

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(90) 431 final

Brussels, 7 November 1990

Proposal for a

COUNCIL DIRECTIVE

on the general arrangements for products subject to excise duty
and on the holding and movement of such products

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. INTRODUCTION

1. The Single European Act envisages the creation, by the end of 1992, of a space without internal frontiers in which the free circulation of goods, persons, services and capital is assured. This vision of a single Community market rests on the elimination of technical, physical and fiscal obstacles which were identified in Commission's 1985 White Paper on the completion of the single market(1) as factors which divided the markets and economies of the Member States.
2. This proposal for a Directive on the general arrangements for products subject to excise duty and on the holding and movement of such products, limited to the harmonization which is necessary and leaving the Member States the responsibility to establish the methods of application and control, is part of the drive to achieve the complete and final abolition of tax frontiers thereby ensuring the establishment and functioning of the internal market within the period laid down in Article 8A of the Treaty establishing the European Economic Community.
3. With the intention of creating the conditions necessary for the abolition of tax frontiers, it is required that the excise duty rates and structures be aligned more closely and to define the arrangements for the holding and movement of products subject to excise duties.

(1) Document COM(85) 310 of 14 June 1985.

4. In order to achieve this, the Commission in 1987 drew up proposals for Directives on the harmonization of excise duty rates on cigarettes, manufactured tobacco other than cigarettes, alcoholic beverages and mineral oils(2).

In 1989, the Commission amended its 1987 proposals, by introducing an element of flexibility in the form of minimum rates or rate bands (for certain categories of mineral oils) and target rates(3).

5. As regards the establishment of harmonized structures of excise duty, three proposals for Directives have been presented to the Council concerning the structure of excise duties applied to manufactured tobacco, alcoholic beverages and mineral oils(4). These proposals for Directives aim to eliminate the structural differences incompatible with the removal of tax frontiers on 1 January 1993
6. The present proposal for a directive on the general arrangements as well as on the holding and movement of products subject to excise duty forms part of this comprehensive strategy for the approximation of rates and the harmonization of the structure of indirect taxes.

(2) Documents COM(87)325, 326, 327 and 328 on the approximation of taxes on manufactured tobacco, alcoholic beverages and mineral oils.

(3) Documents COM(89) 525, 526 and 527 on the approximation of the rates of excise duty on manufactured tobacco, alcoholic beverages and mineral oils.

(4) Documents COM(90)...

II. BACKGROUND

7. In its communications of 14 June 1989(5) and of 3 November 1989(6) the Commission announced that a proposal would be drafted on the movement of dutiable products, with the aim of ensuring compliance with the principle that excise duties are payable in the Member State where consumption actually takes place.

In essence, the communications provided that:

- for individuals, free movement would be ensured by doing away with travellers' allowances altogether within the Community-wide market;
 - for commercial operations, the movement of goods would take place via interconnected warehouses under duty-suspension arrangements to the place of consumption.
8. In its conclusions, the Economic and Financial Affairs Council of 13 November 1989 proposed as a general principle of the arrangements for the movement and circulation of goods subject to excise duty "that products of the sort of goods subject to excise duty would circulate under duty-suspension between warehousekeepers authorized by the authorities of the Member States. Appropriate provisions would allow purchasers who did not have the status of warehousekeepers to make their purchases from sellers of other Member States, with payment of excise duty in the State of consumption".

(5) Document COM(89) 260.

(6) Document COM(89) 551.

III. COMMISSION PROPOSAL

9. The present proposal for a Directive is based on the approach set out in the Commission communication quoted above and the conclusions of the Economic and Financial Affairs Council of 13 November 1989.

It lays down the general provisions concerning the geographic boundaries, the type of products subject to excise duties at the Community level, the chargeable event and the chargeability of the tax as well as the principle of the fiscal territory, and the particular provisions concerning the arrangements for the holding and movement of products subject to excise duty (ARRANGEMENTS FOR INTERCONNECTED WAREHOUSES) GENERAL PROVISIONS

10. The present proposal for a directive establishes the geographic extent for the holding and movement of excisable products in order to ensure a uniform application of the provisions of the said proposal as well as of the provisions present in the proposals relating to the rate and excise structures.

11. The products covered by the proposal are:

- manufactured tobacco;
- alcoholic beverages;
- mineral oils.

The above-mentioned products are not subject to any other taxation other than excise duty and value added tax.

It is also necessary to lay down the extent to which other excise duties, and other indirect taxes in general directly or indirectly affecting the consumption of products, can still be charged by the Member States. Such charges could be made, notably for environmental reasons,

on condition that they are applied to a specific product or a group of products and that they do not give rise, in trade between the Member States, either to taxation on entry into the national territory and remission of tax on leaving the national territory, or to controls at Community frontiers.

This principle has already been established in Article 2 of Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco.

12. In the field of excise duties applicable to the products mentioned in point 11, the chargeable event takes place at the stage of manufacture in the Community and on importation into the Community from third countries. Excise duty becomes chargeable when the products in question are released for consumption.

