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Working Documents

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Second

Report

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

on the Communication from the Commission to the Council (COM(79) 261 final) concerning the major problems relating to the proposed Council directives to harmonize the structures of consumer taxes, other than VAT, on beer, wine and alcohol

Rapporteur: Mr W. HOPPER

English Edition

PE 84.548/Fin.II
Or De

By letter of 22 May 1981, the Committee on Economic and Monetary Affairs requested authorization to draw up a report on the communication from the Commission to the Council concerning the major problems relating to the proposed Council Directives to harmonize the structures of consumer taxes, other than VAT, on beer, wine and alcohol.

By letter of 16 June 1981 the Committee was authorized to report on this subject.

On 22 September 1981, the Committee on Economic and Monetary Affairs appointed Mr W. Hopper rapporteur.

At its meetings of 27.10.1981, 25/26.5.1983, 19/20.9.1983, 17/19.10.1983 and 21/22/23.11.1983, the Committee on Economic and Monetary Affairs considered the draft report. It adopted the motion for a resolution as a whole on 21/23 November 1983 by 12 votes to 4, with 4 abstentions.

The following took part in the vote : Mr Moreau, chairman, Mr Hopper, vice-chairman and rapporteur; Mr Deleau, vice-chairman; Mr Beazley, Mr Bonaccini, Lord Douro (deputizing for Mr Welsh), Mr de Ferranti, Mr Halligan (deputizing for Mr Rogers), Mr Heinemann, Mr Herman, Mrs van den Heuvel (deputizing for Mrs Desouches), Mr Leonardi, mr Nordmann, Mr Nyborg, Mr Papantoniou, Mr Provan (deputizing for Mr Forster), Mr Purvis (deputizing for Sir Brandon Rhys-Williams), Mr Rogalla (deputizing for Mr Wagner), Mr Schinzel and Mr Vergeer.

At its sitting of 16 February 1984, the European Parliament referred the report back to the Committee on Economic and Monetary Affairs.

At its Meeting of 21 February 1984, The Committee on Economic and Monetary Affairs decided to ask for opinions from the Committee on Agriculture and the Committee on the Environment, Public Health and Consumer Protection. The Committee on the Environment, Public Health and Consumer Protection decided notto deliver an opinion.

At its meeting of 22 March 1984, the committee considered an amended motion for a resolution and adopted this by 13 votes to 2 with 5 abstentions.

The following took part in the vote : Mr Moreau, chairman; Mr Hopper, vice-chairman and rapporteur; Mr Macario, vice-chairman; Mr Adonnino (deputizing for Mr Franz), Mr Beazley, Mr Bonaccini, Mr Caborn, Mr I. Friedrich, Mr Giavazzi, Mr Leonardi, Mr Marchesin (deputizing for Mrs Desouches), Mr Müller-Hermann, Mr Nyborg, Mr Papantoniou, Mr Purvis (deputizing for Mr de Ferranti), Mr Rogalla (deputizing for Mr Wagner), Mr van Rompuy, Mr von Wogau, Mr Welsh and Mr Zarges (deputizing for Mr Schnitker).

The opinion of the Committee on Agriculture is attached.

The report was tabled on 23 March 1984.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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

MOTION FOR A RESOLUTION

on the harmonization of taxation of alcoholic drinks

The European Parliament

- having regard to Article 3(f), 95, 99, 100 and 101 of the Treaty establishing the European Economic Community.
- having regard to the Council's Resolution of 22 March 1971,
- having regard to the Communication of 26 June 1979 from the Commission to the Council[1] and to its Report on the Scope for Convergence of Tax Systems in the Community,[2]
- having regard to the European Court's decisions under Article 95 and in particular to its decision of 12 July 1983 against the United Kingdom,[3]
- having regard to the Commission's proposal for a Council directive on prior information and consultation on tax matters,[4] and to the Parliament's resolution of 15 April 1983,
- having regard to the Parliament's resolution of 17 November 1983 on harmonization of taxation in the Communities,
- having regard to the report of the Committee on Economic and Monetary Affairs (Doc. 1-1121/83),
- having regard to the second report of the Committee on Economic and Monetary Affairs (Doc. 1-49/84),

1. Agrees with the Commission that the harmonization of direct and indirect taxes is a necessary pre-condition for the removal of fiscal frontiers and the achivement of a fully integrated common market in which persons, goods, capital and services move freely and competition is not distorted;

2. Regrets that little progress has been made by the Council of Ministers towards the harmonization of the structures of excise duties levied on alcoholic drinks (beer, wine and spirits) despite the efforts of the Commission;

