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**KOMISSION KERTOMUS NEUVOSTOLLE JA EUROOPAN
PARLAMENTILLE VALMISTEVERON MÄÄRISTÄ, JOTKA ON
VAHVISTETTU SAVUKKEIDEN VEROJEN LÄHENTÄMISESTÄ 19 PÄIVÄNÄ
LOKAKUUTA 1992 ANNETUSSA NEUVOSTON DIREKTIIVISSÄ 92/79/ETY,
MUUN VALMISTETUN TUPAKAN KUIN SAVUKKEIDEN VEROJEN
LÄHENTÄMISESTÄ 19 PÄIVÄNÄ LOKAKUUTA 1992 ANNETUSSA
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ALKOHOLIJUOMIEN VALMISTEVEROJEN MÄÄRIEN LÄHENTÄMISESTÄ
19 PÄIVÄNÄ LOKAKUUTA 1992 ANNETUSSA NEUVOSTON DIREKTIIVISSÄ
92/84/ETY JA KIVENNÄISÖLJYJEN VALMISTEVEROJEN MÄÄRIEN
LÄHENTÄMISESTÄ 19 PÄIVÄNÄ LOKAKUUTA 1992 ANNETUSSA
NEUVOSTON DIREKTIIVISSÄ 92/82/ETY.**

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YHTEENVETO

Luvussa 1 kuvataan yhteisön nykyisen valmisteverojärjestelmän kehitys. Tämä järjestelmä otettiin käyttöön 1 päivänä tammikuuta 1993 ja se koskee tupakkatuotteita, alkoholia ja alkoholijuomia sekä kivennäisöljyjä. Se tarjoaa jäsenvaltioille yhteisiä verotusrakenteita, joihin kuuluu vähimmäismääräjärjestelmä ja yhdenmukaistettuja menettelyjä valmisteveron alaisten tavaroiden hallussapitämistä ja niiden liikkumista varten.

Tarkastusvaatimusta, josta on säädetty muutamissa direktiiveissä valmisteverojen vähimmäismääristä, kuvaillaan **luvussa 2**. Tarkastuksessa on tutkittava valmisteveron määriä sisämarkkinoiden toiminnan, valmisteveron määrien todellisen arvon ja sopimuksen tavoitteiden perusteella. Tässä luvussa huomautetaan, että asiaankuuluvat kysymykset vaihtelevat huomattavasti ja että on tarpeen kehittää pidemmän aikavälin valmisteveropolitiikka. Yleisjohtopäätös on se, että toimia pitäisi lykätä, kunnes asiaankuuluvien kysymysten alaa on tutkittu laajemmin.

Savukkeita käsitellään **luvussa 3**. Siinä todetaan, että savukkeiden valmisteveron rakenne on tutkittava, vaikka nykyinen näkemys on, että mukautuksia ei tässä vaiheessa suositella.

Luvussa 4 käsitellään muita tupakkatuotteita. Siinä huomautetaan, että olisi tarkasteltava enemmän tupakkatuotteiden välisiä suhteita erityisesti siksi, että terveysnäkökohdat puoltaisivat käärittävän tupakan verotuksen korottamista.

Luvussa 5 käsitellään alkoholia ja alkoholijuomia. Tässä yhteydessä todetaan, että viini on vapautettu valmisteverosta. Positiivisen maksun mukauttaminen ilman vastaavaa toimenpidettä viinin osalta saattaisi aiheuttaa kilpailun vääristymistä. Toisaalta positiivisen maksun käyttöönotto viinin osalta voi olla huonosti ajoitettu, kun ottaa huomioon yhteisen maatalouspolitiikan meneillään olevan uudistuksen tällä alalla. Tästä syystä kysymystä alkoholituotteiden valmisteveron minimimääristä lykätään tarkempien tutkimusten ja neuvottelujen ajaksi.

Kivennäisöljyjä käsitellään **luvussa 6**. Tässä yhteydessä pannaan taas merkille, että erityisesti lämmityspolttoaineiden osalta nousee esiin paljon erilaisia, mahdollisesti keskenään ristiriitaisia kysymyksiä, koska joidenkin kilpailevien tuotteiden verottomuus aiheuttaa samanlaisia kilpailuongelmia kuin viinin verottomuus alkoholialalla. Tästä syystä toimet tälläkin alalla lykätään asiasta käytävän keskustelun ja arvioinnin ajaksi.

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SUMMARY

Chapter 1 describes the evolution of the current Community Excise System. This system was introduced on 1 January 1993 and covers tobacco products, alcohol and alcoholic beverages and mineral oils. It provides common structures for taxation by Member States, with a system of minimum rates and harmonised procedures for holding and movement of excisable goods.

The review requirement, which is laid down in a series of directives setting minimum rates of duty, is described in **Chapter 2**. The review must examine the rates of duty in the light of the functioning of the Internal Market, the real value of the duty rates and the wider objectives of the Treaty. It is noted in this chapter that the relevant issues vary considerably, and that there is a need for development of a longer-term excise policy. The overall conclusion is that action should be postponed pending a wider analysis of the range of relevant issues.

Cigarettes are covered in **Chapter 3**. Here it is noted that the structure of cigarette excise duty must be examined, though the current view is that no adjustment is being recommended at this stage.

Chapter 4 deals with other tobacco products. Here, it is noted that further consideration should be given to the relationship between tobacco products, not least because health arguments would support increased taxation of hand-rolling tobacco.

Chapter 5 addresses alcohol and alcoholic beverages. Here it is noted that wine is subject to a zero rate. Adjustment of the positive rate without a corresponding measure for wine could lead to competitive distortions. On the other hand, introduction of a positive rate for wine may be ill-timed, given current reform of the CAP in this sector. Hence, the question of adjustment of minimum rates for alcohol products is deferred, pending further analysis and consultation.

Mineral oils are dealt with in **Chapter 6**. Here again, it is noted that a wide range of potentially conflicting issues arise, particularly in the context of heating fuels, where the absence of a duty on some competing products raises similar competitive problems to that of wine in the alcohol sector. Thus again, action in this area is deferred pending further discussion and assessment.



EXCISE DUTY RATES REVIEW

1. THE COMMUNITY EXCISE SYSTEM

a) Background

- 1.1 Excise duties are long-standing taxes on consumption, generally applied to consumable goods such as tobacco and alcohol products, and mineral oils. They usually are applied as a specific amount of tax for a given quantity of product (though this is not always the case: for example, excise duty on cigarettes now consists of a specific element and an *ad valorem* element - i.e. a percentage of the value). A duty liability exists when the goods are produced or when they are imported into the Community. However, payment of the duty is normally suspended until such time as the goods are released for consumption. In line with this principle, the excise duty has always accrued to the Member State of consumption.
- 1.2 Excise duties provide an important source of revenue for the Member States, representing between 2.3% and 6% of Gross Domestic Product (and between 5% and 16% of total tax receipts) - see Annex A. The rates of duty imposed by Member States have traditionally differed widely, reflecting varying national considerations and policies.
- 1.3 Prior to the Internal Market, excisable goods could be held in an excise warehouse, and moved between warehouses in different Member States under suspension of duty, with frontier checks being used to control such movements. Such a system facilitated the principle of payment of duty in the Member State of consumption. Clearly, under Internal Market conditions, frontier checks would no longer be possible and a new means of controlling movements would be needed.

b) Evolution of the current system

- 1.4 In its 1985 White Paper on Completing the Internal Market,¹ the Commission concluded that fully harmonised excise rates for the main categories of excisable goods, i.e. tobacco products, alcohol products and mineral oils were desirable for the completion of the Internal Market. Consequently, the original legal texts proposed by the Commission in 1987 suggested such a system.²
- 1.5 The subsequent debate on those proposals led to a recognition by Council and the Commission that complete rate harmonisation was not necessary for the creation of the Internal Market. What was required, however, was a system which, on the

¹ COM(85) 310 Final

² - COM(87) 0325 of 4/8/87 modified by COM(87) 0325 final/2 (OJ n° C 251 of 19/9/87, p. 3)
 - COM(87) 0326 of 4/8/87 modified by COM(87) 0326 final/2 (OJ n° C 251 of 19/9/87, p. 4)
 - COM(87) 0327 of 4/8/87 modified by COM(87) 0327 final/2 (OJ n° C 262 of 1/10/87, p. 8)
 - COM(87) 0328 final of 4/8/87 modified by COM(87) 0328 final/2 modified by COM(87) 0328 final/3 (OJ n° C 250 of 18/9/87, p. 4)

one hand, gave Member States flexibility in setting their excise duty rates, but which on the other hand encouraged convergence of rates. In 1989, therefore, the Commission brought forward amended proposals with a view to introducing a greater degree of flexibility for Member States, particularly by replacing fixed rates with a system of minimum rates, rate bands and target rates.³

- 1.6 The outcome of the negotiations on these revised proposals was a system of common minimum rates which, subject to certain agreed derogations, Member States are obliged to respect. In addition, Member States gave a political undertaking to treat the target rates proposed by the Commission as reference rates towards which they would endeavour to adjust their national rates. Details of the minimum rates are shown in Annex B.
- 1.7 In deciding to adopt a system of minimum rates, the Council clearly felt that market forces should be the driving force behind rate approximation. It was also considered desirable that each Member State should be free, in setting rates for ranges of products which may be in competition with each other, to take account of the relative position of those products in that Member State.
- 1.8 Thus, a Community-wide excise duty system was introduced on 1 January 1993, as one element of the creation of the Internal Market. In addition to the minimum rates, the system includes harmonised structures for charging the duty, and common rules for holding and movement of excisable goods. All of the rules are set out in a series of directives adopted during the course of 1992⁴.
- 1.9 The rules on holding and movement ensure that excisable goods can continue to move between Member States under a system of duty suspension. Traders wishing to move goods under this system must be registered in their Member State of establishment, and an administrative document must accompany the movement. In line with the principles of the Internal Market, increased freedom for private individuals to purchase duty-paid goods in the Member State of their

³ - COM(89) 0525-01 Final of 19/12/89 (OJ n° C 12 of 18/1/90, p. 4)

- COM(89) 0525-02 Final of 19/12/89 (OJ n° C 12 of 18/1/90, p. 8)

- COM(89) 0526 Final of 19/12/89 (OJ n° C 16 of 23/1/90, p. 10)

- COM(89) 0527 Final of 7/12/89 (OJ n° C 12 of 18/1/90, p. 12)

⁴ - Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ n° L 76, 23/3/92, p. 1) as amended by Council Directive 92/108/EEC of 14 December 1992 (OJ n° L 390, 31/12/92, p. 124)

- Council Directive 92/78/EEC of 19 October 1992 amending Directives 72/464/EEC and 79/32/EEC on taxes other than turnover taxes which are levied on the consumption of manufactured tobacco (OJ n° L 316, 31/10/92, p. 5)

- Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes (OJ n° L 316, 31/10/92, p. 8)

- Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes (OJ n° L 316, 31/10/92, p. 10)

- Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils (OJ n° L 316, 31/10/92, p. 12)

- Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils (OJ n° L 316, 31/10/92, p. 19)

- Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ n° L 316, 31/10/92, p. 21)

- Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (OJ n° L 316, 31/10/92, p. 29)

choice was also introduced, by way of abolition of the limited travellers' allowances. Various teething problems with the new system have been dealt with in two "simplification" directives adopted by the Council.⁵

⁵ Council Directive 92/108/EEC of 14 December 1992 amending Directive 92/12/EEC (OJ n°L 390, 31/12/92, p 124)
Council Directive 94/74/EEC (OJ n° L 365 of 31/12/94, p.°46)



2. SCOPE OF THE REVIEW

a) **The legislative requirements**

- 2.1 The various directives concerning the approximation of rates each require that, every two years, Council shall examine the rates of duty laid down in those directives and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. In its examination, the Council must act on the basis of a report and, where appropriate, a proposal from the Commission. The report should take into account the proper functioning of the internal market, the real value of the rates of duty and the wider objectives of the Treaty. In addition, the directive on alcohol rates requires that account be taken of competition between the different categories of alcoholic beverages.
- 2.2 Whilst the various issues to be considered in the review appear diverse, nonetheless, there is considerable interaction between them. This becomes evident in the course of the analysis of those issues, where recurring observations arise. The various areas are considered at a general level in the following paragraphs, and more specifically in the sections of the report dealing with the different product groups.

b) **Operation of the Internal Market**

- 2.3 This topic can be examined at two different levels. Firstly, there is the issue of the effect, if any, which the removal of frontier controls and the introduction of the minimum rates have in terms of trade movement between Member States for any given product. This can largely be assessed in terms of the operation of the rules on holding and movement of excisable goods, combined with the effect of the actual duty rates applied in the Member States. The second issue is the impact of these factors in terms of possible shifts in purchasing patterns from one product to another competing product within the same broad product group, both within and between Member States. In this case, wider Treaty objectives can also have a major influence on the relationships between products.

b.1) Individual product level

- 2.4 As regards operation on an individual product level, three types of transaction can arise. These are the commercial movement of duty-suspended goods, commercial transactions of duty-paid goods, and purchases by private individuals.