This proposal provides that the chargeable event becomes a "Community" chargeable event. As for the chargeability, it takes place at the time products are made available to any natural or legal person upon leaving any duty or tax suspension arrangements.

13. The general principle underlying the intra-Community movement of dutiable products is that excise duties are payable in the country in which the products are actually consumed. (maintaining the principle of fiscal territoriality).

This principle also holds when products subject to excise duty are sold or applied for the purposes of a business, a body governed by public law or activities in the public interest.

Mail order sales within the meaning of Article 28 of the Sixth VAT Directive(7) as amended by the Directive supplementing the common system of value added tax(8) of products subject to excise duty also follow this principle.

ARRANGEMENTS FOR INTERCONNECTED WAREHOUSES (PROVISIONS RELATING TO THE ARRANGEMENTS FOR MOVEMENT AND CONTROL)

14. The movement of products subject to excise duty under duty-suspension arrangements takes place via interconnected tax warehouses. The opening of such warehouses is subject to authorization by the competent tax authorities.

The holder of this authorization is referred to as "authorized warehousekeeper" in the Directive.

The movement of products subject to excise duty under duty-suspension arrangements is carried out on the basis of an accompanying administrative document or of a commercial document of the consignee.

Upon receipt of the goods by the consignee he shall return to the sender a copy of the accompanying administrative document or a copy of the commercial document certifying that the goods have indeed been received.

15. The present proposal for a directive leaves for each Member State the possibility to impose on its own territory the use of identification marks or tax identification markings. It clearly follows that the Member States who levy excise duties by means other than by tax identification markings must ensure that no

(7) Council Directive 77/388/EEC.

(8) Proposal for Directive Document COM(90) 182.

barrier, neither administrative nor technical, affects the intra-Community traffic of the products subject to the excise duty.

In order to avoid offences being committed in any Member State resulting from the controls exercised on products carrying the tax identification markings or the identifying marks of another Member State, the movement of such products in the Member State which does not correspond to the tax or identification markings is considered to be carried out under suspension arrangements, which is to say, on the strength of the Accompanying Administrative Document or Commercial Document.

16. In order to ensure the payment of duties to the State of actual consumption and to avoid double taxation resulting from the release for actual consumption in one Member State of products subject to excise duties in another Member State, two separate refund systems have been provided for in the present proposed directive.

It follows, obviously, that the two distinct procedures of reimbursement, the purpose of which is, to avoid double taxation resulting from products being released for consumption twice, in two different Member States, enable warehousekeepers other than those holding the authorization mentioned not to be excluded from intra-Community trade in products subject to excise duties so that this trade should not be monopolised by only a few specialised operators.

IV. CONCLUSION

17. The present proposal for a Directive on the general arrangements as well as the holding and movement of products subject to excise duties, together with its proposals on the approximation of rates of excise duty and the harmonization of the structure of excise duties, without forgetting the value added tax proposals which have already been sent to the Council serves two major objectives. First, they permit the complete and definitive abolition of tax frontiers by reducing potential evasion and distortion of competition. Moreover, they take account, as far as possible, of the Member States' legitimate wish not to have their economic and tax systems unnecessarily disrupted.

COMMENTARY ON THE ARTICLES

- Article 1 is very general in scope. It reproduces the wording of the 1972 proposal for a Directive.
- Article 2 relates to the geographical boundaries within which the Directive applies. This article is essential to ensure a uniform application in the Member States, not alone of the provisions put in place by this directive, but also of the provisions relating to rates set out in particular in the directives dealing with each excise product.
- Article 3 lists the goods subject to excise duty at Community level, excludes the possibility of applying other levies to them, and sets the rules for other taxes which may be levied on specific products.

Each Member State retains the right to maintain or introduce other taxes on specific products, but on the express condition that this does not impede the free movement of goods and does not result in the maintenance of tax frontiers.

- Article 4 presents a new Community concept of the chargeable event and of chargeability. It is essential for the chargeable event to be a Community event in order to prevent its existence from being linked to the crossing of an intra-Community frontier. It is also essential for chargeability to be linked to release for consumption, not to the crossing of an intra-Community frontier, which is incompatible with a Market without frontiers.

Within the meaning of the present directive, the release for consumption of a product subject to excise duties is its free availability to a person on the territory of a Member State and after payment of the duties and taxes in this Member State.

- Article 5 states that any sale or acquisition of products subject to excise duty for the purposes of a business, a body governed by public law, or activities in the public interest, and any mail order sale within the meaning of Article 28 of the VAT Directive gives rise to payment of the excise duty in the country in which these products are actually consumed.
- Subject to some essential provisions to ensure the proper functioning of the internal market, Articles 6 to 10 leave it to the Member States to regulate production and holding provided that they observe certain minimal rules in order to prevent excessive differences of treatment between one another.
- Title III lays down the minimum rules needed to allow uniform intra-Community movement without barriers and without discrimination between warehousekeepers.
- Article 11 makes it easier for Member States to carry out controls by enabling warehousekeepers to be identified as a result of their obtaining authorization, but also guarantees to each warehousekeeper that his authorization is valid nationally and throughout the territory of the Community.
- It also provides the possibility of a non-authorized warehousekeeper to have access to the arrangements, subject to certain conditions.
- Article 12 relates to the document which has to accompany the goods. There is a choice between an administrative document and a commercial document.