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1 COM (79) 261
2 COM (80) 139
3 Case 120/78
4 OJ No. C 346 31 December 1981, p.6

3. Draws attention to the very high levels of taxes in some Member States compared with others;

4. Draws attention to the widely differing excise systems still existing in the Member States;

5. Draws particular attention to the differences in the taxation of beer, wine and spirits in some Member States, which distort competition and impede Community trade and which can no longer be tolerated within the context of the European Economic Community ;

6. Believes that, as the Commission has recognised,[1] all alcoholic beverages are to some extent in competition with each other; notes in this connection the view of the European Court that competition between alcoholic drinks should not be assessed by reference to consumer habits in one Member State alone but taking into account the fact that increasing inter-state trade will result in increased competition;

7. Considers that the continuing fiscal discrimination between the different alcoholic drinks in Member States constitutes a barrier to inter-state trade, denies to the consumer the benefits of increased choice and competition which are amongst the most important objectives of the Treaty, and is an obstacle to the achievement of the Common Market;

8. Notes that the common classification for tax purposes of alcoholic beverages, (viz beer, wine, and spirits) results in a number of anomalies; in particular, in relation to fortified wines or 'mixed' drinks; furthermore, new drinks have recently emerged,which have been specially formulated to take advantage of tax anomalies, rather than for reasons of taste, and which are therefore able to enjoy a significant price advantage over traditional drinks;

9. Welcomes the Commission's actions in successfully instituting claims under Article 95 against a number of Member States; regrets that certain Member States have delayed, and in some cases continue to delay, implementation of the Court's decisions;

10. Stresses the importance of the authority of the Court of Justice of the Communities and the fundamental part which it plays in ensuring compliance with Community law by all the Member States ;

Considers, however, that process through the Court, being necessarily ad hoc, does not provide a satisfactory or adequate means of achieving tax harmonization; considers, therefore, that action on the basis of Articles 99, 100 and 101 is necessary ;

11. Welcomes the Commission's proposal for a Council directive establishing a system for prior notification and consultation among the Commission and Member States on tax matters, but considers that this will have limited impact on the removal of barriers to trade and distortions of competition;

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[1] COM (79) 261

12. Considers that the Commission should re-examine its proposals for tax harmonization, adopting the principles set out in the following paragraphs;

13. Recognizes the importance which Member States attach to tax sovereignty, but regrets their protectionist attitudes; considers, however, that Member States' difficulties in this regard can be met by approaching harmonization in two stages - first, structures and then alignment of rates;

14. Believes that the fundamental principle of harmonization must be to encourage inter-state trade and competition in accordance with Article 3(f); recognizes the importance of reducing the tax barriers to the sale of wine which exist in certain Member States; considers, however, that this must be achieved without unreasonable distortions of competition among alcoholic beverages and without impeding the creation of a common market; recognizes that any Community policy for taxing alcoholic beverages should take account of the problems of alcohol abuse and draws attention in this regard to Parliament's Resolution of 12 March 1982 on the problems of alcoholism in the countries of the Community;

15. Believes that a Community policy for taxing alcoholic beverages should be established by a harmonization directive based on the following principles :

(i) The first stage of harmonization should be limited to the structure of excise duties, leaving the alignment of rates as between Member States to the second stage ;

(ii) It should encompass all alcoholic drinks in a single directive;

16. Calls on the Commission to draw up a directive based on the principles set out in the preceding paragraphs, having regard also to the need to discourage alcohol abuse and for this purpose carrying out such further consultations with Parliament's committees as are appropriate : furthermore, to include in its proposal a provision restricting Member States from increasing existing differentials ;

17. Considers,however, that the directive should also take into account Parliament's resolution of 10 march 1983 relating to the taxation of traditional rum produced in the French overseas departments;

18. Calls on the Council to issue a statement of policy committing it to examining and appraising as quickly as possible the proposal for a directive based on the above principles;

19. Calls on the Commission to report to the Parliament within 6 months of this Resolution on its progress in drawing up the directive ;

20. Instructs its President to forward this Resolution and the Report of its Committee to the Council and Commission.

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B

EXPLANATORY STATEMENT

I. INTRODUCTION AND BACKGROUND

1. Harmonisation of direct and indirect taxes is essential if progress is to be made towards fulfilling the fundamental objectives of the Treaty establishing the European Economic Community:

- the establishment of a common market by way of, among other things, the free movement of persons, goods, services and capital and a system that ensures that competition is not distorted;

- the progressive alignment of Member States' economic policies;

- the institution of a number of common policies.