Commercial movements of goods under suspension arrangements

- 2.5 Directive 92/12/EEC introduced a movement system for intra-Community transactions involving goods subject to excise duty. This system allowed the continuation of a destination-based tax system which is compatible with the abolition of frontier controls. On the whole, it would appear that, as far as legitimate trade is concerned, this system operates relatively well despite the large differences in excise duty rates which still exist between Member States. Since goods move under duty suspension, whereby duty is payable in the Member State

of destination, and at the rates applicable in that Member State, it is unlikely that rate differences lead to any significant distortion of choice or competition on the part of companies involved in trade at this level of the distribution chain.

- 2.6 However, it is more difficult to assess the effect which the continued disparity in rates combined with the disappearance of frontier controls has on fraudulent activity in this area. Evidence available to the Commission from both trade and government sources does not indicate that, as yet, there has been significant increase in such fraud. This is not to say that fraud does not exist within the excise system: however, it is too early to know whether such fraud is on the increase. Excise rate levels, and the consequent perceived levels of revenue at risk, are important factors influencing control policy and, in particular, allocation of resources in Member States. It remains to be seen whether the levels and nature of national control measures and administrative cooperation between Member States will be adequate to prevent widespread fraud, and the Commission will continue to monitor this situation closely.

Commercial activities involving duty-paid goods

- 2.7 Only a very small percentage of intra-Community commercial transactions take place outside the suspension arrangements. However, in some sectors (notably the wine trade) there is a small but nonetheless significant trade in goods dispatched direct to final consumers (known as distance selling). In such cases, duty is chargeable in the country of destination and the general procedures to enable such trade to take place are laid down in Directive 92/12/EEC. However, the detailed implementation of some of these procedures is left to Member States, and it appears that many operators involved in distance selling, especially small- and medium-sized firms, are finding it difficult to accomplish the diverse and complex formalities required by the Member States, particularly where tax representatives are involved. These aspects have already been identified as a cause for concern in a document presented to the Council in 1993⁶.
- 2.8 The non-approximation of duty rates appears to be one of the reasons for the problems which have occurred in respect of distance selling arrangements and other commercial movements of goods outside the suspension arrangements since 1 January 1993. This means that the authorities in higher-taxing countries are unable to rely upon the self-policing mechanism provided for in Directive 92/12/EEC whereby the reimbursement of duty paid in the country of dispatch is conditional upon proof of payment in the country of destination.
- 2.9 There is some evidence that this lack of a self-policing mechanism combined with the complexities of national procedures is tempting otherwise honest traders into trading illegally. This implies that there should be a greater approximation of rates and/or a simplification of procedures if the principle of taxation in the country of destination is to be maintained for distance sales.

⁶ SEC(93) 2044, 14 December 1993

Purchases by private individuals

- 2.10 The Commission engaged a firm of consultants to study changes in cross-border shopping patterns since 1 January 1993.⁷ The consultants reported that cross-border shopping was widespread prior to the introduction of the Internal Market and this continues to be the case. They also reported that tax differences were, and remain, one of the major factors giving rise to such cross-border shopping. (The most significant changes which have occurred since 1 January 1993 are the increases in quantities of beer, wine and hand-rolling tobacco which are being purchased by UK consumers in Belgium and France.)
- 2.11 Clearly, under the border-control system applying prior to 1 January 1993, control was applied more easily to sea-crossing traffic than at land frontiers. Hence, given the wide rate differences, it is not surprising that there was a marked increase in purchases of excisable goods in other Member States by UK residents following removal of frontier controls and the abolition of the restrictions on the quantities of duty-paid products which consumers may buy in other Member States. Whilst most of this increased activity is perfectly legitimate under the new rules, and indeed is a positive consequence of the creation of the Internal Market, it is clear that some of the products being purchased by UK customers are, in fact, being resold, illegally, in the UK. A similar problem appears to be emerging in Ireland.
- 2.12 Member States which experience large-scale tax-induced cross-border shopping appear to recognise that the only way to reduce such tax-induced distortions of competition is by narrowing the differences between their respective duty rates. However, the completion of the Internal Market has given rise to very little actual approximation of duty rates between neighbouring Member States. The major exception is the case of Denmark where significant reductions in the excise duty applied to beer and wine were made prior to 1 January 1993, to bring Danish rates closer to those applied in Germany. The result has been a dramatic reduction in the level of cross-border purchases of these products by Danish consumers.

b.2) Product group level

- 2.13 Turning to the functioning of the Internal Market within product groups, it is more difficult to get a clear assessment of the situation. There are many diverging views as to what constitutes a valid set of competitive relationships between individual products within a product group. The factors which influence consumer choice are widespread, and include fiscal policy. The express requirement to consider competition between the different categories of alcoholic beverages is evidence in itself of the importance of this aspect in the context of the excise rates review, though it is fair to expect that it would have been considered in any event, insofar as it is an important aspect of the functioning of the Internal Market, which must be considered in the review.

⁷ "VAT and Excise Duties: Changes in Cross-Border Purchasing Patterns Following the Abolition of Fiscal Frontiers on 1 January 1993", prepared by Price Waterhouse for the European Commission (DG XXI), September 1994

- 2.14 It would seem reasonable to take the current competitive situation within product groups as an appropriate starting point. Thus, from the Internal Market viewpoint, the focus should be on whether anything has happened, or is likely to happen, which might (arbitrarily) produce distortions in the competitive relationships which have existed during the first two years of operation of the Internal Market. What those actual relationships should be, and the extent, if any, to which they should be influenced by fiscal measures at Community level, is largely a matter for consideration under Wider Treaty objectives.
- 2.15 As regards the existing relationships, one major factor emerges which shows marked differences between product groups. In some cases (tobacco products and motor fuels) all competing products are subject to excise duty, whereas in others (alcoholic beverages and heating fuels) some potentially competing products are either subject to a minimum rate of zero (wine) or are outside the scope of the duty altogether (natural gas, coal). In these circumstances, whilst not making a judgement as to what the competitive relationships within the various groups should be, it is nonetheless apparent that adjustment of positive minimum rates, without corresponding action on products which are not subject to positive rates, could produce competitive distortions.

c) Real value of the rates of duty

- 2.16 One of the other main elements to be considered, as identified in the relevant articles of the directives, is the real value of the rates of duty. This implies that account should be taken of the actual rate changes applied by Member States, and in particular the extent to which inflation is reflected in those changes. Inflation would normally be taken into account by national administrations when preparing their budgetary plans. It would seem reasonable to assume that, all other things being equal, the rates applied by Member States generally would be increased to take account of inflation.
- 2.17 An analysis of the actual rate evolution in Member States shows some interesting results. Firstly, it is clear that, for all products, there has been very little real approximation of rates. Furthermore, even where there has been some degree of approximation, the magnitude of the differences in rates between high taxing and low taxing Member States is still extremely large, particularly as when compared with the minimum rates themselves. Annex C contains details of the evolution of rates imposed by twelve Member States since 1990 on the main excisable products. Annex D shows the extent of change in those Member States' rates since January 1993, in both national rates and ecus. Annex E shows the extent of change in national currency vis-à-vis the ecu since October 1992.
- 2.18 Equally interesting is the fact that, in some product groups, notably motor fuels, very large real increases, often well in excess of inflation, have been applied by Member States. However, for other groups, particularly alcoholic beverages and, to a lesser extent, heating fuels, there has been a marked stagnation of national rates. Such stagnation has meant that even inflation-linked adjustments have not been applied to these products in several Member States.

- 2.19 The Commission notes that this latter phenomenon is most marked in sectors where certain products need not be subject to excise duty either because they are subject to a minimum rate of zero or because they are outside the scope of the duty, whilst other, potentially competing products, are subject to taxation. Thus, it has become clear that in some areas, Member States have been ready and willing to increase the real value of their national rates whereas in other areas there has been a general tendency to allow a decrease in real values by not increasing national rates. Either way, with the exception of tobacco duties (which include ad valorem elements) there has been very little straightforward "tracking" of inflation rates.
- 2.20 According to the Eurostat Consumer Price Indices, the rate of inflation in 1993 was 3.4%, whilst the figure for 1994 was 3.1%, giving a cumulative total for the two year period (1993-1994) of 6.6%. Details of National Consumer Price Indices are contained in Annex F.

d) Wider Treaty aspects

- 2.21 Two general issues which apply to all categories of excise products are particularly relevant at present. Firstly, the Commission White paper on Growth, Competitiveness and Employment identifies increases in the rates of excise duties on all product groups as a means of funding reductions in statutory charges on labour (in addition to assisting in other policy areas). In the same way, the White Paper suggests extending the scope of the existing duty on mineral oils.
- 2.22 Secondly, given the conditions to be fulfilled by Member States in the context of European Monetary Union, it is important that the Community's excise policy should be consistent with ensuring sufficient revenue receipts and sound economies at national level as well as with overall European Union policies.
- 2.23 Besides these general issues, there are a number of more specific policy aspects which can be of varying relevance for the different excise product groups. Furthermore, such policies do not always pull in the same direction, in terms of their interconnection with excise policy. For mineral oils, the main concerns are in the energy, transport, environment and industry areas. For alcohol and tobacco products, the main preoccupations are health and agriculture. These aspects are considered in detail in the relevant sections of this report. It is clear that reconciling the various Treaty objectives with improvements in the functioning of the internal market raises potentially difficult issues which cannot always be resolved easily.

e) Need for further measures

- 2.24 There still appears to be general agreement amongst Member States on the need for further rate approximation. Traders, too, argue that greater rate approximation would help them to operate within the Internal Market. What is less clear, however, is the level or degree to which rate approximation should take place, and there has been little evidence of that approximation over the review period. It is probably fair to say that each Member State would wish that

other Member States should adjust their rates to bring them in line with its own national rates.

- 2.25 It is already clear from the operation of the system over the past two years, and indeed in the light of the evolution of that system's introduction, that there is much room for development of a coherent Community excise policy for the future which, on the one hand, recognises the role of excise duties as national revenue earners, but on the other hand takes full account of the needs of the Internal Market and the wider objectives of the Treaty. Furthermore, the analysis in the preceding paragraphs shows that the range of relevant issues, and the actual practice in Member States, can vary significantly between product groups. It also shows that certain aspects of the excise system are obstructing the process of rate approximation.
- 2.26 The Commission is of the view that detailed consultation with national administrations and with trade and other interest groups is necessary to allow more detailed analysis of all the relevant issues and the implications of possible consequent adjustments to the excise system. Thus, this report confines itself to analysis of the experience to date and, where appropriate, a highlighting of potential problem areas, without putting forward specific proposals at this stage.
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3. CIGARETTES

a) Review requirements

3.1 Article 4 of Directive 92/79/EEC states:

"Every two years and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the overall minimum excise duty laid down in Article 2, the provisions of Article 3(2) and the structure of excise duties as defined in Article 10b of Directive 72/464/EEC and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the examination by the Council shall take into account the proper functioning of the internal market and the wider objectives of the Treaty."

(Article 3(2) concerns a Portuguese derogation for certain cigarettes consumed in the Azores and Madeira).

b) Duty structure

3.2 Under Article 10b of Directive 72/464/EEC (as amended)⁸, each Member State's excise duty on cigarettes must consist of two parts, one ad valorem and one specific, with the specific element representing between 5% and 55% of the total tax burden (excise duty plus VAT) *of the most popular price category of cigarettes sold in that Member State*. Once these two parts have been established for this category of cigarettes, they are applied to cigarettes of all price categories.

3.3 The relationship between the specific and ad valorem elements of the excise duty has been the subject of protracted debate over many years. Some Member States apply the minimum specific element, whereas others choose the maximum, with corresponding effects on the ad valorem elements of the duty. This contributes to the differences in retail prices. Notwithstanding that the Council has not agreed the final stage of harmonisation of the structure of excise duty on cigarettes, there is no evidence to suggest that any proposed change in the ratio of specific to ad valorem excise would be agreed at the current time. Nor does such a change appear to be essential at present in order to improve the functioning of the Internal Market.

3.4 Consequently, *this report does not propose to analyse the existing balance between specific and ad valorem excise duty*, as defined in Article 10b of Directive 72/464/EEC. However, this is an issue which would merit examination in the course of the proposed consultation procedure.