The use of a commercial document containing certain compulsory information is the simplest and least burdensome solution. However, the fact that the language of the document may not be understood and that it might contain commercial information which could be confidential must not exclude the possibility of using a document ad hoc...

It was therefore considered essential to draw up a Community administrative document which would have to be used for Community movement, but which could also be used, by the Member States which so wished, for national movement. But it must be as simple as possible and only include essential information for the purposes of excise duties.

The document would be preauthenticated, so that there would be no need to call at an office. The authorized warehousekeeper will not therefore be subjected to administrative complications.

The simplicity of this document, combined with its direct use by the warehousekeeper, does not justify the use of a simplified procedure.

Paragraph 2 of the Article enables this document not to be used if the goods are circulating on the strength of other existing procedures. Paragraph 3 allows Member States to monitor raw materials (for example raw tobacco leaves or crude oil), which is not essential on a Community level.

- Article 13 clearly indicates that the document is drawn up on the responsibility of the authorized warehousekeeper and circulates between warehousekeepers.
- The provisions of Article 14 are identical to similar provisions relating to Community transit.
- Article 15 is an option, not an obligation, which the Member States may choose. It seemed that identifying marks could be useful but that they were not the ideal or only solution, in that they do not resolve all the possible difficulties of applying free movement.

Paragraph 4 is necessary in order to avoid any increase in evasion.

It did not seem appropriate to lay down a time-limit for payment even if, in financial terms, this can lead to distortions of competition. The main point is to prevent time limits for payment from offering an advantage to national traders.

- Article 16 provides two separate refund arrangements in order to avoid double taxation resulting from products being released for consumption twice in two different Member States.

The first offers the possibility to any sender, to enter or put goods back into duty-suspension arrangements and allows in this way a reimbursement in the first Member State before payment in the second Member State.

When the first arrangements are not applicable, a second provides a retrospective reimbursement after payment in the other Member State. This procedure, financially constraining, nevertheless allows the release from or return into suspension arrangements to be avoided.

- Article 17 stipulates that the conditions for reimbursement of excise duties are fixed in essence by the Member States with the exception of the period of reimbursement which must be more or less the same to avoid any discrimination.
- Article 18 refers to the exemptions arising from international agreements entered into by the Member States. This provision exists in other texts and is clearly necessary here.
- Title VI, concerns the Committee on Excise Duties. This Committee is to be competent, not only for questions which might arise in implementing this Directive, but also for questions deriving from the implementation of the "vertical" Directives on the rates and structures for manufactured tobacco, alcoholic beverages and mineral oils.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the establishment and functioning of the internal market require the free movement of goods, including those subject to excise duties;

Whereas provision should be made to define the territory on which this Directive, as well as the directives on the rates and structures of duty on products subject to excise duties, are to be applied;

Whereas the concept of products subject to excise duty should be defined; whereas only goods which are treated as such in all the Member States may be the subject of Community provisions; whereas the maintenance or introduction of excise duties on other goods in one or more Member States must not, either by taxation upon entry into or de-taxation on exit from the national territory, or by frontier controls, form an obstacle to the principle of free movement;

Whereas, in order to ensure the establishment and functioning of the internal market, the chargeable event for the tax debt, and chargeability, should be identical in all the Member States;

Whereas, since chargeability falls within the competence of each Member State, no sale or acquisition for the purposes of a taxable person, as defined in Article 4 of Council Directive 77/388/EEC¹, as last amended by Directive 89/465/EEC², taking place in a Member State other than the one of release for consumption gives rise to chargeability to excise duty in the Member State of sale or acquisition; whereas provision should however be made to modify this provision in due course;

Whereas in order to ensure that the tax debt is eventually collected it should be possible for checks to be carried out in production and storage facilities as soon as the chargeable event occurs; whereas a system of warehouses, subject to authorization by the competent authorities, should make it possible to carry out such checks;

Whereas movement from the territory of one Member State to that of another may not give rise to checks liable to impede free movement within the Community; whereas for the purposes of chargeability it is nevertheless necessary to know of the movements of products subject to excise duty; whereas an interconnection of authorized warehouses makes it possible to follow these movements;

Whereas provision should be made, to ensure the collection of taxes at the rates and on taxable goods defined by Member States, for the establishment of a procedure for the movement of such goods under duty suspension;

Whereas in that respect provision should first be made for each consignment to be easily identified, with the possibility of occasional checks being carried out in the course of transportation; whereas provision should be made for the tax status of the consignment to be immediately identifiable; whereas it is

¹ OJ No L 145, 13.6.1977, p. 1.