2. None of these objectives can be achieved without harmonisation of taxes, including excise duties and VAT: harmonisation of these taxes is a prerequisite for the removal of fiscal frontiers. The importance of this step was recognised by the Council of Ministers which in 1971 resolved that

> "acting on a proposal from the Commission the Council shall decide on measures comprising :
>
> - the harmonisation of the scope, bases of assessment, and the mode of levying excise duties, in particular those which have an appreciable influence on trade;
>
> Before the end of the first stage, the Council shall examine the results of research on the alignment of rates of value added tax and excise duties and the proposals of the Commission in this field". (Resolution of 22 March 1971).

3. The Commission first introduced proposals to harmonise excise duties in 1972 (Bull. Supp.3/72). The first phase was to harmonise the structure of excise duties, rather than the rates, so as to reduce distortions of competition and facilitate free movement of goods between Member States, so that consumers, producers and traders could enjoy the advantages of belonging to the wider EEC market. Harmonisation of the structure of excise duties was thought to be followed "soon" by harmonisation of the rate.

The Commission proposed a framework directive together with proposals to harmonise the excises on: beer, wines and spirits (including liqueur wines) together with a draft directive on excises on mixtures of beer, wines or spirits. Duty on wine and beer was to be charged by volume. Duty on spirits and liqueur wines was to be charged per degree of alcohol.

4. In 1974, the appointed European Parliament gave its opinion on the 1972 proposals. It voted against the proposal for an excise duty on wine, and rejected the Directive on mixed beverages.

As a result, the Commission withdrew its proposals on mixed drinks and made other minor amendments. Despite Parliament's rejection of the proposed wine directive, the Commission maintained that the wine directive was essential on grounds of competition.

5. Little progress was made with these proposals in the Council. In 1977 the Commission published a Communication to the Council, "Problems posed by Excise Harmonisation" (COM (77) 228 final). This suggested that, given the importance of harmonisation, work should be resumed on a possible compromise. The Commission maintained its view that both the proposed framework directive and the proposed harmonised excise on wine were necessary, but so that some progress might be made suggested that the wine excise should be considered separately; however, Italy and Germany insisted that any excise on wine would only be considered as part of an overall package.

6. The Commission attempted another compromise in 1979 with the publication of COM (79) 261 final. The Commission accepted the views of the Council and several Member States that all three proposals (on spirits, beer and wine) should be considered together as a package. The Commission affirmed that since in its view all alcoholic beverages were more or less in competition, harmonisation of the excise duties on all alcoholic beverages was necessary to eliminate distortions of competition. It considered that the question facing the Community was a choice

> "between an excise system based on the taxation of all alcoholic drinks, including wine, with the level of wine taxes rather lower in some Member States than at present, or a system without an excise on wine and in consequence with beer and alcohol taxed only at modest levels. At the present time, the first course presents serious political difficulties for certain Member States. The second course is however simply inconceivable, whether now or in the longer term".

The Commission, therefore, proposed a compromise which would involve derogations for Italy and Germany and for the Benelux countries in respect of Luxembourg wine.

These proposals have been considered by successive Councils. Both the Luxembourg Presidency in 1980 and the British Presidency in 1981 attempted further compromises, but without success.

7. In 1980, the Commission published its "Report on the Scope for Convergence of Tax Systems in the Community" (COM (80) 139 published as Suppl. 1 Bull.EC 1980) in which it set out the present situation in the Community, the need for harmonisation, the obstacles which had arisen and the considerations upon which action should be based (see further below).

8. In the absence of any progress towards harmonisation, the Commission has over the years introduced Court proceedings against various of the Member States for infringements of the EEC Treaty. The most recent decision in those cases was that of 12 July 1983 against the United Kingdom: (case 170/78).

The Commission has stated on a number of occasions that it is being forced to bring cases against Member States for breaches of the EEC Treaty because of the failure of the Council to agree on a suitable package of proposals. The examination of these breaches will continue in the near future.

II. THE EUROPEAN COURT'S DECISIONS

9. The European Court has decided a number of cases relating to tax discrimination in the Member States on various alcoholic drinks: some cases have been brought by the Commission[1], but others have been referred under Article 177 by national courts arising from private litigation or disputes between tax payers and their tax authorities.

Since each case that comes before a Court is based on specific instances of detail, the Court is required to examine or comment upon a particular problem, and has little opportunity to comment upon the problem of taxation as a whole in the context of integration, or to consider the effect which its narrowly based decisions might have in the market place.