⁸ Council Directive 72/464/EEC on taxes other than turnover taxes which affect the consumption of manufactured tobacco, OJ n° L 303, 31/12/72, p. 1

c) Real value of the rates of duty

- 3.5 The minimum rate of excise duty on cigarettes is set at 57% of the retail selling price (inclusive of all taxes) for cigarettes of the price category most in demand in each Member State (based on data established as at 1 January, each year). The fact that this minimum rate is expressed as a percentage of retail selling price means that it automatically takes account of inflation, and thus does not require adjustment in this context.
- 3.6 The Commission notes that certain Member States have had to increase their tax levels substantially in order to comply with this minimum rate. It is also appropriate to note here that the transitional period granted to Spain to achieve a minimum rate of 57% ended on 31 December 1994.

d) Functioning of the Internal Market

- 3.7 High levels of fraud involving cigarettes have been reported in recent years. It has been noted, however, that the main source of this fraud has not been related directly to either the excise duty control system or the abolition of frontier controls in the Internal Market. Rather, it has been associated with a lack of rigour in Member States' application of the customs rules at the Union's external frontiers, and with difficulties in the functioning of the customs transit arrangements. In this context, the Commission has focussed attention on these problems in a Communication dated 29 March 1995⁹. In view of the Community own resources implications, the Commission has taken concrete steps towards tightening up transit rules, has set up a Task Force to combat fraud in the cigarette sector and continues to monitor the situation closely.
- 3.8 The rates of duty applied by Member States to cigarettes are shown in Annex G. The apparent approximation of rates, when incidence is expressed in percentage terms, is deceptive, as very real differences still exist in the actual levels of duty applied to a given quantity of cigarettes. This is because of the combination of very wide differences in the pre-tax prices of cigarettes and widely varying levels of specific and ad valorem taxation.
- 3.9 Given the position outlined above regarding the duty structure, the Commission does not consider it appropriate, at this stage, to bring forward measures aimed specifically at further rate approximation. At the same time, however, it has been noted that the existing rules, far from producing further rate approximation, could actually lead to increased rate divergence. The Commission considers that this could be contrary to development of the Internal Market and an issue which warrants examination.
- 3.10 The retail price of cigarettes is made up of a number of elements such as the ex-factory cost, the distributors' margins, the excise duty (specific element), the excise duty (ad valorem element), and value added tax. Since the incidence of the overall minimum excise duty is calculated as a percentage of the final selling price of cigarettes of the most popular price category, it follows that changes in

⁹ Communication from the Commission: Fraud in the Transit procedure, solutions foreseen and perspectives for the future (COM(95)108 final)

any single price component disturb the relationship between the overall excise duty and the retail selling price.

- 3.11 This is a real issue in Member States where tax levels are at or just above the 57% minimum rate. An increase in the ex-factory cost, for instance, can lead to an increase in retail price which would result in the overall excise falling below the 57% minimum. This then requires the Member State concerned to increase its excise duty in order to once again respect the 57% minimum.
- 3.12 A number of Member States which already apply high tax policies in respect of cigarettes are nonetheless at or close to the 57% threshold (e.g. Belgium, Germany, France, Ireland, the Netherlands, Austria and Finland). It is difficult to accept that forced duty increases in countries with already high tax burdens was Council's deliberate intention as it is clearly at odds with an overall commitment to rate approximation, however gradual. Such an outcome would, over time, stimulate growing divergence of tax burdens in the Community (measured in cash terms), which in turn would lead to greater tax-driven differences in retail prices. The Commission does not consider that such effects are in the interest of the Internal Market.
- 3.13 The only viable means of addressing such a problem would appear to be to allow Member States the option to refrain from making upward adjustments to their duty levels when there is an increase in the non-duty elements of the retail price, even if that were to mean that the overall duty incidence, expressed as a percentage of retail price, would fall below 57%. There would be no need, however, to vary the requirement in Member States to *continue to respect the underlying rules regarding composition of the excise duty* (i.e. the duty must be composed of both an ad valorem and specific element, and the latter must represent between 5% and 55% of the total tax burden for cigarettes of the most popular price category). Such an option could be limited to those Member States which, in absolute terms, apply relatively high levels of duty, in the interests of preventing further divergence.
- 3.14 Given that this is a potential problem in the context of overall rate approximation, the Commission will continue to monitor the situation and will, if necessary, bring forward a proposal to address it.

e) **Wider Treaty objectives**

- 3.15 The main issue for cigarettes under this heading is *health* protection, particularly in the context of Article 3(o) of the Treaty ("the Community shall contribute to the attainment of a high-level of health protection") and Article 129 ("health protection requirements shall form a constituent part of the Community's other policies"). Over half a million people in the European Union died in 1994 from tobacco-related diseases. Moreover, tobacco-related morbidity greatly adds to health-care costs. Taxation of tobacco products is an obvious means not only of discouraging tobacco consumption, but also of providing a contribution to the funding of consequent health-care costs. The recent communication from the Commission concerning the fight against cancer in the context of the framework

for action in the field of public health¹⁰ states that "an upward harmonisation of tobacco prices across the Community" is among the actions which need to be continued and developed.

- 3.16 This report is also required to examine the provisions of Article 3(2) of Directive 92/79/EEC. These allow Portugal to apply a reduced rate, of up to 50% less than the normal minimum rate, in the case of cigarettes consumed in the Azores and Madeira and made by small-scale producers.
- 3.17 This reduced rate is in accordance with a declaration annexed to the Maastricht Treaty¹¹ which allows specific measures to be adopted to assist remote regions of the Community. In addition, it is compatible with the POSEIMA programme, which specifically allows certain favourable taxation arrangements for the Azores and Madeira. Finally, no particular problems relating to fraud or distortion of competition, arising from the current arrangements, have been reported.

f) Conclusions

- 3.18 The Commission concludes that the duty structure for cigarettes should be examined further in the course of the consultation process referred to earlier. It also intends to pay close attention to the operation of the 57% rule in high-taxing Member States, and will bring forward an appropriate proposal if this is found to be interfering with the process of rate approximation.

¹⁰ Annex to COM(94) 83 Final

¹¹ Annex to Treaty on European Union - Declaration (N° 26) on the outermost regions of the Community

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4. OTHER MANUFACTURED TOBACCO

a) **Review requirements**

4.1 Article 4 of Directive 92/80/EEC states:

"Every two years and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the rates of duty laid down herein and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the examination by the Council shall take into account the proper functioning of the internal market, the real value of the rates of duty and the wider objectives of the Treaty."

- 4.2 The existing minimum rates of excise duty for tobacco products other than cigarettes are laid down in Article 3 of Directive 92/80/EEC. Member States may apply either an ad valorem duty based on the maximum retail selling price, or a specific duty, or a mixture of both, subject to certain specified limits.

b) **Real value of the rates of duty**

4.3 The minimum rates of duty laid down in Article 3 of Directive 92/80/EEC are:

Cigars and cigarillos:	5% of the retail selling price or ECU 7 per 1,000 items or per kilogram;
Hand-rolling tobacco:	30% of the retail selling price or ECU 20 per kilogram;
Other smoking tobacco:	20% of the retail selling price or ECU 15 per kilogram

- 4.4 As indicated above, the minimum rates for these products are expressed both in terms of a percentage of retail price and as a specific amount. All other considerations aside, it is noted that, over time and with inflationary growth, a gap will open up between these two factors, with the ad valorem rate automatically tracking changes in retail prices. Accordingly, inflation-based adjustment of the minimum rates expressed as specific amounts would be necessary to maintain the relationships established when the rates were set originally. However, before making proposals in this respect, the Commission considers that the question of the role of minimum rates should be examined in the proposed consultation process.

- 4.5 As regards actual rate evolution, most Member States apply rates which rely heavily, if not exclusively, on an ad valorem element, thus ensuring that account is taken of inflation more or less automatically. Furthermore, those Member States who apply specific taxation have tended to adjust their duty levels in this regard.

c) Functioning of the Internal Market

- 4.6 The United Kingdom and Ireland have experienced significant increases in the quantities of hand-rolled tobacco being brought back from other Member States (typically Belgium and the Netherlands) and ultimately being resold illegally on their domestic markets. This occurs because the difference in retail prices between the UK and Ireland on the one hand and their near neighbouring Member States is such that duty-paid products can be purchased in those neighbouring Member States and resold at a price well below the normal (duty-inclusive) retail price in the UK and Ireland. In the UK alone, these illegal sales have been estimated to account for around 5% of the total sales of hand-rolling tobacco.
- 4.7 Differing tax levels is one of the factors behind this trend. It is also noteworthy, however, that there are large differences in the pre-tax prices of comparable hand-rolled tobacco products in the various Member States, with such prices in Ireland and the United Kingdom being more than twice as high as in, say, Belgium or the Netherlands.
- 4.8 To the extent that this situation is giving rise to considerable fraud, it must be noted that its cause - and any potential solution - does not lie exclusively in the taxation domain. Indeed, any proposal to address this situation solely by adjustment of the minimum rate would require so large an increase as to be unrealistic. It would clearly be unacceptable to most Member States and in any event would cause major distortion of the balance between consumption of cigarettes and consumption of hand-rolled tobacco.
- 4.9 At face value, therefore, it would appear that this is essentially a matter for high taxing Member States to tackle, through reducing their national rates and/or improved control measures.
- 4.10 No major Internal Market problems have been reported for the other manufactured tobacco products, either in the context of cross-border shopping or large scale fraud. Furthermore, no particular concerns have been expressed by the relevant trade bodies. Finally, it is noted that there is very little demand/price cross elasticity between these products and other tobacco products.

d) Wider Treaty objectives

- 4.11 As for cigarettes, the most significant aspect of wider Community policies for other tobacco products is *health* protection. The risk to health from use of hand-rolled tobacco in particular gives serious cause for concern. The lower price of such tobacco makes it an attractive alternative to manufactured cigarettes especially for young people. The absence of measured amounts of nicotine and tar for hand-rolled cigarettes and in many cases of a filter, are factors which can increase the risk of consuming such tobacco.
- 4.12 On the other hand, adjustment of the minimum rate for hand-rolling tobacco in isolation could have implications for the competitive relationship between that product and cigarettes, and for associated employment levels.

- 4.13 The cigar and cigarillo sector is different from the cigarette and hand-rolled tobacco sectors. It essentially consists of small-scale artisanal production, often in rural areas and with low skill, high labour content. It covers a wide range of products, catering for a variety of tastes and price ranges, but has recorded a significant decline in consumption levels in recent years. Pipe tobacco also accounts for a very marginal part of tobacco consumption generally. It is a sector which is somewhat stagnant, and in fact is in decline in some Member States.

e) Conclusions

- 4.14 The Commission believes that, in the course of the consultation process, further consideration should be given to the appropriate taxation approach for hand-rolling tobacco in the light of the health and competition concerns highlighted above. Attention should also be paid to the appropriate relationship between ad valorem and specific rates, when minima are expressed in both terms.

5. ALCOHOL AND ALCOHOLIC BEVERAGES

a) Review requirements

5.1 Article 8 of Directive 92/84/EEC states that:

"Every two years and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the rates of duty laid down herein and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the consideration by the Council shall take into account the proper functioning of the internal market, competition between the different categories of alcoholic drinks, the real value of the rates of duty and the wider objectives of the Treaty."

5.2 It was agreed during the negotiations on Directive 92/84/EEC, to examine the possibility of introducing a control levy for wine. Furthermore, in an agreement between UK and Spain on intermediate products, which is annexed to Directive 92/83/EEC, the Commission is recorded as saying special attention will be paid to these products under the review procedure. Both of these items are considered below.

b) Real value of the rates of duty

5.3 The minimum rates of duty for alcohol and alcoholic beverages are laid down in Directive 92/84/EEC as follows:

Wine	:	ECU 0	(Article 5)
Beer	:	ECU 0.748 per hectolitre/degree plato or ECU 1.87 per hectolitre/degree plato of alcohol of finished product	(Article 6)
Intermediate products:		ECU 45 per hectolitre of product	(Article 4)
Spirits	:	ECU 550 per hectolitre of pure alcohol (if below ECU 1,000, cannot reduce, if above ECU 1,000, cannot go below ECU 1,000)	(Article 3)

5.4 It is noted that, in several relatively low-taxing Member States, particularly those which apply a zero rate to wine, the rates on alcoholic beverages generally have not been increased, and in some cases have reduced in real terms. Similarly, higher taxing Member States who also tax wine, but whose neighbouring Member States apply a zero rate, have also not increased their rates of excise on alcoholic drinks. In this context, it is significant that Austria, whose neighbours apply a zero rate to wine, reduced its wine excise to zero on joining the European Union. In general, there has been a marked stagnation in the rates of duty applied to alcoholic drinks. This would suggest that the zero rate for wine can limit the scope for rate adjustments on other alcohol products within the same Member State, and on all alcohol products in neighbouring Member States.

c) Competition between alcoholic drink categories

- 5.5 In addition to the issues covered in the review of the rates applied to other excisable products, Article 8 of Directive 92/84/EEC introduces the express obligation to consider competition between different categories of alcoholic drinks. In fact, this topic would, in any event, fall to be considered in the context of the functioning of the Internal Market. Given the importance attached in the Directive to this particular issue, the Commission engaged an independent firm of consultants to assess the extent of such competition.
- 5.6 The consultants found that there is indeed competition between alcoholic drinks categories. They concluded that "excise duty affects consumption of the different alcoholic beverages through their sensitivity to their specific price" and "excise duty can also affect the market shares of different categories of alcoholic beverage because of competition through prices".
- 5.7 Whilst there are many different views on the degree of competition between wine and other alcoholic beverages, it would seem that it is not disputed that that competition does exist in at least some Member States, and for a sizeable percentage of inhabitants of the European Union. Furthermore, the EC Court of Justice, in case 170/78, found that beer was in competition with wine.
- 5.8 However, provided that they do not breach the requirements of Article 95 of the Treaty and they respect the minimum rates, Member States are free, in principle, to decide on the extent to which they wish to take this into account in setting their national rates.
- 5.9 Nevertheless, as indicated above, high-taxing Member States will increasingly be constrained in this freedom by the need to take account of rates applying to the same or equivalent products in other Member States. This complication is exacerbated by the fact that the competitive relationships between different alcoholic beverages vary significantly from one Member State to another, depending on factors such as taste, climate, tradition, etc.
- 5.10 Thus, whilst it is relatively easy to establish that, in general terms, competition between drinks categories exists, it is more difficult to conclude as to how that competition factor should best be reflected in the Community's excise policy, or indeed whether such a policy can be developed to address the widely differing situations in the Member States. On the other hand, the continued existence of a zero rate for one alcoholic beverage means that adjustment of the minimum rates for other alcoholic beverages alone could induce competitive distortion.

d) Other aspects of the functioning of the Internal Market

- 5.11 In paragraph (ii) of the Agreement between the United Kingdom and Spain, which is annexed to Directive 92/83/EEC on the harmonisation of structures of excise duties on alcohol and alcoholic beverages, the Commission states that: "in the context of the regular reports foreseen in Article 8 of the Council Directive on the approximation of the rates of duty on alcohol and alcoholic beverages, it will pay special attention to the rates applied to these products [i.e. intermediate

products of a strength exceeding 15% abv and intermediate products of a strength not exceeding 15% abv] in order to take into account, in particular, the problem of competition between the various categories of drinks concerned."

