State is to establish a single excise rate, known as the full rate. In order to avoid discrimination and distortion of competition, there is to be no differentiation of the excise according to the materials used, the size of the manufacturing undertaking or any other criteria.

Such differentiations exist at present only in France (according to the manner of consumption) and in Italy (according to the primary materials used).

20. According to Article 6, a reduced rate corresponding to not less than 20% and not more than 50% of the full rate is envisaged for certain beverages such as dessert wines and vermouths with an alcoholic content not exceeding 22°, the limit otherwise being fixed at 15°.

21. The proposal of reduced rates for dessert and flavoured wines is designed to take account of the peculiar nature of these beverages, which are prepared by the addition - incidentally, in widely varying proportions - of alcohol to wine. The natural alcohol contained in the wine is considerably more expensive than the alcohol obtained by distillation. Application of the full rate to these products would mean that the wine, i.e. the basic product, was being taxed as alcohol, whereas non-processed wine is liable only to a very small duty (see the directive on wine).

22. The rates levied in the different Member States on flavoured wines with an alcoholic content of 16° represent the following percentages of the full rate:

- Italy: 7%
- German Federal Republic: 34%
- Netherlands: 34%
- Belgium: 36%
- Luxembourg: 47%
- France: 80%.

23. It follows from these figures that a reduction of the discrepancies to a rate constituting at least 20% and at most 50% of the full rate is a first approximation. At a later stage, this reduced rate should, for reasons of public health, be brought nearer to the upper limit (50% of the full rate) than to the lower limit (20% of the full rate).

e) Measuring alcoholic content

24. In most Member States, alcoholic content is at present measured by the Gay-Lussac method, use being made either of the original (1822) or of the revised (1882) tables at a temperature of 15° centigrade. Some other Member States, including Ireland and the United Kingdom, employ other methods at a temperature of 15.56° centigrade (60° fahrenheit).

The present tendency is to prefer a temperature of 20° (Tralles table).

Article 4 of the proposed directive will, therefore, have to be revised in due course. At present, no particular difficulties are raised by the provision according to which a temperature of 15° centigrade should be used.

f) Cases of exemption

25. According to Article 7, alcoholic products

- intended for uses other than human and animal consumption,
 - intended for the manufacture of cosmetic products,
 - used for the manufacture of medicaments or intended for external medical application,
 - containing ethyl alcohol and exported from a bonded warehouse,
- are, in general, exempt from excise.

26. With regard to the exemption proposed for cosmetic articles, to which most Member States at present apply a reduced rate of taxation, the Commission indicates in its Explanatory Statement that this exemption is intended to improve the market for these commodities, especially the

more popular ones.

Your committee also considers that cosmetic products should be exempt from excise duties on alcohol, but only because there are no reasons of public health requiring that they should not be.

27. As for the second reason given for this exemption - namely, the tendency in the cosmetics sector to replace ethyl alcohol by non-taxed products - this, in your committee's view, is an aspect alien to the fiscal system. There is, however, no need to examine this aspect in any more detail here.

28. For reasons that need not be explained, your committee emphatically supports the proposed exemption of medicaments and of products intended for external medical application.

29. Article 7 of the proposed directive stipulates that alcohol used for the manufacture of medicaments, even when it is one of the ingredients shall be exempt from excise. The term 'medicament' should be understood according to the following definition given in Council Directive No 65/65 (EEC) of 26 January 1965¹: 'Any substance or composition described as possessing curative or preventive properties with regard to human or animal diseases.'

30. In the case of products with a high alcoholic content such as spirits of melissa, it is for Member States to decide whether these are proper means of curing or preventing diseases. In any case, the future Excise Committee should prevent any differences of interpretation.

31. Exempted from excise is alcohol used for the manufacture of any medicament, whether for the purposes of human or veterinary medicine and regardless of whether it be produced by the pharmaceutical industry or by pharmacists.

32. Exemption from excise applies not only to medical alcohol contained in medicaments intended for internal use or utilized in their manufacture but also to alcohol intended for external medical application, whether for disinfecting the skin or wounds or for sterilizing instruments. The exemption applies to both denatured and non-denatured alcohol (denaturing is only one of many means of preventing frauds) and also to alcohol employed in hospitals or sold by pharmaceutical chemists.

¹OJ No 22, 9 February 1965

It is for the Member States to take the necessary measures to prevent the use of this alcohol for the manufacture of beverages.

33. In the preamble the Commission expresses support for tax exemption on ethylalcohol used in industry as a raw material. This view can only be endorsed, particularly in respect of the foodstuffs and confectionery industry, which uses ethylalcohol in a large number of products as a preservative, as a means of preserving flavour, or even as a flavouring agent. To make this objective clearer in the directive your committee suggests that an addition be made to the relevant article.

g) Controls relating to the excise duty on alcohol and regulations governing its payment

34. In all Member States, alcohol, from the stage of production to that of consumption, is subject to an official control designed to ensure the levy of excise. Nevertheless, the stringency of these controls varies from one Member State to another, and their mode of application may well vary in its effect upon the competitive capacity of undertakings. Thus, not all Member States impose an obligation, when putting alcohol onto the market, to lodge a deposit as a guarantee of payment of the subsequent fiscal liability. Manufacturing premises are also supervised in a great variety of ways - for example, through the agency of officials permanently seconded for the purpose or simply on the basis of book-keeping accounts. It is to be regretted that in its proposed directive the Commission has not proceeded to harmonize provisions concerning the payment of deposits; as a result, undertakings in Member States where this deposit is not the normal practice will retain their present advantages with regard to the receipt of interest.

