

II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a Council Directive amending 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, Council Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils and Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils

(94/C 397/01)

On 7 September 1994 the Council decided to consult the Economic and Social Committee, under Article 99 of the Treaty establishing the European Community, on the abovementioned proposal.

The Economic and Social Committee decided to appoint Mr Gafo Fernández as Rapporteur-General with the task of preparing the Committee's work on the subject.

At its 319th Plenary Session (meeting of 20 October 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction and assessment of the proposal

1.1. The original directives to which amendments are proposed were adopted with the aim of regulating the holding and movement of a range of petroleum products subject to special taxation (excise duty), thus ensuring that tax obligations are met and laying down certain minimum harmonized bases for excise-duty rates (although in practice rates vary considerably among the various Member States).

1.2. The present proposal comprises a range of amendments to these directives, aiming to perfect and simplify their implementation in the light of the experience acquired in their two years of operation, and particularly after the completion of the internal market, with the customs and tax simplifications introduced for intra-Community movement of goods since 1 January 1993.

1.3. The proposal is essentially a technical one, with the dual aim of clarifying and filling in gaps in Community rules and simplifying the administrative

steps necessary to ensure free movement of these products. Its drafting took account not only of the experience of the tax authorities of the Member States, but also to some extent of the suggestions made by the industry and the users of these products.

1.4. In view of the foregoing, the Committee welcomes the proposed directive, subject to the following comments which aim to improve the free movement of these products in practice.

2. General comments

2.1. The Committee wishes to express its concern at the fact that the proposal retains the existing procedure for applying exemptions, not in advance as would be desirable, but in the form of subsequent reimbursement of the duty paid. This involves financial burdens and administrative complications for enterprises and final

consumers. It therefore takes the view that the system of exemption in advance should be introduced in a harmonized way throughout the Community, for cases where exemption would be obligatory at Community level.

2.2. Similarly, no satisfactory solution is proposed for double taxation of products which, once the tax has been paid, undergo certain forms of deterioration or inadequate mixing which make it necessary for them to be sent back to the authorized depot prior to processing. The Committee urges the Commission to seek solutions to this, on the lines set out below.

2.3. Finally, the Committee expresses its concern at the possibility of more favourable tax treatment for certain types of non-conventional hydrocarbons, capable of replacing traditional taxable products without being subject to excise duties. The Committee proposes that these products be covered by the system which applies to additives or non-conventional products used as fuels.

3. Specific comments

3.1. Article 1(5)

It is proposed that the third indent of the new Article 14(4) of the original directive be deleted, on the grounds that there is an apparent contradiction between paragraph 1 of the original Article which lays down that 'Authorized warehousekeepers shall be exempt from duty in respect of losses occurring under suspension arrangements ...' and the third indent, which leaves the Member States free either to grant a partial exemption or no exemption. The Committee therefore suggests the elimination of this possibility of partial or total refusal of exemption for a quantity of product which does not exist in practice.

3.2. Article 1(6)d)

It is proposed that the first indent of this paragraph be deleted and that, in the second indent, the phrase 'the same authorities' be replaced with 'the competent authorities of the Member State of departure'. Indeed, although the new wording involves considerable simplification and improvement of the original procedure, the fact that the Member State requires previous authorization from the dispatcher can cause pointless delays and give rise to discriminatory practices, which would be avoided by the communication of these data immediately

afterwards as provided for in the second indent of this paragraph.

3.3. Article 1(12)b)

This comment does not apply to the English language version.

3.4. Article 2(1)b)

After the words 'shall be taxed as motor fuel', the following should be added 'as shall any other hydrocarbon in its crude state used as a substitute for a product subject to excise duty'. This clarification is necessary since at a later stage the text lays down a general exemption for such hydrocarbons in the crude state, without specifying the customs codes concerned — something which could encourage unfair competition based on the differentiation of fiscal treatment.

3.5. In connection with the 'subsequent reimbursement' mentioned in point 2.1 above, the Committee takes the view that the system could be improved by the following amendments:

3.5.1. Article 1(10)

A new point a) should be added, reading as follows: 'The last sentence of the last sub-paragraph of paragraph 1 is deleted.' 1(10)a and b) would then become b) and c) respectively.

3.5.2. Article 2(3)

A new point c) should be added, reading as follows: 'At the end of paragraph 8, the following phrase is added: 'except for the exemptions provided for in Article 1'.'

3.6. The Committee feels that the problem of double taxation mentioned in point 2.2 above could be solved by the following amendment:

3.6.1. Article 1

It is proposed that a new paragraph 10 be inserted, reading as follows: '10. At the end of Article 22(5), the following paragraph is added: 'in cases where a product on which excise duty has been paid must be returned to the factory or fiscal warehouse for processing, excise

duties shall be refunded in proportion to the volume returned.'

3.6.1.1. Paragraphs 10, 11 and 12 would become 11, 12 and 13 respectively.

Done at Brussels, 20 October 1994.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on:

- the proposal for a Council Regulation (EC) applying a three-year scheme of generalized tariff preferences (1995-97) in respect of certain industrial products originating in developing countries, and
- the proposal for a Council Regulation (EC) extending into 1995 the application of Regulations (EEC) No 3833/90, (EEC) No 3835/90 and (EEC) No 3900/91 applying generalized tariff preferences in respect of certain agricultural products originating in developing countries

(94/C 397/02)

On 11 October 1994 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the abovementioned proposals.

The Economic and Social Committee decided to appoint Mr Giesecke as Rapporteur-General for its Opinion.

At its 319th Plenary Session (meeting of 20 October 1994), the Economic and Social Committee adopted the following Opinion unanimously.

1. The Committee welcomes the proposal to undertake a thorough revision of the Generalized System of Preferences. This time the emphasis is to be on giving priority to the poorest countries.

2. The proposal to achieve this goal, whilst at the same time adhering to the principle of 'overall neutrality' whereby the total volume of preferential imports would remain the same but there would be a switch of emphasis in favour of the poorer countries, is considered to be a particularly positive development.

3. The Committee emphatically endorses the Community's efforts to likewise simplify procedures in undertaking a revision of this kind. Simplification is in the interests both of the poorer countries, whose administrations wish to concentrate their export drive

on transparent markets, and of European importers, who need adequate incentives if they are to build up new networks of suppliers. All proposed new measures must therefore satisfy criteria of simplification, as compared with the old system. Given that the new rules (graduation; solidarity mechanism; special incentives for positive action) are complicated, the Committee fears that this important objective will not be achieved.

4. From this point of view the Committee therefore welcomes the Commission's proposal to introduce a three-year time-scale for the operation of each general tariff preferences scheme. This time-scale will enable both the beneficiary countries and the firms concerned to engage in forward planning.