- 5.12 The existing arrangements regarding intermediate products, as laid down in Article 18 of Directive 92/83/EEC, reflect a compromise between radically different situations in various Member States. They can result in widely different rates of duty applying to broadly similar products, particularly given that different rules can apply to intermediate products of a strength which exceeds 15% volume, and those whose strength does not exceed this level. However, it is clear that intermediate products cannot be considered in isolation from the overall question of competition in the alcoholic drinks sector.
- 5.13 Three Member States (Denmark, Ireland and the United Kingdom) have applied rates significantly above the minimum for beer and wine since 1993. The differences between the rates applied in these three Member States and their neighbouring Member States can give rise to significant levels of cross-border purchasing, as confirmed by the study prepared for the Commission. The most documented incidents relate to purchases in France by residents of the United Kingdom. Reports have been commissioned by many other bodies, including the United Kingdom authorities and trade representative bodies, which also identify large-scale cross-border purchases of beer and, to a lesser extent, wine.
- 5.14 Whilst the various reports do not always agree on the scale of the phenomenon, or on the extent to which excise rates influence it, it is universally accepted that the excise rate differences are a significant factor. Of course, it has to be noted that much of this phenomenon is a perfectly reasonable consequence of the Internal Market. To the extent that Member States are concerned about the deflection of purchases, significant scope exists for them to reduce the rate of duty for beer (and wine). This approach has already been adopted for beer by Denmark, with a consequent significant reduction in tax-induced cross-border shopping. In contrast, the French beer rate was increased significantly to comply with the current minimum. Furthermore, the French market has seen a reduction in overall beer sales since January 1993, despite the increased volume of purchases there by UK residents.
- 5.15 In addition, the Commission notes that the non-tax components of beer retail prices differ significantly between Member States despite the fact that beer is generally produced in each Member State. Such differences are questionable in the context of a Single Market, and the Commission believes that close scrutiny is warranted in those Member States where non-tax price components are comparatively high.
- 5.16 Although the same three Member States (Denmark, Ireland and the United Kingdom) apply rates well in excess of the minimum rate for spirits there is comparatively little evidence of significant cross-border shopping for these products. This is explained in the case of Denmark because of the maintenance of quantitative restrictions for travellers, and in the case of the UK and Ireland because a large proportion of spirits purchased by travellers returning to these
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Member States are duty-free purchases made on ferries or planes and not duty-paid purchases made in other Member States.

- 5.17 The rates applied to alcoholic beverages by Sweden and Finland are even higher than those in Denmark, Ireland and the UK. However, both of these Member States negotiated derogations to allow them to impose restrictions on the quantities of alcoholic beverages which can be purchased abroad for personal consumption. It is too early to say what, if any, impact these factors will have on the levels of both legal and illegal cross-border trade into Finland and Sweden for these products.
- 5.18 During the negotiations on Directive 92/84/EEC it was agreed to examine the possibility of introducing a control levy in those cases where, at 1 January 1994, a zero rate is applied to certain excise products. In the light of this, the Commission engaged a firm of consultants to examine the merits of a monitoring charge from a control viewpoint¹². The consultants found that control procedures were being applied in the case of intra-Community movements of zero-rated wines. Such problems as exist in control of such movements also existed for movement of products subject to duty and were unlikely to be reduced, other than perhaps marginally, by the introduction of a monitoring charge. Accordingly, there would appear to be little merit in the introduction of a monitoring charge for the purposes of controlling intra-Community movements.

e) Wider Treaty objectives

- 5.19 The Community wine sector is the subject of reform of its common organisation of the market in the context of the *Common Agricultural Policy*. The objective of this reform is to get market balance in a situation of overproduction with, at the same time, declining consumption, particularly of table wines. In this context it has been argued that the notion of introducing a positive excise duty rate in producing Member States is, at worst, inappropriate and, at best, ill-timed. On the other hand, introduction of a positive minimum rate could be beneficial for CAP control purposes at national level.
- 5.20 From the viewpoint of *social and health* policies, alcohol taxation is a potential means of discouraging excessive consumption. This can have positive consequences in terms of reduced problems associated with alcoholism and alcohol abuse. In contrast, in some Member States, wine is considered a cultural product and an integral part of the traditional diet, possibly having positive effect on health when consumed in moderation.

f) Conclusions

- 5.21 The competitive position between different alcoholic drinks raises complex and often emotive issues. As indicated above, the fiscal treatment of alcoholic beverages generally cannot be divorced from the treatment of wine. Moreover, it cannot be considered in isolation from a number of other policy considerations. The Commission believes therefore that this issue should be examined further in

¹² "Intra-Community Trade in Zero-rated Products (wine and heating gas oil)", prepared by Van Holst and Koppies for the European Commission (DGXXI), September 1994

the course of the proposed consultation process. This would mean that development of a coherent excise policy should follow expression of the views and arguments of all interested parties. In the meantime, those Member States who are at or near the existing minimum may retain their existing rates, and thus avoid any trade distortions which might be brought about by forced rate adjustments.

6. MINERAL OILS

a) Review requirements

6.1 Article 10 of Directive 92/82/EEC states:

"Every two years and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the rates of duty laid down herein and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the examination by the Council shall take into account the proper functioning of the internal market, the real value of the rates of duty and the wider objectives of the Treaty."

6.2 Article 5 of the same directive requires the Commission to report on the effectiveness of a monitoring charge authorised for heating gas oil in certain Member States. Furthermore, At the time the Directive was adopted, it was agreed to review the situation regarding transitional rates which Luxembourg was authorised to apply until 31 December 1994.

6.3 Arising from decisions taken under the procedure for reduced rates and exemptions provided by Article 8(4) of Directive 92/81/EEC, the Commission is also obliged to review the taxation of heavy fuel oil with a low sulphur content, and the relief applied by Italy in respect of mineral oils used for alumina production in Sardinia.

b) Real value of the rates of duty

6.4 The minimum rates of duty laid down in Directive 92/82/EEC are as follows:

Petrol (leaded)	ECU 337 per 1,000 litres (ECU 292 in Luxembourg, to 31/12/94)	(Article 3)
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Petrol (unleaded)	ECU 287 per 1,000 litres (ECU 242 in Luxembourg, to 31/12/94)	(Article 4)
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Gas oil		(Article 5)
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Propellant	ECU 245 per 1,000 litres (ECU 195 in Luxembourg and Greece to 31/12/94)
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Art. 8 (3) uses	ECU 18 per 1,000 litres
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Heating fuel	ECU 18 per 1,000 litres
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Heavy fuel oil	ECU 13 per 1,000 kg.	(Article 6)
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Liquid petroleum gas and methane		(Article 7)
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Propellant	ECU 100 per 1,000 kg
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Art. 8 (3) uses	ECU 36 per 1,000 kg
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Heating fuel	ECU 0 per 1,000 kg
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Kerosene		(Article 8)
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Propellant	ECU 245 per 1,000 litres
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Art. 8 (3) uses	ECU 18 per 1,000 litres
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Heating fuel	ECU 0 per 1,000 litres
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- 6.5 The national rates of excise duty on mineral oils used as motor fuels have been increased by large amounts in most Member States, with increases being as high as 30% in some cases. Thus, Member States have been happy to apply rate increases exceeding inflation levels, with consequent increases in the real impact of their duties on motor fuels. In fact, for petrol (both leaded and unleaded) even the lowest taxing Member States now apply rates exceeding the minimum rates by about 20%. Whilst large increases have also been applied to diesel rates, the gap between the minimum and the lowest national rates is somewhat smaller than for petrol. These large rate increases appear to have been possible due to a combination of low oil prices (in real terms) plus the relatively low price elasticity of motor fuel, which has meant that Member States have been able to secure substantially increased revenue yields without any significant reductions in consumption levels.
- 6.6 In contrast, for heating fuels the level of increase applied has been much lower generally. In fact, over half the Member States have not adjusted their rates since 1 January 1993. Thus, for heating fuels, duty levels and consequent receipts have stagnated and, in some cases, reduced, in real terms. One possible explanatory factor for this phenomenon would appear to be the fact that certain directly competing products, notably natural gas and coal, are outside the scope of the Community excise duty and that, in this sector, Member States have been somewhat prevented from exploiting the same factors which have led to increased revenue yields from motor fuels.
- 6.7 Article 5 of Directive 92/82/EEC allows Belgium and Luxembourg to apply a zero rate to heating gas oil, provided that they levy a monitoring charge of ECU 5 per 1,000 litres. The Commission notes that this generates revenue receipts in those Member States, and thus it can, in practice, have the same effect as a tax or duty.

c) Functioning of the Internal Market

- 6.8 All motor fuels are subject to excise duty, by virtue of Article 2(3) of Directive 92/81/EEC which states that "any product intended for use, offered for sale or used as motor fuel..... shall be taxed as motor fuel." This, at least, means that all competing products are within the scope of excise duty, and therefore adjustment of minimum rates can take place without automatically creating competitive distortions.
- 6.9 Significant differences exist, both at minimum rate and national rate level, between the treatment of different motor fuels. This can lead to complaints from those sectors of the trade which perceive themselves as unfairly treated. However, a wide range of policy objectives can be relevant in determining how the relative tax burdens of different motor fuels should be set.
- 6.10 Wide rate differences also exist between national rates for each product. This does result in high levels of cross-border shopping in some areas, mainly by residents of border areas and passing motorists (hauliers, tourists etc.). This would seem to be a legitimate consequence of the internal market..
- 6.11 It was agreed during the negotiations on Directive 92/82/EEC that the Commission should review the situation regarding the rates in Luxembourg and the neighbouring countries at the end of the transitional period, taking into account the importance of the relative retail prices for the Member States in

question. At the time it was acknowledged that special measures may be necessitated by the risk of displacement of purchases.

- 6.12 According to the study prepared for the Commission, significant levels of cross-border purchasing of petrol and diesel continue to occur in Luxembourg. The study does acknowledge however that hard data was difficult to obtain, and that the gradual raising of rates by Luxembourg should reduce the phenomenon. In fact, the Luxembourg rates are still somewhat lower than their neighbours', though it must be acknowledged that they are now above the existing minima (and, in the case of petrol, well above the minima) .
- 6.13 In the heating fuel area, a major problem exists in that some heating fuels are subject to excise duty, whereas other, directly competing products (e.g. natural gas, coal) are not. This raises two questions from a competition viewpoint. The first is a general question, as to what should be the appropriate competitive relationship between the various heating fuels. This can only be assessed in the light of a wide range of relevant policies and objectives which can influence fiscal treatment of fuels. The second, more specific issue, is the problem of how to adjust the minimum rates of duty without *inadvertently* influencing the competitive situation. The Commission's Green Paper on Energy Policy confirms that increasing the minimum rates of duty on heating fuels currently subject to excise duty would distort their competitive relationships with products outside the scope of the duty.
- 6.14 The marked contrast between the adjustments made by Member States to rates on motor fuels and heating fuels would appear to confirm, as indicated above, that exclusion of certain products from the duty base limits the freedom to adjust national rates. It would also suggest that scope for adjustment of the minimum rates is similarly limited.
- 6.15 As regards fraudulent activity in the heating fuel sector, there is evidence to suggest that the low retail price of heating gas oil in Belgium and Luxembourg (which is at least partially due to the application of the monitoring charge in lieu of a "true" excise duty) is producing trade distortion, with diversion of orders from France and, to a lesser extent, Germany. Moreover, significant fraud has been reported in France as a result of deliveries there of heating gas oil taxed at Belgian rates.
- 6.16 As indicated above, the Commission engaged a firm of consultants to study the relative merits of zero rates and monitoring charges for excisable goods. The consultants concluded that, as a tool to aid control of heating gas oil, the monitoring charge serves no purpose. Firstly, strong control measures have traditionally applied to heating gas oil, in view of the risk of diversion within national markets, to use as a propellant. (Indeed, ironically, because of this risk of substitution, it appears that the lower the charge the greater the need for control.) Secondly, no significant difference was found by the consultants in the control of products subject to a monitoring charge and those subject to a zero rate, where both product categories are subject to control and movement formalities.

