II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on the approximation of taxes on cigarettes

COM(87) 325 final / 2

(Submitted by the Commission to the Council on 7 August 1987)

(87/C 251/03)

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 Council Directive 72/464/EEC [1], as last amended by Directive 86/246/EEC [2], lays down general provisions relating to excise duties on manufactured tobacco and special provisions relating to the structure of excise duties applicable to cigarettes;

Whereas Council Directive 79/32/EEC [3] lays down the definitions of the different types of manufactured tobacco;

Whereas, in the case of cigarettes, harmonization, as provided for in Directive 72/464/EEC, of the ratio between the specific excise duty and the sum of the proportional excise duty and VAT does not make it possible to harmonize the rates of taxation;

Whereas, for the purpose of establishing an internal market without frontiers, it is necessary to bring more closely together the rates of taxes on consumption;

Whereas, in the case of cigarettes, those taxes are made up of a mixed excise duty and VAT; whereas they display special characteristics, notably as regards their cumulative and multiplier effects; whereas therefore, all the components of those taxes should be harmonized,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Not later than 31 December 1992, Member States shall apply to cigarettes approximated taxes on consumption subject to the conditions and within the limits laid down in this Directive.

This provision shall apply to the taxes which, pursuant to Directive 72/464/EEC, are levied on cigarettes and which comprise:

(a) a specific excise duty per unit of the product;

(b) a proportional excise duty calculated on the basis of the maximum retail selling price;

(c) a VAT proportional to the retail selling price.

Article 2

Not later than 31 December 1992, each Member State shall apply

(a) a specific excise duty, the basic amount of which is fixed at 19,5 ECU per 1 000 cigarettes and which is to be adjusted in line with the general consumer price index in the Community, taking 1987 as the reference year;

(b) a proportional excise duty the rate of which is to be fixed in such a way that the combined incidence of this rate and the VAT rate lies between 52 % and 54 % of the retail selling price inclusive of all taxes.

Article 3

The provisions governing the periodic adjustment of the rate of the specific excise duty and the provisions governing the arrangements for collecting tax and the time allowed for payment of tax shall be laid down before 1 January 1989 in Directives adopted by the Council acting on proposals from the Commission.

Article 4

Article 1, Article 4(3) and (4), and Titles II and IIa of Directive 72/464/EEC shall cease to apply once Member

(1) OJ No L 303, 31. 12. 1972, p. 1.

(2) OJ No L 164, 20. 6. 1986, p. 26.

(3) OJ No L 10, 16. 1. 1979, p. 9.

States have brought into force the national provisions necessary to comply with this Directive.

Article 5

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

Article 6

This Directive is addressed to the Member States.

Proposal for a Council Directive on the approximation of taxes on manufactured tobacco other than cigarettes

COM(87) 326 final / 2

(Submitted by the Commission to the Council on 7 August 1987)

(87/C 251/04)

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 Council Directive 72/464/EEC [1], as last amended by Directive 86/246/EEC [2], sets out in Title I general provisions relating to excise duties applicable to all groups of manufactured tobacco; whereas special provisions relating to cigarettes have already been adopted in Title II of that Directive; whereas special provisions still have to be adopted for other manufactured tobacco products;

Whereas Council Directive 79/32/EEC [3] lays down the definitions of the different types of manufactured tobacco;

Whereas, in order to establish an internal market without frontiers, the structures of excise duties and VAT need to be harmonized and their rates brought more closely into line;

Whereas in the case of manufactured tobacco other than cigarettes, an excise duty structure proportional to the retail selling prices is the structure best suited to achieving that objective;

Whereas a proportional excise duty displays special characteristics, notably with regard to its multiplier effect in combination with VAT; whereas, therefore, the incidence of the sum of the rates of those two taxes should be harmonized as a proportion of the retail selling prices of the products in question;

Whereas the incidence of taxation should be harmonized in the case of all products belonging to the same group of manufactured tobacco,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following groups of home-produced and imported manufactured tobacco shall be subject, in each Member State, to an *ad valorem* excise duty calculated on the basis of the maximum retail selling price of each product, freely determined by manufacturers and importers in accordance with Article 5 of Directive 72/464/EEC:

(a) cigars and cigarillos;

(b) smoking tobacco;

(c) chewing tobacco;

(d) snuff.

Article 2

For the purposes of this Directive, the definitions of the products referred to in Article 1 shall be those laid down in Articles 2, 4, 5, 6 and 7 respectively of Directive 79/32/EEC.

Article 3

1. Not later than 31 December 1992, each Member State shall apply an *ad valorem* rate of excise duty in such a way that the total tax burden resulting from the combination of the excise duty and VAT is:

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(1) OJ No L 303, 31. 12. 1972, p. 1.
(2) OJ No L 164, 20. 6. 1986, p. 26.
(3) OJ No L 10, 16. 1. 1979, p. 8.