² OJ No L 226, 3.8.1989, p. 21.

therefore necessary to provide for an accompanying document capable of meeting these needs, which may be either an administrative or commercial document; whereas the commercial document used must contain the essential elements which appear on the administrative document;

Whereas there is no need for the accompanying document to be used when the products subject to excise duties are moved under other general suspension arrangements;

Whereas in the context of national chargeability, excise duty should, in the event of an offence or irregularity, be recovered by the Member State on whose territory the offence or irregularity has been committed, or by the Member State where the offence or irregularity was ascertained, or by the Member State of departure in the event of non-presentation in the Member State of destination;

Whereas the Member States may provide that products released for consumption should carry national identification marks and whereas the use of these marks should not place any obstacle in the way of intra-Community trade;

Whereas the payment of the excise duties in the Member State where the last commercial transaction took place must give rise to the reimbursement of the excise duties in the Member State of first release for consumption in order to avoid double taxation;

Whereas provision should be made for exemptions resulting from agreements concluded by the Member States with other States or with international organizations;

Whereas finally provision should be made to set up a Committee on Excise Duties to take part in the preparation of Community rules necessary for the implementation of this Directive, and of Directives on the structures of duty on manufactured tobacco, alcoholic beverages and mineral oils,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

1. This Directive lays down the arrangements for excise duties and other indirect taxes which are levied directly or indirectly on the consumption of products, except for value added tax and taxes established by the institutions of the European Communities.
2. The particular provisions relating to the rates and structures of duty on products subject to excise duty are contained in Directives... (1) .

Article 2

This Directive, as well as the Directives referred to in Article 1(2), shall apply within the customs territory of the Community as defined in Council Regulation (EEC) No 2151/84.

(1) OJ No C 12, 18.1.1990, p. 4; (COM(89)525 final);
OJ No C 16, 23.1.1990, p. 10; (COM(89)526 final);
OJ No C 12, 18.1.1990, p. 12; (COM(89)527 final);
OJ No C , , p. ; (COM(90));
OJ No C , , p. ; (COM(90));
OJ No C , , p. ; (COM(90));
(2) OJ N L197, 27.07.1984, p. 1.

Article 3

1. For the purposes of this Directive, products subject to excise duty means the following products as defined in the Directives relating to them:
 - mineral oils
 - alcoholic beverages
 - manufactured tobacco.
2. The products mentioned in paragraph 1 shall not be subject to any tax other than excise duty and value added tax.
3. Member States shall retain the right to introduce or maintain taxes which are levied on products other than those mentioned in paragraph 1, provided that they do not involve, in trade between Member States, either the charging of tax when the products enter the national territory and remission of tax when they leave the national territory, or border controls.

Article 4

1. The chargeable event for the excise duty levied on the products subject to excise duty shall be production on the territory of the Community or importation onto the territory of the Community from third countries.
2. Excise duty shall become chargeable when the products are released for consumption. Release for consumption shall mean the making available, to a natural or legal person, on the territory of a Member State, of any products subject to excise duty, when the product leaves any arrangement under which payment of duties and taxes is suspended.
3. The rate of excise duty to be applied shall be the rate in force on the date on which the duty becomes chargeable. The excise duty shall be levied and recovered according to the rules laid down by each Member State, with the time-limit for

payment to apply without distinction between national products and those of other Member States.

Article 5

1. In addition to the general provisions of Article 4, excise duty shall become chargeable on the territories specified below in the following circumstances:
 - (a) the sale of products subject to excise duty in a Member State other than that in which the products are released for consumption, after their release for consumption, shall give rise to chargeability to excise duty in the Member State where the sale takes place;
 - (b) the acquisition of products subject to excise duty for the purposes of a taxable person as defined in Article 4 of Directive 77/388/EEC and for the purposes of bodies governed by public law as defined in the same Article 4(5) first subparagraph, in a Member State other than that in which the product is released for consumption, shall give rise to chargeability to excise duty in the Member State where the acquisition takes place;
 - (c) without prejudice to the provisions of paragraph (a), supplies made within the context of mail-order selling, as defined in Article 28 of Directive(1), shall give rise to chargeability of the excise duty in the Member State where the goods are situated at the time of arrival of the consignment or transport at the destination of the person by whom the goods are acquired.
2. Before 1 January 1997, the Council, on the basis of a report by the Commission, shall re-examine the provisions of paragraph 1, and, if necessary and acting on a proposal from the Commission, after consultation with the European

(1) OJ No Ĉ 176, 17.07.1990, p. 8; COM(90) 1827.

Parliament, shall adopt amendments to these provisions.

TITLE II

PRODUCTION AND HOLDING

Article 6

1. Each Member State shall determine its rules concerning the production and holding of products subject to duty, subject to the provisions of this Directive.
2. The production and holding of products subject to excise duty, where the latter has not been paid, shall be subject to checks carried out under the system of tax warehouses, hereinafter called "warehouses".

Article 7

The opening of warehouses shall be subject to authorization by the competent authorities of the Member States.

The holders of such authorization shall be known as authorized warehousekeepers.

