COUNCIL DIRECTIVE 96/99/EC

of 30 December 1996

amending Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

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

Whereas the Economic and Social Committee, having been consulted on the Commission proposal, did not deliver its opinion within the time limit set by the Council pursuant to Article 198 of the Treaty; whereas it is appropriate to disregard the fact that the said Committee delivered no opinion;

Whereas Directive 92/12/EEC (2) lays down the general arrangements for the holding, movement and monitoring of products subject to excise duty;

Whereas Article 26 of that Directive provides a derogation permitting Denmark to apply excise duty to alcoholic drinks and tobacco products exceeding certain quantities when they are brought into its territory by private individuals who import them for their own use;

Whereas the 1994 Act of Accession provides, also by reference to Article 26 of Directive 92/12/EEC, that Sweden and Finland may apply excise duty to a more extensive list of alcohol drinks and tobacco products under the same conditions;

Whereas the derogations so provided for were accorded because in a Europe without frontiers where excise rates vary widely, an immediate total removal of excise limitations would have caused an unacceptable diversion of trade and revenue and distortion of competition in the Member States concerned, which have traditionally applied high excise duties to the products concerned both as an important source of revenue and for health and social reasons;

Whereas the derogations were granted until 31 December 1996 and subject to a review mechanism similar to that laid down in Article 28l of Directive 77/388/EEC (3);

Whereas, however, on 31 December 1996, minimum rates of excise duty applied throughout the Community will be lower than was expected when the derogations were accorded, so that their abolition on that date will cause greater problems than had been envisaged;

Whereas, therefore, it is appropriate to provide further time for adjustment in Denmark, Finland and Sweden by extending the date laid down in Article 26 of Directive 92/12/EEC;

Whereas, however, the provisions of Article 26 represent a derogation from a fundamental principle of the internal market, namely the right of its citizens to transport goods purchased for their own use throughout the Community without incurring liability to new duty charges, so that it is necessary to limit its effects as far as possible;

Whereas it is therefore appropriate, in the case of Denmark and Finland, to provide, on the one hand, for the gradual liberalization of the quantitative restrictions which may be applied prior to their complete removal on 31 December 2003 and, on the other hand, to reduce from 36 hours to 24 hours the qualifying period which requires a minimum stay outside the territory of the Member State concerned before residents may benefit from any allowance;

Whereas, the Member States concerned may decide upon the precise details of the liberalization process in the light of all relevant factors;

Whereas, however, the process should be subject to monitoring not later than 30 June 2000;

Whereas, in the case of Sweden, it is appropriate to authorize the continuation of the present restrictions until 30 June 2000 and subject to a review mechanism similar to that laid down in Article 28l of Directive 77/388/EEC;

Whereas Article 1 (2) of Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea-crossing (4) states that its enforcement is without prejudice to checks linked to prohibitions or restrictions laid down by the Member States, provided that

(1) Opinion delivered on 13 December 1996 (not yet published in the Official Journal)

(2) OJ No L 76, 23. 3. 1992, p. 1. Directive as last amended by Directive 94/74/EC (OJ No L 365, 31. 12. 1994, p. 46).

(3) OJ No L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 95/7/EC (OJ No L 102, 9. 5. 1995, p. 18).

(4) OJ No L 374, 31. 12. 1991, p. 4.