



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.9.2005
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2005/0175 (CNS)

Proposal for a

COUNCIL DIRECTIVE

**amending Directive 69/169/EEC as regards as
the temporary quantitative restriction on beer imports into Finland**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Finland, which has a border with Russia where alcohol is much cheaper, has requested an extension of the existing restriction on beer imports by travellers from countries other than Member States beyond 1st January 2006. The purpose of the request is aimed at addressing fiscal, economic, social, health and public order problems.

The Commission proposes to authorize Finland to apply a quantitative limit for beer imports by travellers from countries other than Member States to be fixed at an amount of 16 litres, to take effect on 1st January 2006 at the latest. This measure should help to soften the current fiscal and economic problems faced by Finland. However, this derogation should be restricted to a certain time period in order to:

- a) take account of the necessity of equal Community rules to prevent distortions of competition resulting from the application of different limits when external frontiers linking the Community to third countries are crossed, and
- b) pending the outcome of a general review of the values and quantities of goods set down in Council Directive 69/169/EEC. Such review is likely to result in a proposal which, inter alia, may provide a permanent solution to the Finnish problem.

The derogation will expire on 31st December 2006.

- **General context**

In 2000 Finland was granted a derogation until 31st December 2005 to limit personal imports of beer by individuals from countries other than Member States to not less than 6 litres due to fiscal, economic, social, health and public order problems. In fact, Finland applied the derogation only to a limited extent and restricted the import of beer on the basis of its national law to not less than 16 litres. In connection with this derogation Finland was required to gradually abolish existing restrictions concerning beer brought into its territory from other Member States under conditions laid down in Council Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products

- **Existing provisions in the area of the proposal**

Council Directive 69/169/EEC of 28th May 1969 contains the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel. It has been amended several times since its adoption in 1969 in order to resolve specific problems faced by several Member States.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The proposal contains a prolongation of an existing derogation, which only concerns Finland.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Not applicable.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The Commission proposes to authorize Finland to apply a quantitative limit for beer imports by travellers from countries other than Member States to be fixed at an amount of 16 litres, to take effect on 1st January 2006 at the latest. This measure should help to soften the current fiscal and economic problems faced by Finland. The derogation will expire on 31st December 2006.

- **Legal basis**

Article 93

- **Subsidiarity principle**

With Council Directive 69/169/EEC the EU has already laid down harmonized provisions for imports by private travellers and therefore made use of its competence. Any changes to these provisions require a Community act of legislation and can not be subject of a Member States decision.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

Without a prolongation of the current derogation, the general allowance laid down in Article 1 of Directive 69/169/EEC of 175 Euro would apply. In practice private travellers would be entitled to import on average 200 litres beer from third countries into Finland. Between Finland and its neighbouring third country, i. e. Russia, there still exists a considerable disparity in prices. The negative effects of cross border

shopping on the economic situation of Finnish retail traders are compounded by the existence of duty-free shops located in the border regions of Russia. Besides the negative consequences for retail shops and tax revenues the increased level of beer imports are causing social and health problems. The afore-mentioned circumstances have to be considered in conjunction with the significant tax reductions of, on average, 33% which were introduced in 2004 and the specific geographical situation of Finland.

It is, therefore, considered appropriate to provide for a temporary extension to the derogation.

- **Choice of instruments**

Proposed instruments: directive.

Other means would not be adequate for the following reason(s).

An existing Directive can only be amended by a Directive.

4) BUDGETARY IMPLICATION

The proposal has no negative consequences for the Community budget.

5) ADDITIONAL INFORMATION

- **Correlation table**

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Whereas:

- (1) Articles 4 and 5 of Council Directive 69/169/EEC of 28th May 1969 on the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover taxes and excise duty on imports in international travel⁽⁴⁾ provide for allowances in respect of excisable goods contained in the luggage of travellers coming from countries other than Member States on condition that such imports have no commercial character.
- (2) Directive 69/169/EEC as amended by Directive 2000/47/EEC allows Finland until 31st December 2005 to restrict the import of beer by individuals to not less than 6 litres per person due to serious economic difficulties of Finnish retail traders in the border region as well as a considerable loss of revenue caused by the increased import of beer from countries other than Member States. Finland has applied the allowance only to a limited extent and restricted the import of beer to a maximum 16 litres per person.
- (3) The accession of new Member States has provided new opportunities for people travelling from one of the Member States, especially from Estonia, who wish to bring beer into Finland. Finland reacted to this situation by reducing tax rates on alcoholic

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ L 133, 4.6.1969, p. 6. Directive as last amended by Directive 2000/47/EC (OJ L193, 29.7.2000, p. 73).

beverages across the board by, on average, 33%, which is by far the most significant change for 40 years.

- (4) The reduction in alcohol tax rates has led not only to significant losses of excise duty revenue but also to increased problems in relation to alcohol policy and to social and health policy. Furthermore, problems in public order and an increase in alcohol related crime have arisen.
- (5) Finland has requested a derogation from Article 4(1) of Directive 69/169/EEC to apply a maximum limit for beer imports by travellers from countries other than Member States of not less than 16 litres per person.
- (6) Account should be taken of the geographical situation of Finland, the economic difficulties of the Finnish retail traders located in the border regions and the considerable loss of revenue caused by the increased imports of beer from countries other than Member States
- (7) For those reasons and in the light of the current reflections on a general revision of the values and quantities of goods set out in Directive 69/169/EEC, it is appropriate to authorize Finland to apply the requested derogation for a further year until 31st December 2006.

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 5 of Directive 69/169/EEC, paragraph 9 is replaced by the following:

"9. By way of derogation from Article 4(1), Finland shall be authorised, until 31st December 2006, to apply a maximum quantitative limit of not less than 16 litres for the importation of beer from countries other than Member States."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31st December 2005 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President