II

(Acts whose publication is not obligatory)

COUNCIL

SECOND COUNCIL DIRECTIVE

of 18 December 1978

on taxes other than turnover taxes which affect the consumption of manufactured tobacco

(79/32/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99 and 100 thereof,

Having regard to Council Directive 72/464/EEC of 19 December 1972 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (1), as amended by Directives 74/318/EEC (2), 75/786/EEC (3), 76/911/EEC (4), and 77/805/EEC (5),

Having regard to the proposal from the Commission (6),

Having regard to the opinion of the European Parliament (7),

Having regard to the opinion of the Economic and Social Committee (8),

Whereas there are several types of manufactured tobacco, distinguished by their characteristics and by the way in which they are used ;

Whereas these different types of manufactured tobacco should be defined ;

Whereas for economic reasons temporary derogations should be provided for certain Member States,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. For the purpose of applying Article 3 (2) of Directive 72/464/EEC :

(a) cigars and cigarillos,
(b) cigarettes,
(c) smoking tobacco,
(d) snuff,
(e) chewing tobacco,

as defined in Articles 2 to 6, shall be deemed to be manufactured tobacco.

2. Notwithstanding existing Community provisions, the definitions referred to in Articles 2 to 6 shall be without prejudice to the choice of system or the level of taxation which shall apply to the different groups of products referred to in these Articles.

Article 2

The following shall be deemed to be cigars or cigarillos if they can be smoked as they are :

1. rolls of tobacco made entirely of natural tobacco ;

2. rolls of tobacco with an outer wrapper of natural tobacco ;

3. rolls of tobacco with an outer wrapper of the normal colour of a cigar, and a binder, of reconstituted tobacco, falling within subheading 24.02 E of the Common Customs Tariff, where at least 60 % by weight of the tobacco particles are both wider

(1) OJ No L 303, 31. 12. 1972, p. 1.
(2) OJ No L 180, 3. 7. 1974, p. 30.
(3) OJ No L 330, 24. 12. 1975, p. 51.
(4) OJ No L 354, 24. 12. 1976, p. 33.
(5) OJ No L 338, 28. 12. 1977, p. 22.
(6) OJ No C 72, 27. 6. 1974, p. 15.
(7) OJ No C 155, 9. 12. 1974, p. 73.
(8) OJ No C 125, 16. 10. 1974, p. 38.