Furthermore, the Commission has recognised (see e.g. COM (80) 139 and answer to Madame POIRIER: Written Question No. 1895/52; 1983 OJ C104/10), that such actions are necessarily limited to the criteria laid down in Article 95: they provide no opportunity to pronounce on the wider significance of taxation an an obstacle to the proper functioning of the market. Actions under Article 95 therefore are no substitute for harmonisation under Articles 99-101. Attention is drawn to the Court's own analysis of this situation:

> "Article 99 aims to reduce trade barriers arising from the differences between the national tax systems, even where those are applied without discrimination"
>
> Case 171/78: Commission v. Denmark

[1] eg Cases 168-71/78, 216/81, 319/81

Those actions have in any case had limited impact. Moreover, the governments concerned have delayed for some considerable period before complying and in the meanwhile the products discriminated against have had to continue bearing the unlawful tax, thus maintaining the protective effect for which the tax was designed.

10. There is therefore a need for the Parliament to give serious attention to this issue, and to formulate its own proposals for a harmonised structure for excise duties on alcoholic beverages in the Community.

III. PRESENT SITUATION IN THE MEMBER STATES

11. Taxation of alcoholic drinks differs from one Member State to another. Tax structures have developed historically, reflecting in part traditional drinking patterns and protection of local producers against imports, butalso taking into account the need of governments to raise revenue. Looked at from a Community perspective, there are sharp contrasts and anomalies between the Member States' tax systems.

12. Not only are there considerable differences in the ratios of tax applied by the Member States to different alcoholic beverages but the levels of tax differ considerably from one Member State to another. Furthermore, considerable differences and anomalies arise from the classification of drinks for tax purposes. Difficulties of definition of, for example, fortified wines and mixed drinks create anomalies as a result of which closely similar drinks bear taxes which may differ by as much as 500%. Such anomalies have also resulted in the production of new drinks formulated in such a way (other than by reducing strength) so as to fall within a different, lower tax category. Whilst such multiplicity of drinks might be welcome, it is of concern that such drinks obtain a significant cost/price advantage against traditional beverages and in that way competition is distorted. Furthermore, the consumer, who is rarely knowledgeable of the intricacies of tax law, might be misled as to the value for money of such products.

The differences are shown clearly in the attached tables.

13. As the Commission has recognised and is borne out by common experience, all alcoholic beverages are to a greater or lesser extent in each Member State in actual or potential competition with each other. This intensity of competition should increase with the development of inter-state trade, thus developing"the complementary features of the economies of Member States in accordance with the objectives laid down in Article 2 of the Treaty" (the Court in case 190/78). However, this will not happen so long as fiscal frontiers to trade remain.

Since price is an important element in competition and tax is a (often the most) significant part of the price of alcoholic beverages, it follows that the imposition of different tax burdens will distort competition. The Commission rightly summarised the potential impact in this way:

> "At lower levels of tax, small differences in tax structure - such as differences in exemptions, or in the period allowed for duty deferment - although distortions of competition, may not assume serious proportions. But where the excise accounts for so large a part of final price, differences in excise structure or in administration which are at first sight minor can in fact markedly distort competition, to the point at which a given market can be made virtually inaccessible".

14. The impact of tax on consumer choice can be seen by examining the consequences of changes in the tax rates. For example, in Germany recent increases on the tax on spirits and sparkling wine have led to significant falls in the consumption of both products (12% and 19% respectively) but total consumption of alcoholic beverages in Germany has not fallen: in other words, consumers have switched to less heavily taxed (cheaper) drinks. Many other examples can be given.

As the Court said in its judgement against the U.K.

- "the effect of the United Kingdom tax system is to stamp wine with the hallmarks of a luxury product which, in view of the tax burden which it bears, can scarcely constitute in the eyes of the consumer a genuine alternative to the typical domestically produced beverage."

Similarly, other highly taxed beverages are regarded as luxuries as a result of the tax burdens which they bear. Furthermore, the Court in confirming the role of tax harmonisation as an instrument to achieve the integration of the common market made it plain that competitiveness under Article 95 was to be assessed not by reference to consumer habits in one Member State but taking into account the impact of increasing trade and competition.

15. Your rapporteur respectfully agrees with the Commission's analysis of this situation and the consequences for inter-state trade.

"In practice, however, many of the excises are so structured as to have a more or less protective effect. Some features are blatantly discriminatory and have been attacked accordingly by the Commission under Article 169. In addition, a high excise rate, a particular excise structure, and other non-fiscal factors, may often combine to achieve effects which, if not demonstrably protective, certainly make access to certain markets unattractive or difficult.