d) **Wider Treaty objectives**

- 6.17 At a general level, *environmental* policy would favour a substantial increase in the level of excise duties on mineral oils and extension of the duty to products currently not covered. The main motivations are a reduction in the levels of harmful emissions and the internalisation of external costs. In the case of emissions, clearly any initiative aimed at reducing carbon dioxide emission levels would be welcome. However, reducing levels of other potentially harmful emissions, including NO_x, CO, hydrocarbons, SO₂, and particulates, is also an objective.
- 6.18 Internalisation of external costs is a key issue of *energy* policy. The recent Green Paper on Energy Policy has highlighted this point, and has identified excise duties as having a potential role to play in this process. Diversification of energy sources, reducing dependency on imports from outside the European Union are also considered important. Finally, encouragement of greater energy efficiency is considered to be desirable. This would apply to both fuels themselves and the equipment in which they are used.
- 6.19 *Energy* and *environmental* concerns came together in the form of the Commission's proposal for a carbon/energy tax¹³, which was not adopted by the Council. At the European Council meeting in Essen in December 1994, it was concluded that the possibility of introducing a form of carbon/energy taxation with some degree of optionality should be explored. The Commission has since presented an amended proposal to Council. Similarly, energy, environmental and agricultural concerns led to the Commission putting forward a proposal for a reduced rate throughout the Community for biofuels. Although this proposal has met with resistance in the Council, the Commission remains committed to securing its adoption.
- 6.20 Once again, internalising external costs is a key objective of *transport* policy. A reduction of traffic congestion on the roads is also an important element of current transport policy: this implies encouraging a shift of traffic from roads to other modes of transport. A significant increase in the excise rates for road fuels, in addition to development of the capacity of other transport modes, have been put forward as valid means of seeking to attain these objectives.
- 6.21 From an *industrial* policy viewpoint, the main preoccupation is competitiveness. This applies both within the European Community, and between European industries and those in third countries. In the automobile sector, there is a concern that higher fuel costs might lead to a downturn in new car sales in the Community, which could be detrimental to that sector. They would thus be concerned to see a cost/efficiency analysis of any future tax measures introduced for specific purposes in the motor fuel area. The differential between petrol and diesel also needs careful consideration, as Europe has established a world leadership in diesel-engined vehicles.
- 6.22 Notwithstanding the fact that development of the excise system may complement other Community policies, care must also be taken to try to avoid and/or eliminate unwarranted economic distortions arising from differential taxation of energy

¹³ COM (92) 226 final, OJ n° C 196 of 23.08.1992, p.1

products across uses, activities or sectors. An optimal taxation system also means that taxes on energy products cannot be considered in isolation from the wider tax system and its impact on the allocation of resources in the economy as a whole.

- 6.23 The Commission's White Paper on Growth, Competitiveness and Employment, and the related conclusions of the European Council held in Brussels in December 1993, identify increases in the rates of excise duty on energy products, plus enlargement of the scope of the duty, as a means of funding reductions in statutory charges on labour.
- 6.24 The wider policy areas indicated above are relevant in the context of the overall approach to be adopted regarding excise duty on mineral oils. Indeed, a closer coordination of all these policies must be a key element in developing the excise duty system. However, there are also a number of specific considerations, applicable to particular products, which should be examined. The initial source of concern in these areas is most often located in environmental policy, though again there can be interaction with other Community objectives. The specific issues which warrant examination are the differential treatment of leaded and unleaded petrol, the extent of the difference between petrol and diesel taxation and, the varying treatment of heavy fuel oil depending upon its sulphur content (the latter on the basis of the undertaking referred to earlier).
- 6.25 As regards the differential treatment of leaded and unleaded petrol, there is an ECU 50 per 1,000 litres differential between the minimum rates for these products at present. Furthermore, Member States are obliged, under Article 4 of Directive 92/82/EEC, to apply a lower rate of duty to unleaded petrol than to leaded petrol. At the time the directive was adopted, Member States agreed to be guided by the objective of maintaining a differential in favour of unleaded petrol of ECU 50 per 1,000 litres, though this differential is not legally binding on the Member States. The Commission notes that this rate differential of ECU 50 is not respected in several Member States.
- 6.26 Introduction of the differential in favour of unleaded petrol was part of an overall strategy to encourage greater use of this product instead of leaded petrol. Considerable success has been achieved as a result of this strategy. In parallel, in application of Directive 88/76/EEC¹⁴ on measures to be taken against air pollution by motor vehicles, new cars must use unleaded petrol since 1 October 1990. Furthermore, consumption patterns have changed to the extent that unleaded petrol now accounts for more than 50% of overall petrol purchases. This reflects not only the technical characteristics of new cars, but also a major change in public opinion and attitude.
- 6.27 In the circumstances, it would now seem appropriate that unleaded petrol should be the fuel to which a standard minimum excise rate be applied. Any rate differential between leaded and unleaded petrol could then be presented as a penal upward adjustment on leaded petrol. Furthermore, there would be merit in making it obligatory for Member States to apply to leaded petrol a higher rate than that which they apply to unleaded petrol.

¹⁴ Council Directive 88/76/EEC of 3 December 1987 (OJ No L 36, 09.02.88).

- 6.28 There is a large gap between petrol and diesel rates, both in minimum terms and at national rate level. This gap has an origin in the use of diesel as a professional fuel for road haulage, buses, taxis etc.. A narrowing of the gap would appear to be justified on grounds of transport policy, where a shift from road haulage to train and waterways freight is advocated. For cars, a narrowing of the gap would also seem possible due to the fact that diesel is more economical than petrol, in terms of kilometres per litre, which is already an incentive to prefer diesel-powered vehicles.
- 6.29 In the heavy fuel oil sector, there may be merit, for environmental reasons, in introducing a fiscal advantage for fuel oil with a comparatively low sulphur content. On the other hand, energy policy would suggest that such a measure should not be implemented independently of other considerations: for example, some industries have installed special equipment to counter the effect of using fuel oil with a high sulphur content.

e) Conclusions

- 6.30 Given the various arguments and concerns outlined above, the Commission notes that, in general, different considerations arise in the motor fuel and heating fuel sectors.
- 6.31 For heating fuels, the Commission notes that there are strong arguments for increasing the minimum rates, but that this implies a need to extend the scope of the duty to products which are not covered at present. This in turn means resolving difficulties arising from wider Treaty objectives, insofar as it requires a balanced judgement as to the correct competitive relationship between various products. Whilst, in principle, it may be valid to apply an excise duty to natural gas, it may equally be valid, nonetheless, to give it some fiscal advantage over other fuels. These are issues which will need detailed consideration before final positions can be adopted. Accordingly, the Commission concludes that these issues should be covered in the wide-ranging consultation process described previously. Such an approach would also enable account to be taken of discussions on the Green Paper on Energy Policy, which is expected to lead to a White Paper by the end of 1995 and of the role which excise duties can play in furthering environmental policies at a Community level.
- 6.32 As regards the specific review requirements arising from Council Decision 93/697/EEC, the Commission is of the view that the specific requirement to review the treatment of heavy fuel oil by reference to sulphur content should be covered in the overall review of the treatment of heating fuels, following the consultation process. As regards the relief for mineral oils used in the production of alumina in Sardinia, the Commission believes that this matter would best be reviewed in the context of the overall review, as provided for under Article 8 (6) of that directive, covering exemptions and reduced rates granted under article 8 (4) of Directive 92/81/EEC. In the meanwhile, the Commission considers that the Council should look favourably upon requests to renew these particular derogations until 31 December 1996. Furthermore, in view of the interest shown by Member States, the Commission believes that an overall review as provided for under article 8(7) of the same directive covering exemptions under paragraphs 1(b) and 2(b) of article 8 could usefully take place at the same time.

- 6.33 Given the close links between the minimum rates for heating fuels and for fuels used in accordance with Article 8(3) of Directive 92/81/EEC, it is equally recommended that action be deferred in this area until after the consultation process.
- 6.34 In the motor fuel area, where all competing products are subject to duty, the Commission believes that there are a number of aspects which need to be analysed further, including in particular the relationship between petrol and diesel, and the appropriate difference in fiscal treatment of leaded and unleaded petrol. Such a review of the treatment of motor fuels should be considered in the context of the consultation process, with a view to developing a more coherent overall strategy for the future.
- 6.35 The Commission concludes that, in any future proposals in this area, the opportunity should be taken to ensure that unleaded petrol be presented as the fuel to which a standard minimum excise rate be applied. Any rate differential between leaded and unleaded petrol which might be judged appropriate should then be presented as a penal upward adjustment on leaded petrol.
- 6.36 The Commission notes that all Member States have increased their national rates of duty on motor fuels without the pressure of increased minimum rates. Indeed, as noted above, an increase of 20% in the minimum rate for unleaded petrol would be necessary, simply to keep pace with national rates for this product. On the other hand, as all Member States have increased their rates, very little rate approximation has occurred. Rather than simply proposing an increase of the minimum rates at this stage, the Commission believes that the issue needs to be examined to see whether other, complementary measures might be needed to assist the approximation process.
- 

ANNEX A

**EXCISE RECEIPTS AS A % OF GROSS DOMESTIC PRODUCT
(1992)**

	Excise Receipts as % of GDP	Total Tax Receipts as % of GDP	Excise as % of Total Tax
Belgium	2.3%	45.7%	5.0%
Denmark	4.1%	48.8%	8.4%
Germany	2.8%	42.5%	6.6%
Greece	4.4%	41.1%	10.7%
Spain	2.5%	36.8%	6.8%
France	2.6%	43.7%	5.9%
Ireland	6.0%	37.1%	16.2%
Italy	3.7%	41.9%	8.8%
Luxembourg	4.5%	49.2%	9.1%
Netherlands	2.7%	47.8%	5.6%
Portugal	4.5%	35.7%	12.6%
United Kingdom	3.7%	34.0%	10.9%

ANNEX B

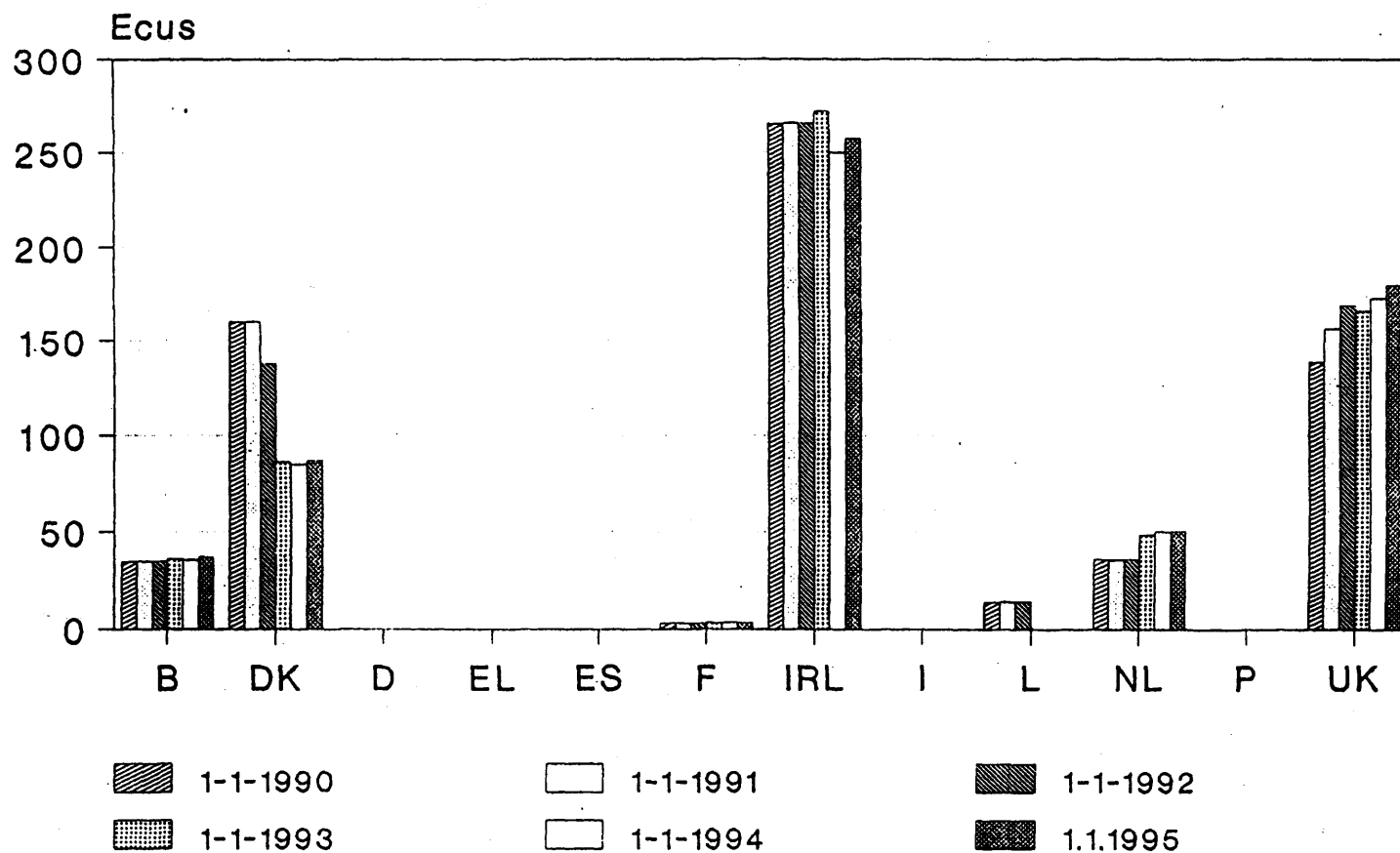
MINIMUM RATES OF EXCISE DUTY

PRODUCT	MINIMUM RATE
TOBACCO PRODUCTS	
<i>Cigarettes</i>	Combination of specific and ad valorem elements, the minimum incidence of which should not be less than 57% of retail selling price (most popular price category)
<i>Fine cut smoking tobacco for rolling cigarettes</i>	30% of retail selling price or ECU 20 per kilogram
<i>Cigars & cigarillos</i>	5% of retail selling price or ECU 7 per 1,000 items or per kilogram
<i>Other smoking tobacco</i>	20% of retail selling price or ECU 15 per kilogram
ALCOHOL PRODUCTS	
<i>Wine (still & sparkling)</i>	ECU 0 per hectolitre of product
<i>Intermediate products</i>	ECU 45 per hectolitre of product
<i>Beer</i>	ECU 0.748 per hectolitre/degree plato or ECU 1.87 per hectolitre/degree of alcohol of finished product
<i>Spirits</i>	ECU 550 per hectolitre of pure alcohol (ECU 1000 for Member States above this limit)
MINERAL OIL PRODUCTS	
<i>Motor fuels</i>	
Unleaded petrol	ECU 287 per 1,000 litres
Leaded petrol	ECU 337 per 1,000 litres
Diesel	ECU 245 per 1,000 litres
Kerosene	ECU 245 per 1,000 litres
LPG + Methane	ECU 100 per 1,000 kg
<i>Heating fuels</i>	
Gas oil	ECU 18(5) ¹ per 1,000 litres
Kerosene	ECU 0 per 1,000 litres
LPG + Methane	ECU 0 per 1,000 kg
Heavy fuel oil	ECU 13 per 1,000 kg
<i>Art. 8(3) uses</i>	
Gas oil	ECU 18 per 1,000 litres
Kerosene	ECU 18 per 1,000 kg
LPG + Methane	ECU 36 per 1,000 kg

