

**COUNCIL DIRECTIVE 2003/117/EC
of 5 December 2003**

amending Directives 92/79/EEC and 92/80/EEC, in order to authorise the French Republic to prolong the application of lower rates of excise duty to tobacco products released for consumption in Corsica

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 Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Following consultation of the Committee of the Regions,

Whereas:

(1) By the provisions of Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on cigarettes ⁽³⁾ and Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on manufactured tobacco other than cigarettes ⁽⁴⁾, France was authorised to continue applying up to 31 December 2002 the same rates for cigarettes and tobacco products sold in Corsica as those in force on 31 December 1997.

(2) Taking the view that more time was needed to bring the taxes applied to manufactured tobaccos in Corsica into line with the taxes applicable on the mainland, France requested, in particular, in a memorandum dated 26 July 2000 pleading recognition of Corsica's special position as an island within the European Union ('Pour une reconnaissance de la spécificité insulaire de la Corse dans l'Union européenne'), authorisation to prolong until 31 December 2009 the application of certain tax rules derogating from the Community's requirements regarding the taxation of tobacco products.

(3) The economic activity linked with manufactured tobaccos helps maintain economic and social equilibrium in Corsica. This is because the said activity provides a livelihood for some 350 retailers who employ about the same number of wage earners. Quite a large proportion of these retail outlets are in the sparsely populated mountain areas where they provide a neighbourhood service and thereby help indirectly to keep the population from moving away.

(4) Immediate and complete alignment with the tax rules for tobacco in mainland France would depress economic activity linked to manufactured tobacco in Corsica which, at present, provides the abovementioned jobs.

(5) Therefore, to prevent damage to the island's economic and social equilibrium, it is both essential and justifiable to grant a derogation with effect from 1 January 2003 to 31 December 2009, by which France may apply a rate of excise duty that is lower than the national rate to cigarettes and other manufactured tobaccos released for consumption in Corsica.

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

(7) To avoid undermining the smooth functioning of the internal market, the volume of cigarettes eligible for this derogating measure should be limited to an annual quota of 1 200 tonnes.

(8) Directives 92/79/EEC and 92/80/EEC should accordingly be amended,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 3(4) of Directive 92/79/EEC is replaced by the following:

'4. By derogation from Article 2, from 1 January 2003 to 31 December 2009 the French Republic 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 1 200 tonnes.

⁽¹⁾ Opinion of 21 October 2003 (not yet published in the Official Journal).

⁽²⁾ OJ C 234, 30.9.2003, p. 49.

⁽³⁾ OJ L 316, 31.10.1992, p. 8; Directive as last amended by Directive 2002/10/EC (OJ L 46, 16.2.2002, p. 26).

⁽⁴⁾ OJ L 316, 31.10.1992, p. 10; Directive as last amended by Directive 2002/10/EC.

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.

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.'

Article 2

Article 3(4) of Directive 92/80/EEC shall be replaced by the following:

'4. By derogation from Article 3(1), from 1 January 2003 to 31 December 2009 the French Republic may continue to apply a reduced rate of excise duty to manufactured tobaccos other than cigarettes released for consumption in Corsica. The reduced rate shall be:

- (a) for cigars and cigarillos, at least 10 % of the retail selling price, inclusive of all taxes, charged in Corsica;
- (b) for fine-cut tobacco intended for the rolling of cigarettes, at least 25 % of the retail selling price, inclusive of all taxes, charged in Corsica;
- (c) for other smoking tobaccos, at least 22 % of the retail selling price, inclusive of all taxes, charged in Corsica.'

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 2004. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 5 December 2003.

For the Council

The President

P. LUNARDI