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REPORT

on the proposal for a Council directive amending Directives 92/79/EEC and 92/80/EEC, authorising France to prolong the application of lower rates of excise duty to tobacco products released for consumption in Corsica (COM(2003) 186 – C5-0197/2003 – 2003/0075(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: John Purvis

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 2 May 2003 the Council consulted Parliament, pursuant to Article 93 of the EC Treaty, on the proposal for a Council directive on amending Directives 92/79/EEC and 92/80/EEC, authorising France to prolong the application of lower rates of excise duty to tobacco products released for consumption in Corsica (COM(2003) 186 – 2003/0075(CNS)).

At the sitting of 12 May 2003 the President of Parliament announced that he had referred the proposal to the Committee on Economic and Monetary Affairs as the committee responsible and the Committee on Agriculture and Rural Development and to the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0197/2003).

The Committee on Economic and Monetary Affairs had appointed John Purvis rapporteur at its meeting of 20 May 2003.

The committee considered the Commission proposal and draft report at its meetings of 17 June 2003, 10 September 2003 and 1 October 2003.

At the latter meeting it adopted the draft legislative resolution by 25 votes , with 2 abstentions.

The following were present for the vote Christa Randzio-Plath (chairwoman), José Manuel García-Margallo y Marfil (vice-chairman), Philippe A.R. Herzog (vice-chairman), John Purvis (rapporteur and vice-chairman), Hans Blokland, Armonia Bordes, Renato Brunetta, Bert Doorn (for Ingo Friedrich), Harald Ettl (for Helena Torres Marques), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lutz Goepel (for Generoso Andria), Christopher Huhne, Othmar Karas, Piia-Noora Kauppi, Werner Langen (for Christoph Werner Konrad), Alain Lipietz, Astrid Lulling, Hans-Peter Mayer, Fernando Pérez Royo, Alexander Radwan, Bernhard Rapkay, Olle Schmidt, Bruno Trentin, Ieke van den Burg (for Hans Udo Bullmann) and Theresa Villiers.

The Committee on Agriculture and Rural Development decided on 20 May 2003 not to deliver an opinion and the Committee on Regional Policy, Transport and Tourism decided on 21 May 2003 not to deliver an opinion.

The report was tabled on 1 October 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive on amending Directives 92/79/EEC and 92/80/EEC, authorising France to prolong the application of lower rates of excise duty to tobacco products released for consumption in Corsica
(COM(2003) 186 – C5-0197/2003 – 2003/0075(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2003) 186)¹,
 - having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0197/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A5-0322/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 6

(6) By the end of this derogation period the tax rules for manufactured tobaccos released for consumption in Corsica must have been brought fully into line with the rules for mainland France. Nevertheless, too abrupt a change should be avoided and ***there should therefore be an***

(6) By the end of this derogation period the tax rules for manufactured tobaccos released for consumption in Corsica must have been brought fully into line with the rules for mainland France. Nevertheless, too abrupt a change should be avoided and the excise duty currently levied on cigarettes in Corsica

¹ Not yet published in OJ.

intermediate increase in the excise duty currently levied on cigarettes in Corsica.

should thus be gradually and proportionally increased each year during the transition period.

Justification

It is important to ensure a gradual phasing out of the derogation, rather than wait until 2008 and then phase out it out over a period of just two years. Increasing the minimum rate by 3 percentage point per year, with a final adjustment of 4 percentage points, would ensure a more balanced transition.

Amendment 2

ARTICLE 1

Article 3(4) (Directive 92/79/EEC)

"4. By derogation from Article 2, from 1 January 2003 to 31 December 2009 France may continue to apply a reduced rate of excise duty to cigarettes released for consumption in Corsica. This rate shall apply solely to an annual quota of 1200 tonnes.

From 1 January 2003 to 31 December **2007** the reduced rate must equal at least 35% of the price for cigarettes in the price category most in demand in Corsica.

"4. By derogation from Article 2, from 1 January 2003 to 31 December 2009 France may continue to apply a reduced rate of excise duty to cigarettes released for consumption in Corsica. This rate shall apply solely to an annual quota of 1200 tonnes.

From 1 January 2003 to 31 December **2003** the reduced rate must equal at least 35% of the price for cigarettes in the price category most in demand in Corsica.

From 1 January 2004 to 31 December 2004 the reduced rate must equal at least 38% of the price for cigarettes in the price category most in demand in Corsica.

From 1 January 2005 to 31 December 2005 the reduced rate must equal at least 41% of the price for cigarettes in the price category most in demand in Corsica.

From 1 January 2006 to 31 December 2006 the reduced rate must equal at least 44% of the price for cigarettes in the price category most in demand in Corsica.

From 1 January 2007 to 31 December 2007 the reduced rate must equal at least 47% of the price for cigarettes in the price category most in demand in Corsica.

From 1 January 2008 to 31 December 2008 the reduced rate must equal at least 50% of the price for cigarettes in the price

From 1 January **2008** to 31 December 2009
the reduced rate must equal at least **44%** of
the price for cigarettes in the price category
most in demand in Corsica."

category most in demand in Corsica.

From 1 January **2009** to 31 December 2009
the reduced rate must equal at least **53%** of
the price for cigarettes in the price category
most in demand in Corsica."

Justification

See justification to amendment 1.

EXPLANATORY STATEMENT

Background

On 16 April 2003, the European Commission proposed for a Directive authorising France to extend the application of a reduced rate of excise duty on tobacco products sold on the island of Corsica until December 31, 2009. The current exemption, which was first granted at the time of the adoption of the first Tobacco Directives in 1992, expired on 31 December 2002.