1. Monitoring charge of ECU 5 per 1,000 litres applicable for Belgium and Luxembourg.

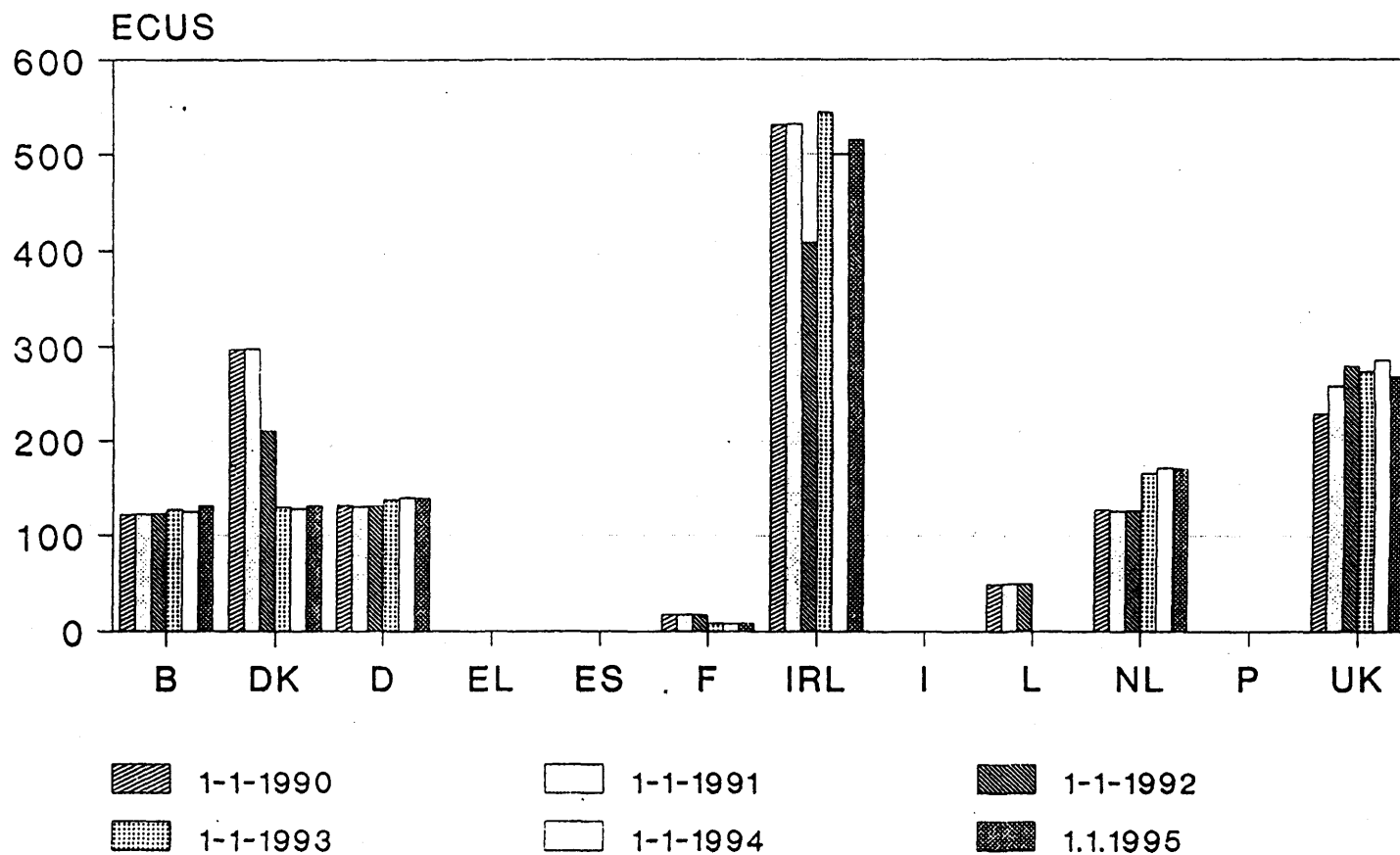
EXCISE DUTY RATES

STILL WINE (per hectolitre)



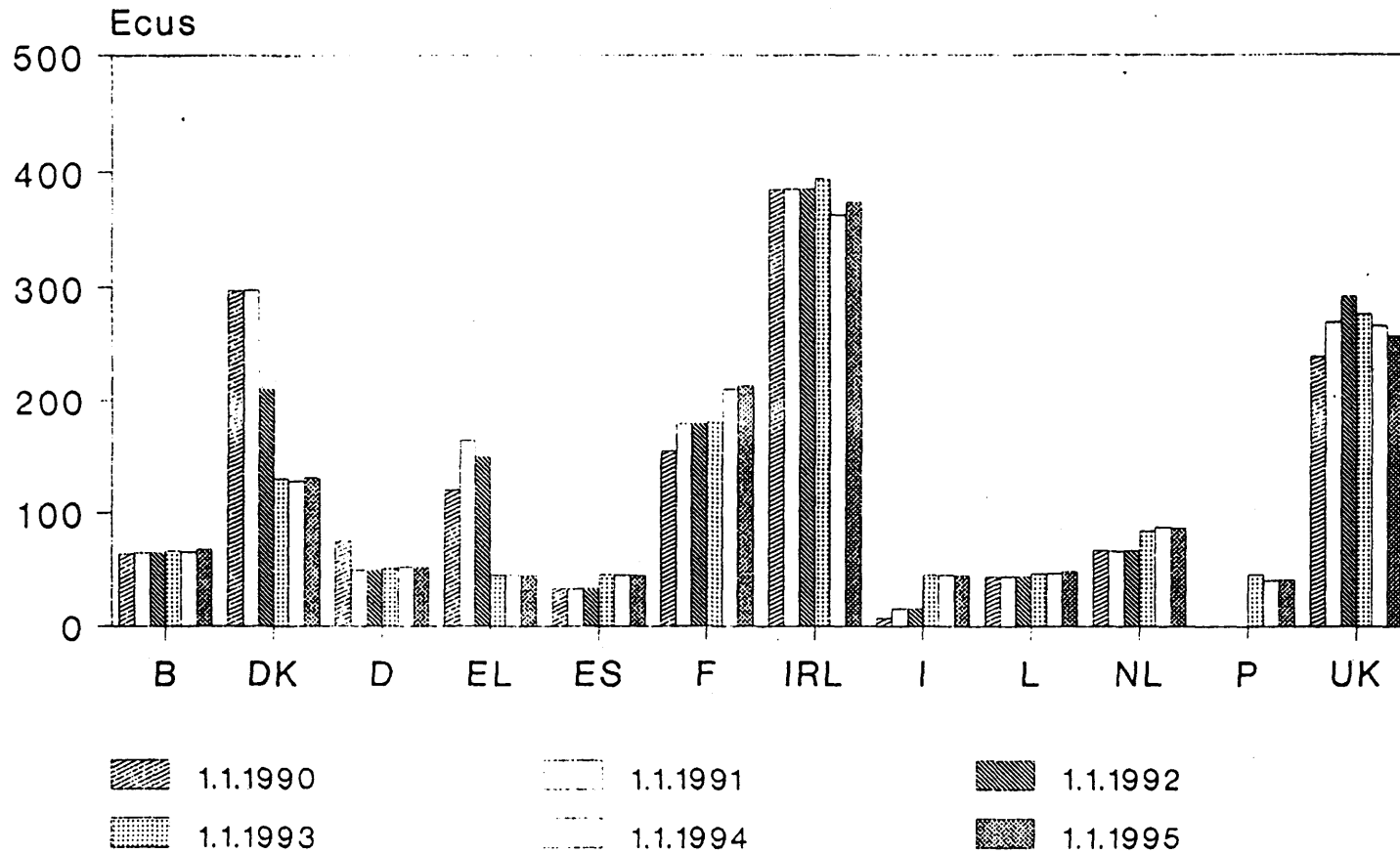
EXCISE DUTY RATES

SPARKLING WINE (per hectolitre)

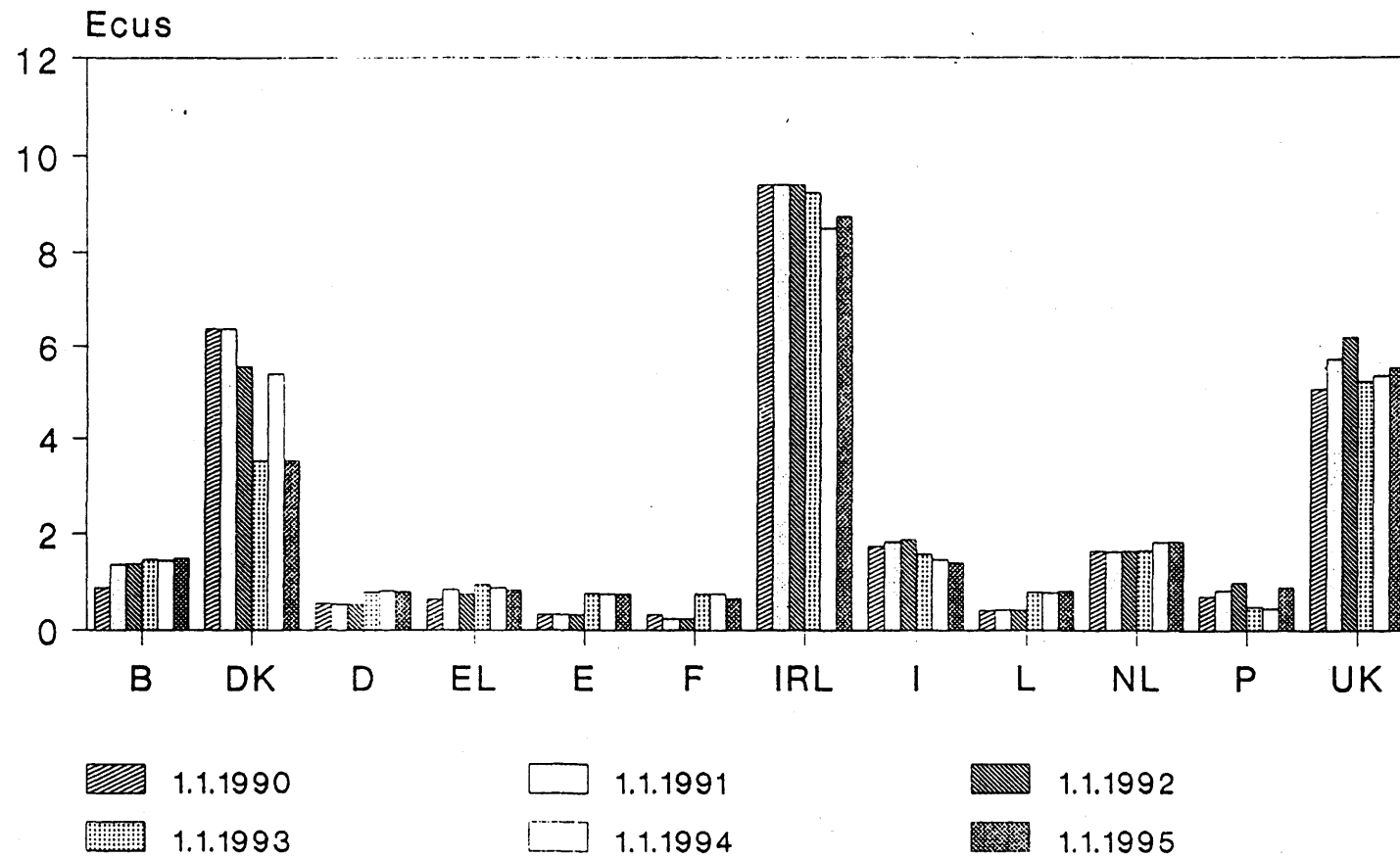


EXCISE DUTY RATES

INTERMEDIATE PRODUCTS (per hectolitre)

