II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 19 December 1977

amending Directive 72/464/EEC on taxes, other than turnover taxes, which affect the consumption of manufactured tobacco

(77/805/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 the proposal from the Commission,

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

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

Whereas, in accordance with Council Directive 72/464/EEC of 19 December 1972 on taxes, other than turnover taxes, which affect the consumption of manufactured tobacco (3), as amended by Directives 74/318/EEC (4), 75/786/EEC (5) and 76/911/EEC (6) the Council shall adopt, at least six months before the expiry of the first stage, a Directive laying down the special criteria to apply during the second stage ;

Whereas the first stage expires on 31 December 1977 ; whereas a further extension of this stage has proved necessary ;

Whereas the special criteria applicable during the first stage have made possible an initial approximation of the structures of the excise duties on cigarettes in seven of the nine Member States, without the tax revenue of the Member States or the conditions of their markets being appreciably affected ;

Whereas the structure of the excise duty on cigarettes must include, in addition to a specific component calculated per unit of the product, a proportional component based on the retail selling price, inclusive of all taxes ; whereas the turnover tax on cigarettes has the same effect as a proportional excise duty and this fact should be taken into account when the ratio between the specific component of the excise and the total tax burden is being established ;

Whereas the special provisions to apply during the second stage should be laid down so as to guide the excise duties levied on cigarettes by the Member States towards a common structure ;

Whereas Denmark should be granted the right to refrain from enforcing the provisions in Article 12 (1) of Directive 72/464/EEC in Greenland in view of that territory's special situation ;

Whereas the introduction of the harmonized taxation system in the United Kingdom without any accompanying adaptation measures might conflict with the health policy applied by the United Kingdom Government ;

Whereas the United Kingdom should therefore be authorized, by way of derogation from Article 4 (2) of Directive 72/464/EEC, to charge an additional excise duty on the most harmful cigarettes for a limited period of 30 months from the date of entry into force of the second stage ;

(1) OJ No C 178, 2. 8. 1976, p. 11.
(2) OJ No C 204, 30. 8. 1976, p. 1.
(3) OJ No L 303, 31. 12. 1972, p. 1.
(4) OJ No L 180, 3. 7. 1974, p. 30.
(5) OJ No L 330, 24. 12. 1975, p. 51.
(6) OJ No L 354, 24. 12. 1976, p. 33.