Article 8

An authorized warehousekeeper shall:

- (a) provide a guarantee;
- (b) comply with all the requirements laid down with regard to warehouses;
- (c) produce the goods whenever so required;
- (d) consent to all checks and controls;
- (e) keep stock records.

Article 9

The warehousing procedure shall be discharged when products are released for consumption, released on the market under cover of a transit procedure, a TIR transit procedure, a Rhine Manifest or form 302 provided for by the convention between the States which are parties to the North Atlantic Treaty, placed in a free zone, exported or re-exported outside the territory of the Community, abandoned to the Exchequer where this possibility exists, or destroyed under supervision.

Article 10

1. An authorized warehousekeeper shall enjoy exemption in respect of losses occurring during the storage period and attributable to fortuitous events, force majeure or causes inherent in the nature of the products.
2. In cases of irregular removal, duties and taxes shall be collected on the basis of the rates applicable at the time of removal. If the date of removal cannot be ascertained, the rate that shall apply shall be the highest rate applicable since the date of deposit in the warehouse or since the last checking of the products, up to the date of ascertaining the shortage.

TITLE III

MOVEMENT OF GOODS

Article 11

1. Movement under the duty-suspension arrangements of products subject to excise duty shall take place between authorized warehousekeepers. The products shall then be deemed to be remaining under the warehousing system.
2. The identification of products subject to excise duty moving under the duty-suspension arrangements shall be ensured by sealing,

by capacity where the means of transport is capable of being recognized as suitable for sealing, or by individual package in other cases.

3. Warehousekeepers authorized by the competent authorities of a Member State, in accordance with the provisions of Article 7, shall be deemed to be authorized for national and intra-Community movement operations.
4. The risks inherent in national and Community movement shall be covered by the guarantee provided by the authorized warehousekeeper of dispatch, as provided for in Article 8.

This guarantee shall be valid throughout the Community.

5. By way of derogation from the provisions of the first sentence of paragraph 1, it shall be possible for the consignee not to be an authorized warehousekeeper. In such cases payment of the excise duty shall be made as soon as the products arrive at the consignee, under the conditions laid down by the competent authorities.

Article 12

1. Notwithstanding the possible use of computerized procedures, all products subject to excise duty moving under the duty-suspension arrangements between the territories of different Member States shall be accompanied by a document drawn up by the authorized warehousekeeper of dispatch, being either an administrative document such as that set out in Annex I, or a commercial document containing the particulars listed in Annex 2.
2. Paragraph 1 shall not apply where products subject to excise duty move under the circumstances provided for in Article 9.

3. Without prejudice to the provisions of Article 3(3), Member States shall be able to maintain the rules on the movement of raw materials used in the manufacture or preparation of products subject to excise duty.

Article 13

1. A copy of the accompanying administrative document or a copy of the commercial document shall be returned without delay for discharge, and not later than in the month which follows receipt, by the consignee to the consignor.
2. If there is no discharge, the consignor shall inform the competent authorities thereof.

Article 14

1. Where an offence or irregularity has been committed in the course of movement, the recovery of the excise duty shall be effected in the Member State where the offence or irregularity was committed.
2. When in the course of movement, an offence or irregularity has been committed without its being possible to determine where it has been committed, it shall be deemed to have been committed in the Member State where it was detected.
3. Where products are not presented in the warehouse of the authorized warehousekeeper who is the consignee, or in the places designated in Article 11(5) and in Article 16(1), the offence or irregularity is deemed to have been committed in the Member State of departure, unless, within a period to be determined, evidence is produced, to the satisfaction of the competent authorities, of the correctness of the operation, or of the place where the offence or irregularity was actually committed.
4. If, before the expiry of a period of three years from the date on which the accompanying document was drawn up, the Member State where the offence or irregularity was actually

committed is ascertained, this Member State shall recover the excise duty.

In this case, as soon as evidence of recovery has been furnished, the excise duty originally collected shall be refunded.

Article 15

1. Member States may provide that products released for consumption or sold on their territory shall carry national identification marks or tax identification markings.
2. Any Member State using national identification marks or tax identification markings shall be required to make them available to manufacturers and traders of the other Member States.
3. Member States which collect excise duty by means other than tax identification markings shall ensure that no barrier, either administrative or technical, affects intra-Community trade.
4. Products carrying a national identification mark or tax identification markings of a Member State may be released for consumption only in that Member State.
5. The circulation of products carrying a national identification mark or tax identification markings of a Member State and intended for sale in that Member State, within the territory of another Member State, shall be covered by the arrangements laid down in Articles 9 and 12(1).

TITLE IV

REIMBURSEMENT

Article 16

1. The products subject to excise duty released for consumption, may, at the request of any consignor, and by derogation from Article 11(1), be the subject of a release from or of a return into the duty-suspension arrangements and of a reimbursement of excise duties in the Member State of release for consumption, when the products are actually destined to be released for consumption in another Member State, or in the circumstances laid down in Article 18.
2. In the case of duly-established exceptional circumstances preventing the application of the provisions of paragraph 1, the Member State in which the release for consumption took place shall reimburse the amount wrongfully paid, on request, showing the payment of the excise duties in the Member State in which the actual release for consumption took place.