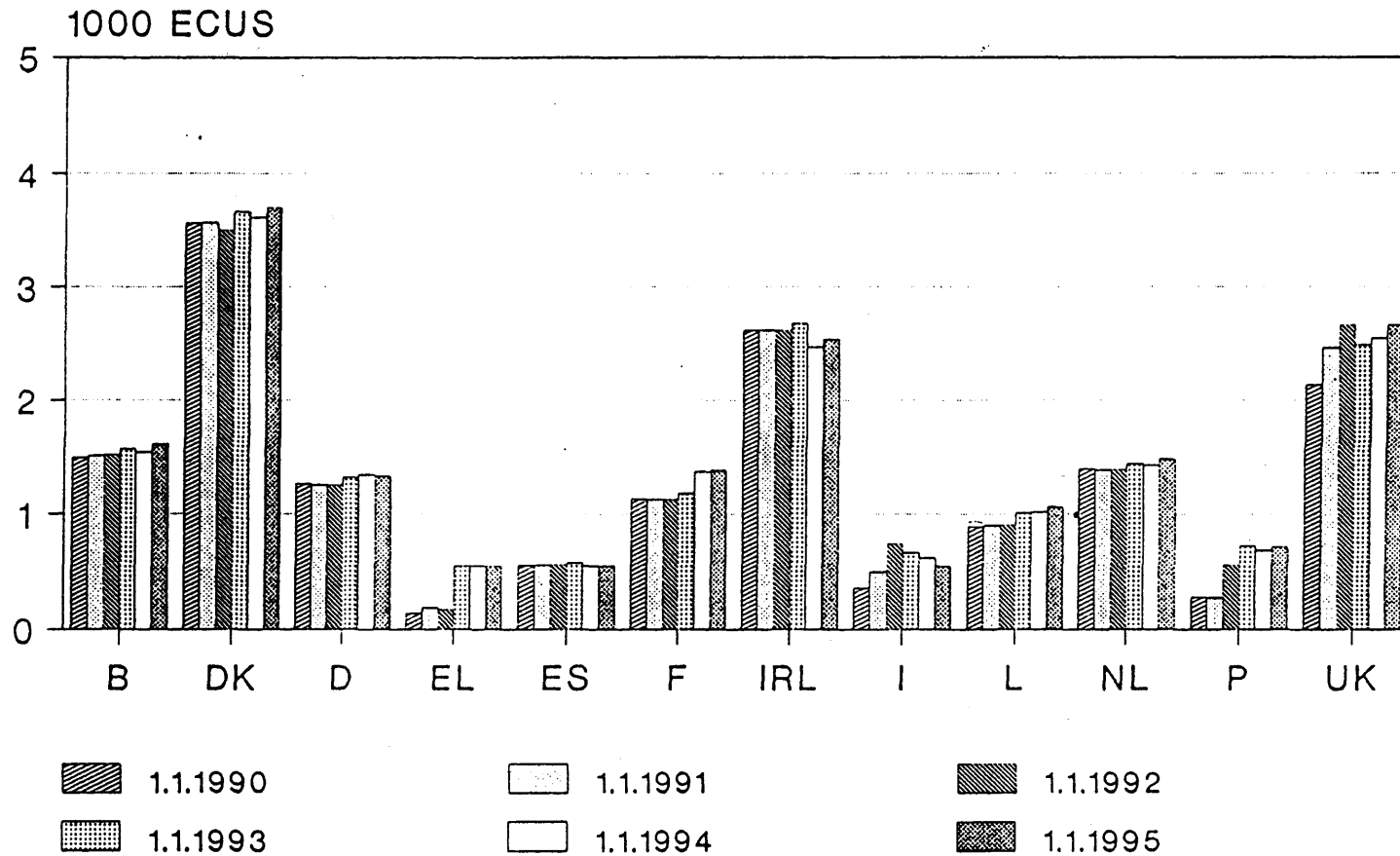


EXCISE DUTY RATES BEER (per hectolitre/degree Plato)



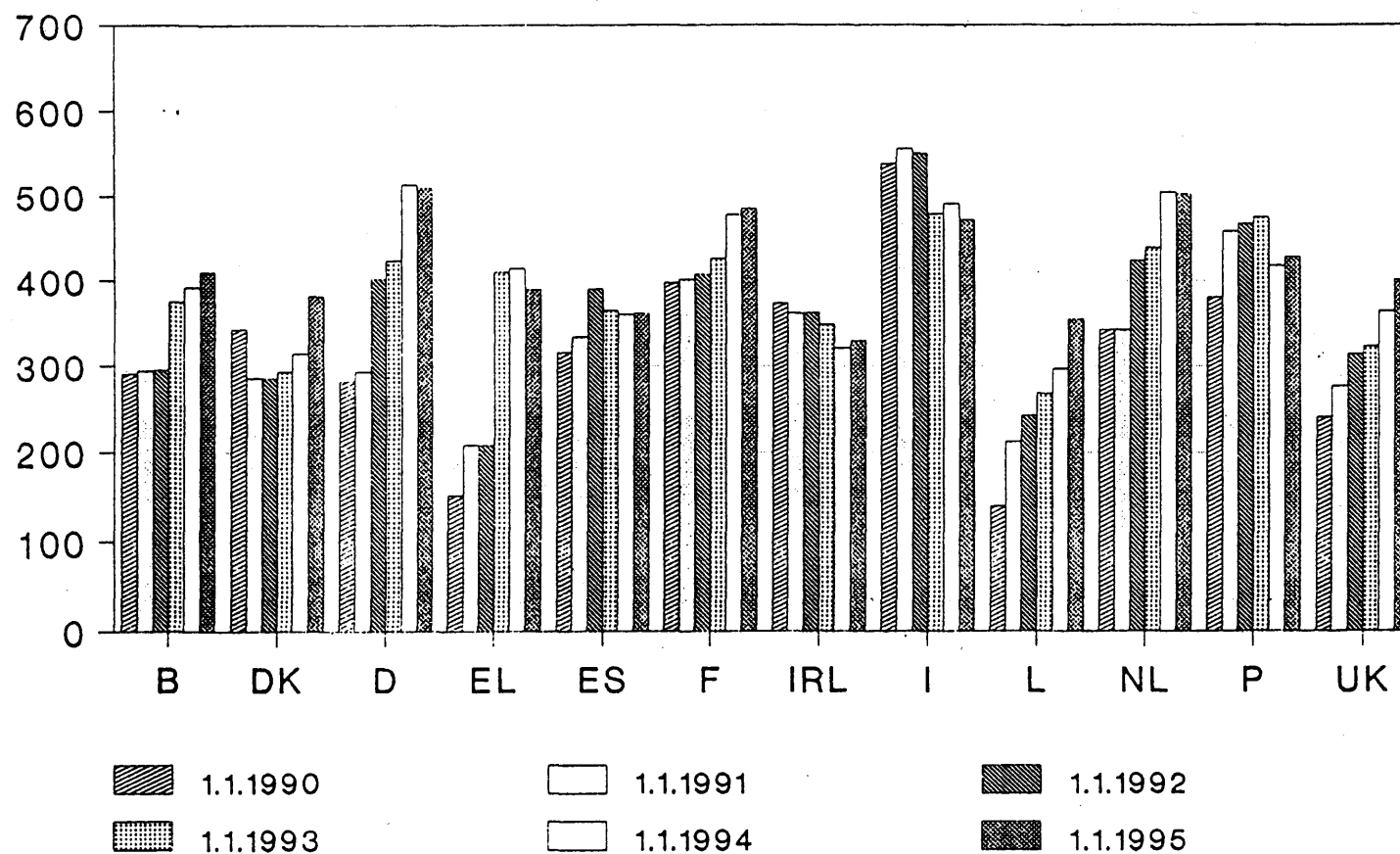
EXCISE DUTY RATES

SPIRITS (per hectolitre of pure alcohol)



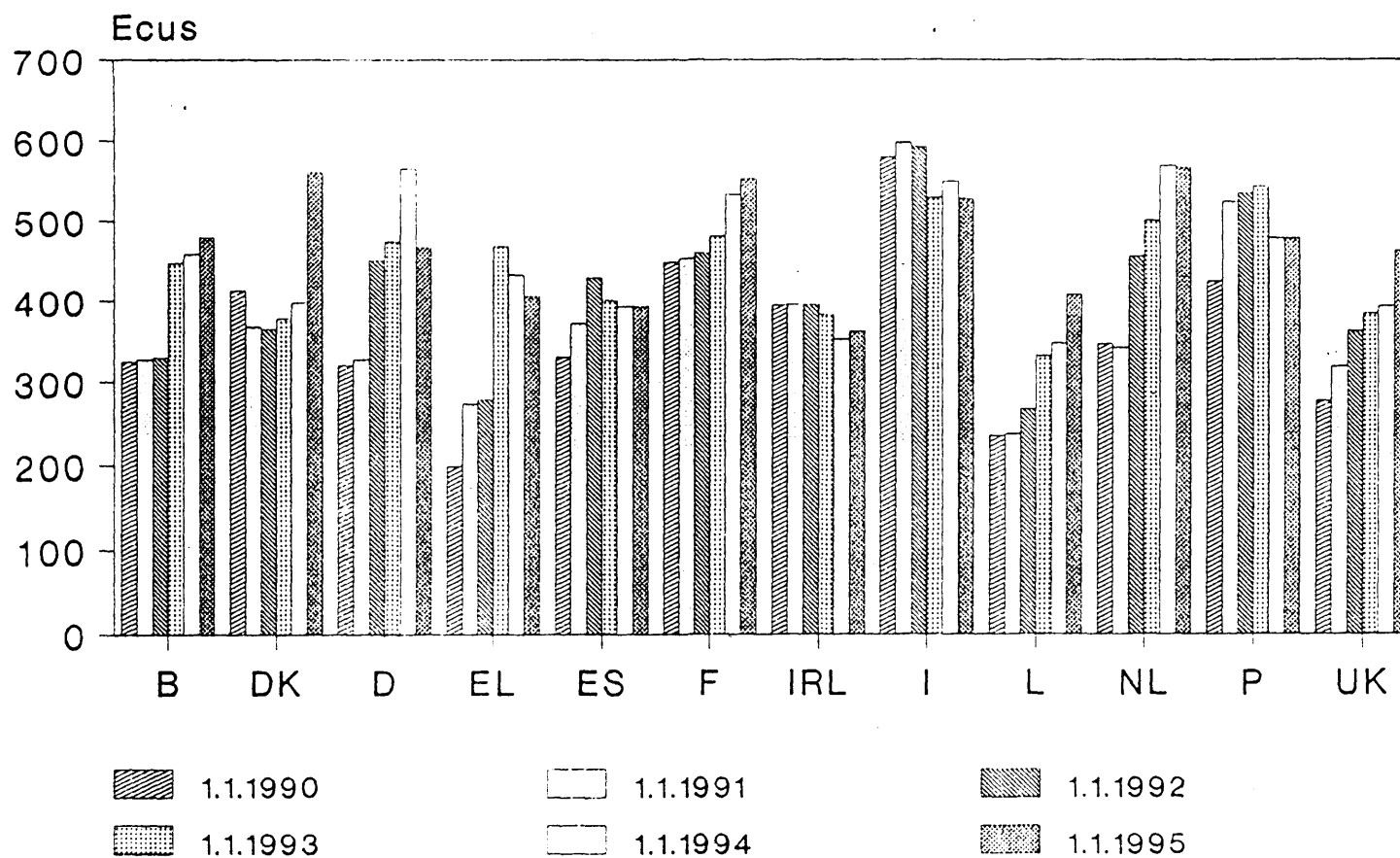
EXCISE DUTY RATES

UNLEADED PETROL (per 1000 litres)