35. As soon as it has been set up, the Excise Committee will have to look into the question of harmonizing control regulations and modes of payment. Discrepancies in the time-limits allowed for payment of the excise should also be eliminated at a very early stage of harmonization. Admittedly, this suspension of duty is necessitated by the fact that its amount is relatively high and manufacturers would feel very keenly the effect of having to continue over any length of time paying this duty in advance; but as the interval between manufacture and consumption is the same in Member States, so the time-limits allowed for payment of the excise should also be the same. Another argument in favour of a uniform system is the need to prevent any advantage from accruing to imported products, the excise on which does not fall due until the time of importation.

36. As soon as it has been set up, the Excise Committee should also begin work on drawing up proposals for preventing the emergence of any further complications with regard to the documents required for putting alcohol on the market. These documents, necessary for control purposes as long as the excise has not been paid under the system of storage in bonded or unbonded warehouses, should not be governed by provisions which differ from one Member State to another.

h) Special provisions in favour of certain Member States

37. The Commission proposes a temporary regime of limited duration in favour of small distilleries and home distillers, to whom Member States have hitherto granted tax relief.

38. Article 19 accordingly lays down that the excise due is to be assessed according to the actual quantity of pure alcohol, while Article 29 recognizes the possibility of departing from this principle in favour of German and Luxembourg small-scale distillers, the tax in such cases being calculated on a flat-rate basis as a function of the quantities distilled.

39. According to Article 10 (1), Member States are obliged to produce all alcohol in bond. Article 30 permits an exception in favour of small-scale German and Luxembourg distilleries and French home distillers: the present system of control may continue to be applied until a Community solution has been found.

40. Your committee takes the view that excise duties on alcohol should be harmonized only to the extent that such harmonization prevents distortions of competition and makes the remission of export charges and introduction of import charges unnecessary.

41. Existing special arrangements which are to remain in force for a limited time do not conflict with the criteria set-out in Section 31. They apply, in fact, to situations of purely local significance which concern only a restricted number of persons and do not seriously affect the conditions of competition.

42. Your committee therefore, proposes that Articles 29, 30, 31 and 32 of the proposed directive be replaced by a new Article 29 with the following wording:

'Member States may retain special provisions departing from the present directive which are already in force at the time of its publication, provided that they concern matters of minor importance, that no trans-frontier trade is involved and that they have no unfavourable impact on conditions of competition.'

i) Transitional provisions

43. The provisions of Article 33 on the reduction of discrepancies in the rates of excise duty will remain practically meaningless so long as Member States continue to enjoy a considerable freedom of decision in regard to excise duties and Value Added Tax.

44. As regards Value Added Tax, there is little doubt that a very small difference (as between, for example, 15% in one Member State and 17% in another) is unlikely to impede the functioning of the Common Market when frontier controls have been abolished and trans-frontier traffic no longer occasions the imposition or remission of duties.

45. No taxes other than the harmonized excise duty and value added tax can be levied on the import of alcoholic products. This is made clear in Article 35 of the proposed directive. Private individuals must be able to cover their needs in another Member State without having to pay this additional tax.

46. Finally, it may be pointed out that the general provisions of the Treaty retain their validity, in particular those of Article 95, which forbid Member States to impose any taxes that favour one product in relation to another.

IV. Conclusions

47. Your committee congratulates the Commission on its balanced proposal for a directive for harmonizing excise duties on alcohol.

48. In all Member States, including those which have just joined the Community, the considerable fiscal importance of this tax, whose contribution to the total national revenue ranges from 0.7% (Italy) to 4.0% (Ireland), is sufficient justification for maintaining and harmonizing excise duties on alcohol.

49. It should, however, not be forgotten that the tax on alcohol is also designed to serve the interests of public health.

Since the new Member States attach great importance to this aspect of the matter, the means it offers of limiting consumption should be retained so far as is considered appropriate when rates of imposition come to be harmonized.

50. Your committee regrets that certain provisions have not been formulated with greater precision, and asks the Commission, as soon as the Excise Committee begins its work, to submit proposals for standardizing in particular:

- the system of deposits payable where payment of excise is deferred and of time-limits for payment of the excise duty;
- provisions relating to controls;
- the manner of interpreting in the various Member States the exemption of alcoholic products.

51. Generally speaking, fiscal harmonization is legitimate only in so far as it serves the Community's interests. Consequently, special arrangements valid for a specific length of time and governing the manufacture of alcoholic products by small-scale distilleries which are of purely local importance, as provided for in Articles 29-32 of the proposed directive, do not meet with the approval of your committee, since it is opposed to carrying fiscal harmonization to these lengths on the grounds that distilleries of this type constitute no real threat to competition between Member States.

52. These reservations form the basis for the two amendments proposed to the text of the directive. For the rest, while regretting that this first proposal for harmonizing fiscal structures will have no appreciable impact and consequently cannot be expected to lead to an elimination of distortions of competition, your committee recommends that the Commission's proposal be adopted.