Article 17

Without prejudice to the provisions of Titles II, III, and IV the Member States shall determine the conditions, including the guarantee, which shall be valid throughout the Community, under which the release from or returning into the duty-suspension arrangements, the ensuing reimbursement, as well as reimbursement a posteriori are applied. However, the reimbursement must be made within a period of one month from the day of the release from or return into the duty-suspension arrangements as provided for in Article 16(1), or from the day that the request for reimbursement is lodged as provided for by Article 16(2).

TITLE V

EXEMPTIONS

Article 18

The products subject to excise duty shall be exempted from payment of excise duty where they are intended for diplomatic or consular representations, international organizations recognized as such by the authorities of the host country, and members of such representations and organizations within the limits laid down by the conventions establishing them or, in the Member States which are parties to the North Atlantic Treaty, for the armed forces of other States which are parties to that Treaty for the use of such forces or the civilian staff accompanying them or for supplying their messes or canteens where such forces take part in the common defence effort.

TITLE VI

COMMITTEE ON EXCISE DUTIES

Article 19

1. A Committee on Excise Duties, hereinafter called the "Committee", is hereby set up, composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The Committee shall adopt its own rules of procedure.

Article 20

1. The Committee may examine any question relating to the application of this Directive, and of Directives(1) on manufactured tobacco, alcoholic beverages and mineral oils, submitted to it by its chairman either on his own initiative or at the request of the representative of a Member State.
2. After consulting the Committee, the Commission shall adopt the provisions necessary for the implementation of Titles II, III and IV of this Directive, and of Directives ...(2) on manufactured tobacco, alcoholic beverages and mineral oils.
3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 21

Member States shall bring into force, not later than 31 December 1992, the laws, regulations and administrative provisions necessary to comply with this Directive.

(1) /OJ No C 12 of 18.01.90 p. 4; (COM(89)525 final)
OJ No C 16 of 23.01.90 p. 10; (COM(89)526 final)
OJ No C 12 of 18.01.90 p. 12; (COM(89)527 final)
OJ No C of p. ; (COM(90))
OJ No C of p. ; (COM(90))
OJ No C of p. ; (COM(90))
(2) /OJ No C of p. ; (COM(90))
OJ No C of p. ; (COM(90))
OJ No C of p. ; (COM(90))

When the Member States adopt such provisions they shall contain a reference to this Directive or shall be accompanied by such a reference on official publication. The Member States shall lay down the manner in which such reference shall be made.

Article 22

This Directive is addressed to the Member States.

Done at

For the Council

ANNEX I

EXPLANATORY NOTE ON THE
ACCOMPANYING ADMINISTRATIVE DOCUMENT

I. GENERAL REMARKS

- (a) The document shall be completed legibly and in a manner that makes the entries indelible. It must not contain erasures or overwriting. Alterations must be made by crossing out the incorrect particulars and, where appropriate, adding those required. Any such alteration must be initialled by the person making it and officially endorsed.
- (b) In boxes 9 and 14, any unused space reserved for the description of the goods must be crossed through so that it can no longer be used.
- (c) The document may be used only for a single type of goods subject to excise duty.

II. HEADINGS

-1- Consignor

Indicate the surname and forename, or name of firm, and the address of the sender.

- if the consignor is an authorized warehousekeeper indicate his authorisation number as well as the identification number of the warehouse.
- if the consignor is not an authorised warehousekeeper give only the information required in the first paragraph.

-2- Reference number

Serial number of the consignment, established by the consignor.

-3- Date

Date of dispatch.

-4- Consignee

Give the information set out in paragraph 1 in respect of the consignee.

-5- Person financially responsible

Normally this is the consignor. In the case of a subsidiary or a branch, it is necessary to indicate the person with real financial responsibility (for example the parent company).

-6- Country of dispatch

Show the country of the consignor.

-7- Country of destination

Show the country of the consignee.

-8- Identification of the means of transport

Indicate the nature, nationality and registration number of the means of transport used. In the event of intermediate reloading, indicate the different means of transport.

-9- and -14- Description of the goods - Number of containers -
Number and nature

Indicate clearly the nature of the goods (wine, whisky, cigarettes, gas oil, etc.), the identification numbers of the containers, their number, their nature (bulk, bottles, cardboard boxes, etc.). In addition,

- for alcoholic beverages, indicate the number of litres and fractions of litres, the actual alcoholic strength (percentage by volume) at the temperature of 20°C;
- for mineral oils: indicate the number of litres or, where appropriate, the net weight in kilograms and the temperature expressed in degrees centigrade;
- for manufactured tobacco,
 - . for cigars, cigarillos and cigarettes, the number of items;
 - . for smoking tobacco, chewing tobacco and snuff, the net weight in kilograms.

-10- and -15- CN Code

Indicate the code from the Combined Nomenclature for the goods.

-11- and -16- Gross weight

Indicate the gross weight.

-12- and -17- Net weight

Indicate the net weight.