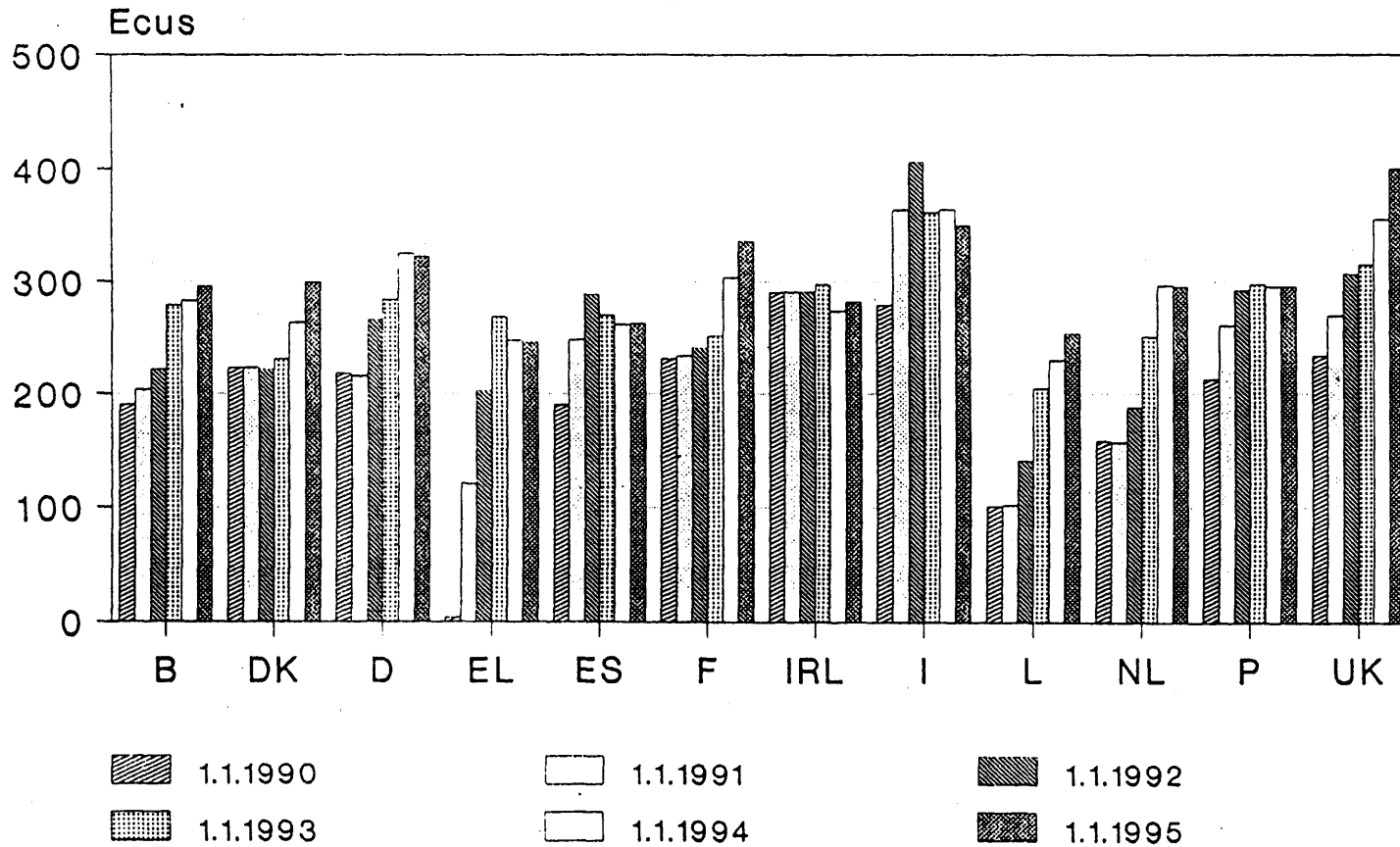
EXCISE DUTY RATES

LEADED PETROL (per 1000 litres)



EXCISE DUTY RATES

DIESEL (per 1000 litre)



ANNEX D(1)

WINE

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	36,28	37,22	3%	0%
Denmark	86,10	86,95	1%	0%
Germany	0,00	0,00	0%	0%
Greece	0,00	0,00	0%	0%
Spain	0,00	0,00	0%	0%
France	3,31	3,35	1%	0%
Ireland	271,88	271,58	0%	5%
Italy	0,00	0,00	0%	0%
Luxembourg	0,00	0,00	0%	0%
Netherlands	48,51	49,94	3%	0%
Austria	-	0,00	-	-
Portugal	0,00	0,00	0%	0%
Finland	-	284,24	-	-
Sweden	-	284,30	-	-
UK	165,89	179,58	8%	6%
EU-min	0,00	0,00	0%	0%

ANNEX D(2)

BEER

**DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995
(IN ECU PER HL/DEGREE PLATO OF FINISHED PRODUCT)**

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	1,46	1,49	3%	0%
Denmark	3,29	3,32	1%	0%
Germany	0,79	0,80	1%	0%
Greece	0,95	0,82	-13%	0%
Spain	0,76	0,75	-2%	13%
France	0,75	0,76	1%	0%
Ireland	9,24	8,75	-5%	0%
Italy	1,57	1,40	-10%	0%
Luxembourg	0,79	0,81	3%	0%
Netherlands	1,65	1,82	10%	7%
Austria	-	1,48	-	-
Portugal	1,22	1,31	7%	20%
Finland	-	11,37	-	-
Sweden	-	10,09	-	-
UK	5,24	5,53	6%	4%
EU-min	0,75	0,75	0%	0%

ANNEX D(3)

SPIRITS

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	1566,03	1606,68	3%	0%
Denmark	3662,13	3698,49	1%	0%
Germany	1315,95	1326,65	1%	0%
Greece	549,12	550,00	0%	16%
Spain	578,31	551,59	-5%	10%
France	1174,32	1381,45	18%	16%
Ireland	2676,78	2757,34	3%	9%
Italy	662,90	593,32	-10%	0%
Luxembourg	1011,14	1037,39	3%	0%
Netherlands	1433,96	1540,05	7%	4%
Austria	-	739,26	-	-
Portugal	726,86	715,15	-2%	10%
Finland	-	5016,08	-	-
Sweden	-	5131,68	-	-
UK	2484,66	2634,06	6%	4%
EU-min	550,00	550,00	0%	

ANNEX D(4)

UNLEADED PETROL

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	374,86	409,89	9%	7%
Denmark	293,26	381,80	30%	29%
Germany	423,17	509,85	20%	20%
Greece	409,92	389,04	-5%	10%
Spain	365,06	361,60	-1%	14%
France	426,12	544,70	28%	26%
Ireland	348,37	345,82	-1%	5%
Italy	478,13	471,43	-1%	10%
Luxembourg	267,83	354,48	32%	29%
Netherlands	438,36	502,43	15%	11%
Austria	293,98	333,40	13%	11%
Portugal	474,29	442,88	-7%	4%
Finland	390,28	456,97	17%	12%
Sweden	523,98	440,63	-16%	5%
UK	323,09	400,48	24%	22%
EU-min	287,00	287,00	0%	0%

ANNEX D(5)

LEADED PETROL

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	447,61	479,47	7%	4%
Denmark	378,04	467,29	24%	22%
Germany	474,77	561,88	18%	17%
Greece	469,05	406,10	-13%	0%
Spain	401,21	393,68	-2%	13%
France	481,34	584,77	21%	20%
Ireland	382,49	378,16	-1%	4%
Italy	528,42	527,32	0%	11%
Luxembourg	331,95	407,62	23%	20%
Netherlands	500,53	566,45	13%	10%
Austria	355,38	406,59	14%	12%
Portugal	542,86	478,64	-12%	-1%
Finland	462,16	532,21	15%	10%
Sweden	592,86	498,01	-16%	5%
UK	383,55	462,11	20%	18%
EU-min	337,00	337,00	0%	0%

ANNEX D(6)

DIESEL OIL USED AS PROPELLANT

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	278,68	296,03	6%	4%
Denmark	266,58	299,49	12%	11%
Germany	283,83	322,56	14%	13%
Greece	268,03	245,71	-8%	6%
Spain	269,64	262,24	-3%	12%
France	251,61	326,00	30%	28%
Ireland	297,33	297,46	0%	6%
Italy	361,70	349,82	-3%	8%
Luxembourg	204,69	253,02	24%	20%
Netherlands	250,51	295,09	18%	14%
Austria	218,86	243,22	11%	9%
Portugal	297,14	315,18	6%	19%
Finland	185,79	298,46	61%	53%
Sweden	372,73	313,10	-16%	5%
UK	315,32	400,48	27%	25%
EU-min	245,00	245,00	0%	0%

ANNEX D(7)

GAS OIL - HEATING PURPOSES**DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995**

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	5,00	5,31	6%	4%
Denmark	229,90	299,49	30%	29%
Germany	41,28	41,62	1%	0%
Greece	153,72	133,09	-13%	0%
Spain	79,52	76,72	-4%	11%
France	63,99	73,80	15%	14%
Ireland	49,71	47,11	-5%	0%
Italy	361,70	349,82	-3%	8%
Luxembourg	5,18	5,31	3%	0%
Netherlands	46,29	47,66	3%	0%
Austria	46,89	48,05	2%	0%
Portugal	0,00	0,00	-	0%
Finland	19,40	33,91	75%	67%
Sweden	197,17	168,78	-14%	7%
UK	16,93	27,37	62%	59%
EU-min	18,00	18,00	0%	0%

ANNEX D(8)

HEAVY FUEL OIL

DEVELOPMENT OF EXCISE RATES
BETWEEN 1.1.1993 AND 1.1.1995

MEMBER STATE	EXCISE 1.1.93 (ECU 1.10.92)	EXCISE 1.1.95 (ECU 3.10.94)	% CHANGE IN ECU TERMS	% CHANGE IN NATIONAL CURRENCY TERMS
Belgium	18,50	18,98	3%	0%
Denmark	260,27	262,85	1%	0%
Germany	15,48	15,61	1%	0%
Greece	47,30	40,95	-13%	0%
Spain	13,01	13,08	1%	16%
France	19,35	21,73	12%	11%
Ireland	10,13	13,39	32%	39%
Italy	52,03	46,57	-10%	0%
Luxembourg	18,50	18,98	3%	0%
Netherlands	15,43	15,91	3%	0%
Austria	14,45	14,79	2%	0%
Portugal	51,43	28,10	-45%	-39%
Finland	18,26	34,19	87%	79%
Sweden	207,55	177,66	-14%	7%
UK	13,17	21,23	61%	58%
EU-min	13,00	13,00	0%	0%

ANNEX E

**DEVELOPMENT OF EXCHANGE RATE BETWEEN
THE ECU AND NATIONAL CURRENCIES**

CURRENCY	VALUE OF 1 ECU			% CHANGE OVER A 2- YEAR PERIOD
	01.10.92	01.10.93	03.10.1994	
Belgium franc	40,5484	41,3455	39,5224	2,5%
Danish krone	7,60759	7,71643	7,53281	1,0%
German mark	1,93777	1,90933	1,92213	0,8%
Greek drachma	253,707	274,904	293,028	-15,5%
Spanish peseta	138,333	154,073	159,014	-15,0%
French franc	6,65065	6,65763	6,55831	1,4%
Irish pound	0,750341	0,815414	0,791706	-5,5%
Italian lira	1729,67	1857,14	1932,52	-11,7%
Luxemburg franc	40,5484	41,3455	39,5224	2,5%
Dutch guilder	2,21624	2,14447	2,15253	2,9%
Austrian shilling	13,8444	13,4339	13,5271	2,3%
Portuguese escudo	174,999	196,425	195,763	-11,9%
Finnish mark	6,25968	6,81121	5,98076	4,5%
Swedish krona	7,40482	9,475	9,23674	-24,7%
UK sterling	0,797291	0,779574	0,782062	1,9%

CONSUMER PRICE INDEX - % INCREASE
1993-1994
(NATIONAL CURRENCIES)

	1993	1994	Cumulative
Belgium	2.8	2.4	5.3
Denmark	1.3	2.0	3.3
Germany	4.1	3.0	7.2
Greece	14.5	10.9	27.0
Spain	4.6	4.7	9.5
France	2.1	1.8	3.9
Ireland	1.4	2.3	3.7
Italy	4.5	4.0	8.7
Luxemburg	3.6	2.2	5.9
Netherlands	2.1	2.8	5.0
Portugal	6.5	5.2	12.0
United Kingdom	1.6	2.5	4.1
EUR 12	3.4	3.1	6.6

Source: Eurostat

ANNEX G

CIGARETTE EXCISE RATES
FOR 1,000 CIGARETTES OF THE MOST POPULAR PRICE CATEGORY

Member State	Retail selling price (RSP) most popular category	VAT As % of RSP	EXCISE				
			Specific excise		Ad valorem	Total excise duty	
			in ecu	As° % of total tax ¹⁾	As % of RSP	in ecu	As % of RSP ²⁾
Belgium	116,39	17,01%	9,03	10,38%	50,00%	67,23	57,76%
Denmark	192,49	20,00%	80,55	50,38%	21,22%	121,40	63,07%
Germany	127,46	13,04%	43,18	47,24%	24,80%	74,79	58,68%
Greece	81,90	15,25%	2,98	5,00%	53,86%	47,09	57,50%
Spain	39,30	13,79%	2,52	9,12%	50,00%	22,17	56,40%
France	125,79	15,68%	4,72	5,04%	54,95%	73,84	58,70%
Ireland	173,04	17,36%	72,26	54,99%	16,82%	101,37	58,58%
Italy	80,21	15,97%	2,93	5,00%	53,35%	45,72	57,00%
Luxemburg	88,05	10,71%	3,04	5,02%	54,50%	51,02	57,95%
Netherlands	104,99	14,89%	37,75	50,01%	21,05%	59,85	57,00%
Austria	107,19	16,67%	17,15	21,72%	41,00%	61,10	57,00%
Portugal	66,41	14,53%	7,42	13,67%	56,00%	44,60	67,17%
Finland	166,37	18,03%	12,54	9,97%	50,00%	95,72	57,54%
Sweden ³⁾	165,10	20,00%	81,20	71,09%	0,00%	81,20	49,18%
UK	172,62	14,98%	73,70	54,97%	20,00%	108,23	62,70%

1) Must be between 5 and 55%.

2) Must not be less than 57%.

3) Sweden has a derogation and need not apply the ad valorem tax until 1996 and need not be above the 57%-level before 1999.

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