Basically, this problem arises from what may be described as a symbiotic relationship between national industries and national excises. Under the considerable pressure of high tax incidence, and usually over a lengthy period, each has adapted to the other. Consequently, many producers of excise goods have become either wholly dependent on their domestic market (and its unique excise structure) or have at least become dependent on a stable and relatively profitable domestic base as the foundation of their total market.

Of course this is by no means invariably the case: there are many producers within the excise industries who are heavily export-oriented. Nevertheless, preoccupation with protection of the domestic base is a widespread phenomenon amongst excise producers. A broad advance in harmonizing the excises will require that the majority, rather than the minority as at present, begin to regard the Community as a whole as their domestic market."

16. Furthermore, the Commission has pointed out a significant reason why there should be Community action to harmonise structures of excise duties.

- "The inconsistencies in excise policies in all Member States suggest an inability on the part of national governments to maintain a coherent excise system in the face of individual pressure groups. Moreover, with each added inconsistency, the greater the inequities of the system and the greater the difficulty in resisting demands for further changes. In such a situation, every excise industry has an incentive to apply the maximum pressure for tax concessions in its favour. Equally, no excise industry can plan for future with any reasonable degree of certainty.

"86. It seems not unreasonable to conclude that the result of national control over the excises is a significant degree of inconsistency and inequity, both as regards structure and the evolution of tax rates. Against such a background, suggestions that a Community excise system would impose constraints on the Member States seems an argument in favour of, rather than against, such a measure. Moreover it would be naive to suppose that Community policies for sectors which are subject to substantial excise burdens such as energy, transport, alcohol wine - can be created or sustained in the absence of common policies in relation to the excises themselves."

17. The creation of a genuine internal market means that any inhibitions on or restrictions of trade between Member States and distortions of competition must be reduced so that consumers, producers and traders can enjoy the benefits of belonging to a single, integrated market which are currently denied to them in this field. Differences in excise duty structures and rates affect the functioning of the Common Market by distorting trade and competition: the excise duties on all forms of alcoholic beverages cannot therefore be unrelated to each other but must be brough into a more harmonious relationship.

18. It was the Commission's view in 1980 that "the importance of excise duties for the free movement of excisable products is a good reason why top priority should now be given to the task of harmonising them".

IV. CONSIDERATIONS FOR HARMONISATION

19. The production and sale of alcoholic beverages are important sources of employment and revenue for the Community. Taking into account those involved in production of raw materials and in distribution, the industry provides employment for millions. Production of alcoholic beverages also makes a significant contribution to the economy of areas where other employment is not available (e.g. distilling in the Black Forest). In 1982, the turnover in alcoholic beverages in the EEC including tax was 38.300 m ECUs; exports to non-EEC countries amounted to 3380 mECUs of which spirits account for 2075 m ECUs, beer 839 m ECUs and wine 466 m ECUs.

20. The Commission's proposal for a directive establishing a prior information and consultation procedure for tax matters is an important step towards the covergence of Member States' tax systems; however, it will have limited effect on the removal of fiscal frontiers.

21. Any proposal for harmonising excise duties on alcoholic beverages has to recognise the following potential difficulties:

(a) Freedom with regard to taxes is one of the fundamental components of national sovereignty and regrettably all Member States at present seem more concerned with national than Community considerations. However, Member States' freedom of action in raising taxes is already constrained by Articles 3(f) and 95. Furthermore, the Commission has doubted whether tax implications for national budgetary receipts will be as serious as feared; in any event, the scheme proposed below will try dealing with structures before alignment of rates and by allowing generous transitional periods enable adjustments to be made.

(b) The harmonisation of excise duties has to recognise the need to find outlets for wine production. However, this must be achieved without unreasonable distortions of competition among alcoholic beverages and without impeding the creation of a Common Market. Furthermore, it should be recalled that spirituous beverages market constitutes an important outlet for wine, eaux de vie and agricultural produce.

(c) The problems of abuse of alcohol and excessive consumption cannot be overlooked. Objective medical opinion is of the view that insofar as medical and long term health effects of alcohol are concerned, what matters is the total quantity consumed and not the form in which it is consumed. It follows that no one type of drink is so dangerous or so safe as to single it out for special treatment in the form of taxation. It is in any case not clear what, if any, is the role of taxation in controlling alcohol abuse: while it may be argued that an increase in taxes (if sufficiently large) might reduce the consumption of 'moderate' drinkers, those who are 'problem' drinkers may merely turn to cheaper, perhaps illicit forms of alcohol.