Directive 92/79/EEC provides for Member States setting a minimum overall excise duty of 57% of the retail price, all taxes included. This level of taxation cannot be less than Euro 60 for 1,000 cigarettes in the price category most in demand. From July 1, 2006, the sum of Euro 60 will increase to Euro 64.

The specific regime applied in Corsica permits the retail selling of cigarettes at a price equal to two-thirds of the retail price on the French mainland. At the end of 2002, the most popular category of cigarettes cost Euro 120 in Corsica and Euro 180 in France (per 1000 cigarettes). The level of excise duties was respectively Euro 38.65 and 106.18. The impact of excise duties on the retail price amounts to 32.21% in Corsica and 58.99% in mainland France, compared with a minimum Community rate of 57%.

France has justified this further extension by the need to safeguard the sector employed in the production and distribution of tobacco products on the island. The production of cigarettes in Corsica provides employment to 53 people. The exemption regime offsets the extra costs of producing cigarettes on the island. The retail sale of these products is covered by about 350 retailers who employ a broadly equivalent number of staff, essentially during the four to five months of the tourist season.

The federation of tobacconists contend that aligning taxes on Corsica with those on mainland France would mean that half of the island's tobacconists would be forced to close Corsica has 1 tobacconist per 700 inhabitants as compared to 1 per 1600 in mainland France mostly because they have a higher profit margin (11% as opposed to 8% in mainland France).

The proposal provides for raising the total excise duty rate on cigarettes sold in Corsica to 35% from January 1, 2003 to December 31, 2007. From January 1, 2008, this rate would be increased further to 44%. At the end of this exemption period, the rate of taxation would be aligned with that applied in continental France.

Finally, in order to avoid undermining the proper functioning of the Internal Market, the quantity of cigarettes subject to this reduced rate will be limited to an annual quota of 1,200 tonnes, regardless of whether they are produced on the island. This more or less corresponds to the quantity currently consumed on the island, in order to prevent the cheaper Corsican cigarettes being exported to other parts of the EU to any significant extent. However, the peak in sales during the tourism season would suggest that there is a certain contradiction here.

Overall Policy Context

This proposal came following a 2 ¼ hour meeting between Commission President Prodi and French Interior Minister Nicolas Sarkozy on 7 January 2003, during which the latter called for a number of special regimes for Corsica, including tobacco taxation, fisheries and investment aid. According to reports in the press, an official closely involved in the talks described the outcome as "completely unexpected".

This is part of a new push by the French Government to improve local economic development, and it is currently seeking to get Corsica's status as an isolated island comparable to the Canary Islands, Madeira or the Azores recognised by the EU. No other Mediterranean island has this status but, unlike neighbouring Sardinia and Sicily, Corsica no longer enjoys Objective 1 status under EU regional policy.

This preferential tax treatment for tobacco was first put in place by an Imperial Decree of 1811 and will now be phased out over a seven year period. The factory in question (Macotab) is owned by the Franco-Spanish tobacco company Altadis which produces brands such as Gitanes and Gauloises. In this context, it is interesting to note that Macotab also produces cigarettes for competitors Philip Morris in order to make sufficient volumes. Its production capacity is quite limited, 3 tonnes per day (1000 tonnes on an annual basis), compared with 80 tonnes per day for the Groups other three production facilities in France. Macotab has an annual turnover of €5, 14 million and employs 53 people. The workforce in active employment in Corsica is 70 000 (Data relates to the year 2000).

Critical Appraisal of the Proposal

The low productivity and the higher production costs of the Corsican Factory are cited in the Commission document as key reasons for granting this derogation. However, the question remains as to what happens after the derogation expires in 2009? In order for this measure to be meaningful, the company must take measures to ensure that the factory becomes more competitive. Otherwise it is difficult to see how it could survive after 2009. Thus, this proposal would either

- just give the Corsican factory another 5 years before being closed; it would be interesting to know what measures are envisaged to prevent this, or
- there will simply be a new request to maintain the derogation, despite the stated objective that by the end of 2009, there shall be no price differences between Corsica and France.

The proposed structure is not exactly conducive to change. Under the proposed structure, tax rates are to remain virtually unchanged until 2008, and then increase from 35% to 57% of the retail price in the period of only two years. Is this realistic?

Your Rapporteur's Approach

Your rapporteur welcomes the fact that the French authorities have increased the taxes somewhat to 35% of the retail selling price and he can agree with the main aims and objectives of the Commission proposal.

He fully shares the sentiment that the derogation should be phased out as there seems to him to be no objective reason for Corsica to enjoy such preferential treatment, especially as no other island in the Mediterranean Sea enjoys a similar advantage. Nor is this consistent with the EU's policy to discourage cigarette smoking for public health reasons. However, he also

recognises that an abrupt end to the scheme would cause problems for the local economy.

Therefore whilst agreeing with the ultimate objective, he does not fully support the proposed method of solving the problem. Your rapporteur does not think that it would be responsible to phase it out according the derogation per the timetable proposed by the Commission as this would be almost as abrupt as not renewing the scheme right now.

Instead, he is proposing an amendment to implement a gradual phasing out of the derogation by increasing the minimum rate by 3% percentage points per year, with a final increase of 4 percentage points, in order to arrive at the same result by 2010 – the 57% minimum rate. He believes that this will ensure a more balanced and orderly transition to the normal tax structure applied elsewhere in France, and the EU for that matter. This change would make it more likely that Macotab and the retailers will be able to adjust comfortably to their new and inevitable situation.