-13- and -18- Value

Indicate the value solely for manufactured tobacco.

-19- Itinerary and travelling time for the journey

These must be indicated.

-20- Place and date of completion - authentication

The Accompanying Administrative Document is completed by the consignor according to the rules set out by each Member State.

-21- Controls

Indicate the result of the possible controls applied at the time, of loading, in transit, or at the destination warehouse. If seals have been fixed indicate the number and type and their serial numbers.

-0- Copy for ...

In figures, the sequential number of the copy in the set with the indication of who each copy is sent to.

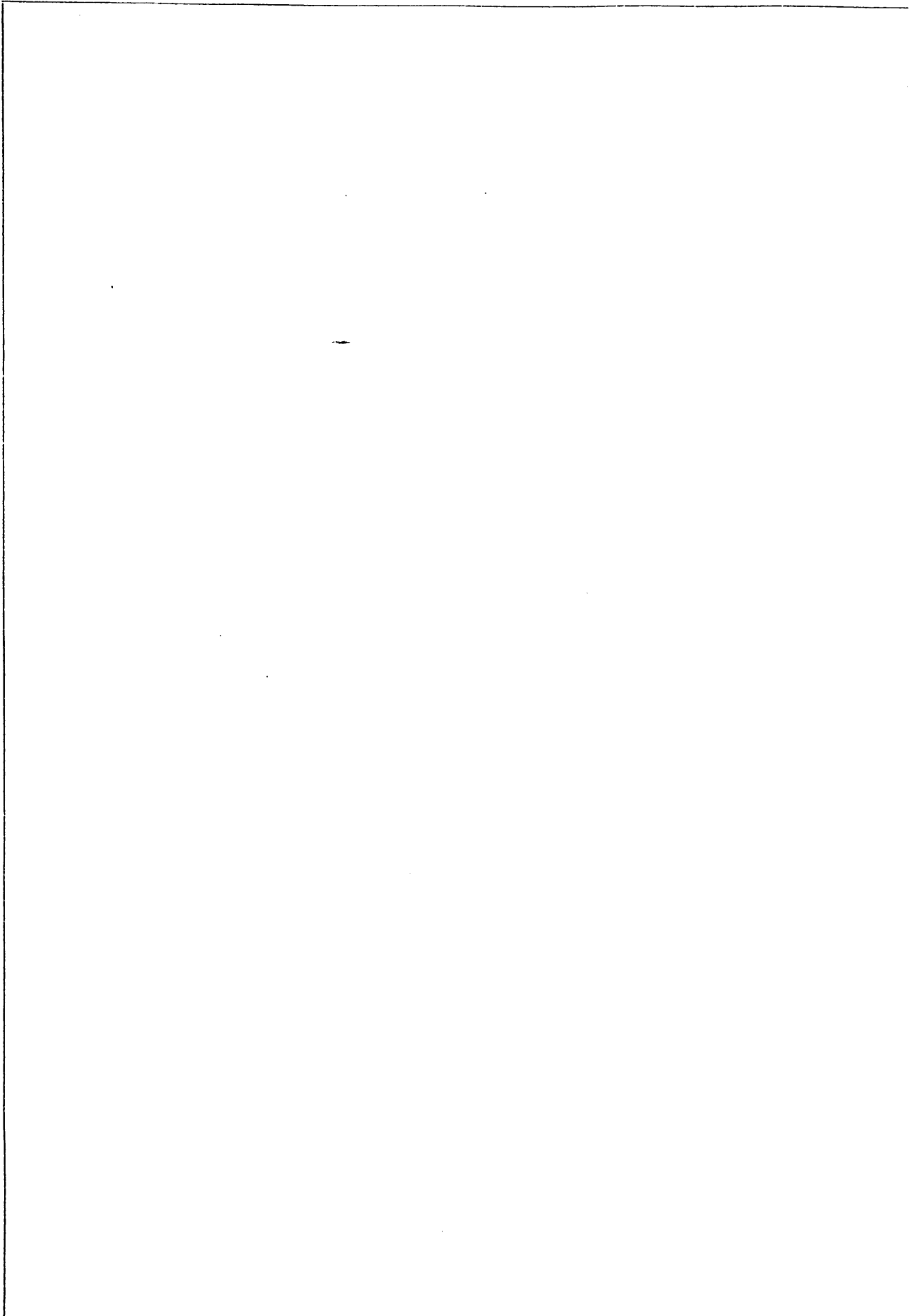
III. COMPLETION OF THE DOCUMENT

The Accompanying Document is made up of five copies, that is:

- (1) Copy for the consignor;
- (2) Copy for the competent authority in the country of departure;
- (3) Copy for the consignee;
- (4) Copy for the competent authority in the country of destination.
- (5) Copy for cross reference returned by the consignee for discharge of the consignor's liability.