Thus,on the basis of present research, tax discrimination on the basis of health arguments is not justified and may be contrary to the Treaty, particularly where the product discriminated against is produced (or largely produced) in another Member State. It should be noted, however, that tax differentials on the bases of what are claimed to be health or social grounds can disguise protectionism, as the Commission found in relation to differential taxation of spirituous beverages:

-" These differentiations on tax rates are usually justified on social and health grounds. It is, however, striking that they generally result in preferential treatment of domestic production" (COM (80) 139).

V. THE LOGICAL TAX STRUCTURE

22. All alcoholic beverages compete: some very directly and all to some extent.

It is the tax on alcoholic beverages which is being discussed. It is the alcohol which is being taxed.

If, therefore, we were considering a system of excise structure de novo, untrammelled by the history of tax structures which in fact exists in the different Member States, the most obvious system to propose would be a single rate of excise duty per degree of alcohol for all alcoholic beverages. Such a system would avoid both distortion of competition and problems of definition.

It would avoid the particular difficulties which now arise in relation to fortified wines (should they be taxed at the wine rate, at the spirit rate, or as a special category?). Most important of all, it would avoid the creation of products expressly designed to take advantage of tax anomalies such as the British "whisky wine mixes". Such products tend to appeal to those whose consumption of alcohol is undiscriminating and often excessive.

Unfortunately we are not in the happy position of being able to devise a new excise structure de novo.

VI. HOW MUCH PROGRESS SHOULD REALISTICALLY BE EXPECTED TOWARDS A MORE LOGICAL SYSTEM OF TAXATION?

23. Table wines are traditionally taxed on volume, not on strength, in all EEC countries, despite significant strength variations of almost 100%, that is to say, from about 8% vol. to nearly 15% vol. In some Member States there is also a single volume based tax for beer. Whether or not such systems are logical, a change to taxation of beer or wine per degree of alcohol is unlikely to be politically or commercially acceptable, and therefore is not proposed.

24. Moreover, it is not possible to make drastic changes in the relative taxation of competing beverages without significant disruption of industry.

25. A third, and equally important, difficulty arises from the fact that taxation of alcoholic beverages is an important source of revenue and therefore a sensitive area of national sovereignty.

26. These difficulties indicate that progress towards a more logical tax structure will be slow. But the Treaty of Rome aims at greater integration of the Community and at elimination of distortions of competition. Progress must be made towards these objectives.

VII. A HARMONISED AND SIMPLIFIED CLASSIFICATION OF DRINKS MUST BE ACHIEVED THROUGHOUT THE COMMUNITY

27. It is proposed that a harmonised and simplified Community structure of excise duties on alcoholic beverages should:

(a) tax wine and beer on a volume basis,

(b) tax spirits and, after a suitable transition period, fortified wine on a per degree of alcohol basis,

(c) eliminate problems of category definition and facilitate the reduction of distortion of competition by creating three tax bands as follows:

Group A : All alcoholic drinks below 8% vol. to be taxed on a volume basis, irrespective of alcoholic strength. Beer will provide the majority drink in this group but other alcoholic beverages below 8% vol. will also be taxed on the same basis.

Group B : All alcoholic drinks between 8% vol. (inclusive) and 15% vol (inclusive) to be taxed on a volume basis, irrespective of alcoholic strength. Wine would be the major drink in the group.

Group C : All alcoholic drinks above 15% vol. to be taxed per degree of alcohol subject to a transition period of several years for products currently taxed as fortified wines.

This would involve a change in certain Member States from taxation of beer on the basis of the worth to taxation on final strength, which is already the system used in the majority of Member States.

28. For the purpose of gradual elimination of excessive discrimination a generous timetable must be provided for introducing a satisfactory relationship between the taxation of the groups. For the purpose of this comparison Group A could be deemed to have an alcoholic strength of 3.5% vol. and Group B could be deemed to have an alcoholic strength of 11% vol. This approach is in line with

the Commission's view that the most appropriate basis upon which tax burdens can be compared is on a per degree of alcohol basis.

Undoubtedly the concept of equal degree of taxation for all groups, which would be just, could not conceivably be achieved in the short or even medium term. However, it is necessary at least to remove the worst examples of discrimination and provide a transition period during which the three categories should move closer together.

The taxation of Groups A and B should ultimately be such as to take account of the Court's judgement in Case 170/78. The taxation of Group C should be such as to avoid distortion of competition both within that Group and between that Group and Groups A and B
and should take account of the fact that harmonisation is not an end in itself but a means towards the abolition of fiscal frontiers.

29. Furthermore, it would be an important provision in the proposed harmonisation that Member States should be restrained from increasing existing differentials.

SUMMARY

There has in the past decade been some increase in exports of spirits to hitherto "wine drinking" countries and some increase in wine consumption in hitherto "beer drinking" countries but progress has been slow: this important aspect of Community integration and Community trade has been seriously hindered by the barriers of tax disharmony. These barriers must be removed. There is a need to encourage competition amongst different types of drinks and to expand the choice available to consumers. There must be equal access to the Community market for all types of drinks. The Parliament therefore feels that the time is right for the first steps towards harmonisation of excise in this field. The production of harmonisation legislation would also obviate the need for the Member States to continue going to the European Court to settle their differences.

O P I N I O N

(Rule 101 of the Rules of Procedure)

of the Committee in Agriculture

Draftsman : Mr G SUTRA de GERMA

At its meeting of 21 and 22 February 1984, the Committee on Agriculture appointed Mr G Sutra de Germa draftsman.

At its meeting of 20 and 21 March 1984, the committee considered the draft opinion. At the same meeting it adopted the conclusions by 17 votes to 2 with 7 abstentions.

The following took part in the vote : Mr Curry, chairman; Mr Delatte, vice-chairman; Mr Sutra de Germa, draftsman of the opinion; Mr Barbagli (deputizing for Mr Diana); Mr Bocklet; Mr Dalsass; Mr Fernandez (deputizing for Mr Papapietro); Mr Helms; Mrs Herklotz; Mr Hord; Mr Hutton (deputizing for Mr Provan); Mr Jurgens; Mr Keating (deputizing for Ms Quin); Mr McCartin (deputizing for Mr Clinton); Mr Maffre-Bauge; Mr Martin (deputizing for Mr Pranchere) ; Mr Mertens; Mr Nielsen; Mr Thareau and Mr Vitale.

1. The harmonization of taxes on the consumption of beer, wine and alcohol is a matter of vital concern for brewers, wine growers and alcohol producers in the Community, since these taxes have a direct impact on consumption.

2. Thus, in Northern European countries where taxes on wine are very much higher than taxes on beer, wine consumption is very low; this serves to aggravate the problems facing the wine growing sector.

3. On several occasions, the Commission has attempted to obtain an agreement from the Council on this matter, but without success. For the present, harmonization proceeds via judgements of the Court of Justice in proceedings instituted by the Commission against Member States for infringing the EEC Treaty in particularly flagrant cases of fiscal discrimination.

4. However, this manner of proceeding is far from ideal since in the long term, the Court cannot compensate for the Council's failure to act on this matter (it is undesirable for the Community to move towards a situation where it is governed by judges) and above all, there is a danger that this approach may well lack economic consistency in respect of sectors as varied as wine, beer and spirituous beverages which in many cases are vital for numerous regions in the Community, including some of the least-favoured regions.

5. In adopting the report by Mr HOPPER (Doc. 1-1121/83), the Committee on Economic and Monetary Affairs has attempted to find a solution to this highly complex problem. This was the object of paragraph 16 of its motion for a resolution:
'Believes that to eliminate problems of category definition and facilitate the reduction of distortions of competition, but mindful of the Member States' traditional methods of assessing tax, harmonization should be based on creating three tax groups as follows:

(a) Group A: All alcoholic drinks below 8% vol. : Beer will be the major drink in this group but other alcoholic drinks below 8% vol. will also be included. This group would be taxed on a volume basis irrespective of alcoholic strength.

Group B: All alcoholic drinks between 8% vol. (inclusive) and 15% vol. (inclusive). Wine will be the major drink in this goup. This group too should be taxed on a volume basis, irrespective of alcoholic strength;

Group C: All alcoholic drinks above 15% vol.: this would comprise spirituous beverages and fortified wines. This group would be taxed on the basis of alcoholic strength. For fortified wines, it would be necessary to provide a long, staged transitional period for the implementation of this provision;

(b) The taxation of Groups A and B should be in such a ratio as takes account of the Court's decision in Case 170/78;

(c) The taxation of Group C should be such as to avoid distortion of competition both within that group and between that Group and Groups A and B and should take account of the fact that harmonization is not an end in itself but a means towards the abolition of fiscal frontiers.'

That, then, is the solution proposed by Mr HOPPER.