1. AUTHORIZED WAREHOUSE KEEPER CONSIGNOR	2. REFERENCE N°	3. DATE	
4. AUTHORIZED WAREHOUSE KEEPER CONSIGNEE	5. PERSON WITH FINANCIAL RESPONSIBILITY		
	6. COUNTRY OF DESPATCH	7. COUNTRY OF DESTINATION	
8. IDENTIFICATION OF TRANSPORT			
9. DESCRIPTION OF GOODS - NUMBER OF CONTAINERS QUANTITY AND PACKAGES - MARKS AND NUMBERS	10. CN CODE	11. GROSS WEIGHT	12. NET WEIGHT
	13. VALUE		
14. DESCRIPTION OF GOODS - NUMBER OF CONTAINERS QUANTITY AND PACKAGES - MARKS AND NUMBERS	15. CN CODE	16. GROSS WEIGHT	17. NET WEIGHT
	18. VALUE		
19. ITINERARY AND TIME FOR JOURNEY	20. PLACE AND DATE SIGNATURE		

21. CONTROLS



ANNEX II

**EXPLANATORY NOTE ON THE
COMMERCIAL DOCUMENT**

I. GENERAL REMARKS

- (a) The document shall be completed legibly and in a manner that makes the entries indelible. It must not contain erasures or overwriting. Alterations must be made by crossing out the incorrect particulars and, where appropriate, adding those required. Any such alteration must be initialled by the person making it.
- (b) The Commercial Document may be used only for a single type of goods subject to excise duty.

II. COMPLETION OF THE DOCUMENT

The Commercial Document must be completed in quintuplicate (1 original plus 4 copies).

1. Original for the consignor.
2. Copy for the competent authority in the country of despatch.
3. Copy for the consignee.
4. Copy for the competent authority in the country of destination.
5. Copy for cross reference returned by the consignee for discharge of consignor's liability.

III. ESSENTIAL INFORMATION REQUIRED TO COMPLETE THE COMMERCIAL DOCUMENT IN ORDER TO SATISFY THE MEASURES OF THE DIRECTIVE

a) Consignor

- Indicate the surname and forename, or name of firm, and full address of the consignor.
- If the consignor is an authorised warehousekeeper give his authorisation number as well as the VAT number.
- If the consignor is not an authorised warehousekeeper but a taxable person for VAT give the VAT number.
- If the consignor is neither an authorised warehousekeeper nor registered for VAT give only the information set out in the first paragraph.

b) Date

Give the invoice date (which need not necessarily coincide with the date of despatch) as well as the date of delivery of the goods.

c) Invoice number

This number is given by the sender.

d) Consignee

Give the information set out at para. a) in respect of the consignee.

e) Special information

When products subject to excise duty are despatched under duty suspension arrangements the commercial document must state "Goods sent under excise duty suspension".

f) Identification of means of transport

Show the type, nationality and registration number of the means of transport used. In the event of intermediate reloading, indicate the different means of transport.

g) Description of the goods - Number of containers - Number and nature

Indicate clearly the nature of the goods (wine, whisky, cigarettes, gas oil, etc.), the identification numbers of the containers, their number, their nature (bulk, bottles, cardboard boxes, etc.). In addition,

- for alcoholic beverages, indicate the number of litres and fractions of litres, the actual alcoholic strength (percentage by volume) at the temperature of 20°C;
- for mineral oils: indicate the number of litres or, where appropriate, the net weight in kilograms and the temperature expressed in degrees centigrade;
- for manufactured tobacco,
 - . for cigars, cigarillos and cigarettes, the number of items;
 - . for smoking tobacco, chewing tobacco and snuff, the net weight in kilograms.

h) CN code

Show the code from the Combined Nomenclature for the goods.

i) Value

Show the value of the goods subject to excise.

FICHE D'IMPACT SUR LES PME ET L'EMPLOI

La présente proposition de directive visant au régime général ainsi qu'à la détention et à la circulation des produits soumis à accises est nécessaire dans le cadre de l'abolition des frontières fiscales et s'intègre dans l'ensemble des mesures prises pour l'achèvement du marché intérieur.

I. Obligations administratives découlant de l'application de la présente directive pour les entreprises:

- le document administratif ou le document commercial remplacent les documents existants qui sont établis pour l'essentiel par les opérateurs.

II. Quels sont les avantages pour les entreprises?

- néant.

III. Y-a-t-il des inconvénients pour les entreprises en termes de coûts supplémentaires?

- l'application de la présente directive n'entraînera aucun coût supplémentaire pour les entreprises.

IV. Effets sur l'emploi:

- néant.

V. Les partenaires sociaux n'ont pas été consultés.

VI. Une approche alternative moins contraignante n'est pas envisageable dans le cadre de l'abolition des frontières fiscales.

FICHE FINANCIERE

L'application de la présente proposition de directive n'aura pas d'incidence financière sur les ressources propres de la Communauté.

ISSN 0254-1475

COM(90) 431 final

DOCUMENTS

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Catalogue number : CB-CO-90-560-EN-C

ISBN 92-77-65601-8

PRICE	1 - 30 pages: 3.50 ECU	per additional 10 pages: 1.25 ECU
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Office for Official Publications of the European Communities

L-2985 Luxembourg