6. The Committee on Agriculture believes that although this is a laudable attempt, it neglects certain basic economic facts which should be recalled:

(a) the division of all the drinks concerned into three categories, according to their alcoholic strength, is comprehensible from a purely administrative point of view, but fails to take into account the economic and social background against which these drinks are produced. Existing forms of discrimination should not be perpetuated on the pretext of applying a logical approach;

(b) category C includes all alcoholic drinks above 15% strength. This includes not only spirituous beverages, but also wines such

as natural sweet wines (referred to in Community legislation as quality liqueur wines produced in specified regions - q.l.w.p.s.r. - which comply with very strict production norms similar to those for designated wines), liqueur wines, aromatized wines, etc.

However, no comparison can be drawn between the method of producing wine with that of producing a spirituous beverage. Production costs vary and the social implications are very different. For example, it is more expensive to produce one degree of alcohol in wine than one degree of alcohol in a spirituous beverage. It would therefore be unfair to apply the same taxation scheme to products as different as wines and spirituous beverages.

(c) the distinctions proposed by the Committee on Economic and Monetary Affairs are different from the definitions proposed in the Community's regulations on the various types of wine. It is, however, important to adopt a consistent approach on this matter; this means that the distinctions set out in the report by Mr HOPPER should be reviewed.

(d) harmonization as proposed by the Committee on Economic and Monetary Affairs must take into account the 'Member States' traditional methods of assessing tax', but discrimination between substitute products must be avoided since it conflicts with the Treaty and the intended objective of Mr HOPPER's report.

7. When defining his categories, Mr HOPPER ought to have said that table wine may not exceed a <u>total</u> alcoholic strength by volume of 15% vol.

It would also have been an idea to point out that paragraph 11 of Annex II to Regulation (EEC) No. 337/79 states that in the case of wines from certain wine-growing areas to be determined which have been produced without any enrichment and do not contain more than 5g of residual sugar, the upper limit for the total alcoholic strength by volume may be raised to 17% vol. This provision concerns traditional agricultural products, and the wines in question should be included in Group B proposed by the Committee on Economic and Monetary Affairs.

8 Mr HOPPER's report does not differentiate between aperitifs between 15% and 20% vol. and spirituous beverages obtained by distillation. A new group must therefore be created since, as now worded, Mr HOPPER's report would create an extreme situation where the same tax was paid on a litre of wine above 15% vol. and a litre of pure alcohol of 92% volume.

9. Mr HOPPER's report should have proposed a definition of fortified wines since wine can be fortified by either saccharose or grape

10. Another aspect of the problem also deserves consideration. Some countries demand payment of excise duties before goods traded between the Member States are cleared through customs, which is tantamount to a charge having an effect equivalent to customs duty. This practice is however at variance with Article 13(2) of the EEC Treaty.

11. The Committee on Agriculture wishes to draw attention to the recent United Kingdom decision to reduce its excise duty on wine and increase it for beer. This is a positive step to comply with judgments of the Court of Justice, but it is still too early to take a definitive position on it.

The Committee on Agriculture wishes to be informed as soon as possible on the changes to these two taxes expressed as

1. a percentage of the tax itself
2. a percentage of the price to the consumer.

This will enable it to gain an impression of the likely effect on trade of this decision.

12. The report by Mr HOPPER (Doc. 1-1121/83) having been referred back to committee at the plenary sitting of 16 February 1984, the Committee on Agriculture would now like to ask the Committee on Economic and Monetary Affairs to review the report in its entirety in the light of the following observations.

CONCLUSIONS

10. The Committee on Agriculture

1. Considers that the harmonization of taxes on wine, beer and alcohol (including spirituous beverages) is essential and should take into account:

   (a) the economic and social aspects of the method of production of these products, having partucular regard to their importance for the less-favoured regions of the Community,

   (b) the fact that table wine and beer may be regarded as alternatives,

   (c) the special problems posed by intermediary products (liqueur wines, natural sweet wines (q.l.w.p.s.r.) and aromatized wines); it is important to maintain their specific character as wine, by not subjecting them to the same level of taxation as spirituous beverages.

   (d) the specific problem of aperitifs between 15% and 20% vol., which should not pay the same tax as spirituous beverages obtained by distillation;

2. Calls on the Commission to end the practice of demanding payment of excise duties before goods imported from one Member State to another are cleared through customs. This creates a charge having an effect equivalent to customs duty and is prohibited under the EEC Treaty;

3. Calls on the Commission to amend its proposal for the harmonization of taxes for these products so as to take into account the preceding observations, and prevent Member States from maintaining a measure of discrimination under the pretext of flexibility. Even if discriminiation is exercised at a lower level, it would still be at variance with the EEC Treaty;

4. Calls on the Commission where necessary to provide a transitional period of a maximum of two years to allow Member States to adapt to the new tax structure.