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COM(2018) 334 final

2018/0173 (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**amending Directive 92/83/EEC on the harmonization of the structures of excise duties  
on alcohol and alcoholic beverages**

{SEC(2018) 254 final} - {SWD(2018) 258 final} - {SWD(2018) 259 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Several legal acts define the EU system for harmonised excise duties. Council Directive 2008/118/EC sets out the general arrangements for goods subject to excise duty, with particular emphasis on the production, storage and movement of excise goods between Member States. Energy products and electricity are covered by Directive 2003/96/EC and manufactured tobacco is covered by Directive 2011/64/EU.

Directive 92/83/EEC on the structures of excise duty on alcohol and alcoholic beverages sets out the common rules on the structures of excise duty applied to alcohol and alcoholic beverages. Directive 92/83/EEC defines and classifies the different types of alcohol and alcoholic beverages, according to their characteristics, and provides a legal framework for reduced rates, exemptions and derogations in some sectors.

Since the adoption of the Directive in 1992, the first and only evaluation was commenced in 2014. Therefore, the Directive was identified by the Commission for an evaluation under the Commission's Regulatory Fitness and Performance Programme (REFIT)<sup>1</sup>. A REFIT initiative regarding this directive and Directive 2008/118/EC was announced in Annex ii of the Commission Work Programme for 2017<sup>2</sup>. A proposal to amend Directive 2008/118/EC will also be presented to the Council along with this proposal.

The Directive has not kept pace with the challenges and opportunities offered by new technologies and developments within the alcohol industry. Some problems have been identified and inefficiencies persist causing possible distortions of the internal market. The large variation in duty levels between Member States<sup>3</sup>, which provides a strong incentive for tax evasion, and other weaknesses in the design of the tax necessitate the use of burdensome administrative procedures for both tax administrations and economic operators. These disproportionate administrative and compliance costs for economic operators restrict the participation of small and medium-sized enterprises in intra-EU trade in alcohol and alcoholic beverages.

The recommendations and findings of the evaluation<sup>4</sup> were taken into account in the Commission's report submitted to the Council in October 2016<sup>5</sup>. In December 2016, Member States unanimously supported the call to review the Directive and the Council subsequently

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<sup>1</sup> [https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/refit-platform\\_en](https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/refit-platform_en).

<sup>2</sup> COM(2016) 710 final

<sup>3</sup> Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages, OJ L 316, 31.10.1992, p.29 sets the minimum rates of excise. While a proposal to amend Directive 92/84/EEC may reduce the incentive for tax evasion and positively impact on public health, this impact assessment will not focus on this due to the limited support of stakeholders and the Commission's prior experience in proposing an amendment to this Directive.

<sup>4</sup> Ramboll Management Consulting, Coffey, Europe Economics, "Evaluation of Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages", 2016

<sup>5</sup> 'Report from the Commission to the Council on the evaluation of Council Directive 92/83/EEC on the structures of excise duties on alcohol and alcoholic beverage', Brussels, 28.10.2016, COM (2016) 676 final.

adopted Council Conclusions of 6 December 2016<sup>6</sup>, asking the Commission to carry out the necessary studies and consultation to submit a proposal for revision.

The study and the impact assessment focussed on the same main areas mentioned in the Commission report and the Council conclusions, which are::

- Dysfunctions in the application of exemptions for denatured alcohol. The proposal is a clarification of the relevant articles of the Directive to increase legal certainty.
- Dysfunctions in the classification of certain alcoholic beverages. It is proposed to split the existing other fermented beverages category into two subcategories. The first subcategory will maintain the current treatment, while the second will define and treat traditional other fermented beverages separately.
- Dysfunctional application of reduced rates for small producers and low strength alcoholic beverages. A proposal for the extension of reduced rates for small cider makers and an increase in the threshold to which reduced rates are applicable to beer are included. It is also proposed to develop a uniform certificate for small independent breweries and cider makers across the EU.
- Unclear provisions to measure degrees Plato<sup>7</sup> of sweetened or flavoured beer. The proposal is a clarification of the relevant articles to increase legal certainty.

The 2017 study took a broad approach to the possible problems, identified through various sources, with the functioning of Directive 92/83/EEC. Follow-up analysis of both studies resulted in a conclusion that not all of the aspects of the problematic areas merited EU action. Therefore the following areas identified in the Council conclusions are not addressed in this proposal:

- the extension of excise duty exemption for private production of fermented beverages (i.e. beer, wine and other fermented beverages) for home consumption to other beverages (i.e. ethyl alcohol). This was not taken further due to the associated health and fraud risks and the lack of support from Member States.
- the extension of reduced rates for small wine and fortified wines producers. It was decided not to address this issue as its introduction would bring no benefits to these small producers.
- the reduction of excise duty rates for low strength wine, ethyl alcohol and intermediate products. This was not progressed as compliance with the EU definitions of these products effectively means that no benefits would be achieved.

The objective of this initiative is to amend Council Directive 92/83/EEC to improve the regulatory framework to bring benefits to businesses, Member States and citizens.

- **Consistency with existing policy provisions in the policy area**

The proposal preserves the objectives of Directive 92/83/EEC, which were fully in line with existing policies and objectives relevant to the structures of excise duty applied to alcohol and alcoholic beverages.

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<sup>6</sup> <http://data.consilium.europa.eu/doc/document/ST-15009-2016-INIT/en/pdf>

<sup>7</sup> The Plato method seeks to estimate the concentration of extract in a fluid as a percentage by weight. The addition of sugar or flavour in the beer after fermentation may artificially affect its Plato degree.

- **Consistency with other Union policies**

The proposal is consistent with the 2015 Single Market Strategy<sup>8</sup>, where the Commission sets out to remove the differences at national level to ensure and to improve the functioning of the Single Market.

The proposed measure on denatured alcohol is consistent with the requirements of Article 168 of TFEU, where the Commission ensures the protection of human health. This measure aims to reduce fiscal fraud and the negative health impacts of denatured alcohol which can be used to produce illicit alcohol.

The health impacts of reduced rates for small cider makers and low strength beer cannot at present be conclusively determined but are not expected to be substantial.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis is Article 113 of TFEU. This provision enables the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, to adopt provisions for the harmonisation of Member States' legislation in the area of indirect taxation.

- **Subsidiarity (for non-exclusive competence)**

In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty on European Union<sup>9</sup>, the objectives of the proposal cannot be sufficiently achieved by Member States and can therefore be better achieved at Union level. The proposal does not go beyond what is necessary to achieve those objectives.

The source of the current complications for the excise duty exemption for denatured alcohol, classification of certain alcoholic beverages, status of independent small brewers and measurement of degree Plato lays precisely in the absence of clear rules at EU level. Decisions taken unilaterally by Member States create additional complexity and legal uncertainty. The extension of the reduced excise duty rates to small independent cider makers is not possible as the Directive effectively prevents Member States from correcting this imbalance as Member States may apply reduced excise duty rates to independent small producers of beer and ethyl alcohol but not to small independent cider makers. This is also the case in relation to the threshold for low strength alcohol.

The majority of Member State administrations have pointed out the need for improving the common definitions and rules of alcohol and alcoholic beverages for excise purposes at EU level. This is reflected in the Council Conclusions adopted on 6 December 2016, where the Council requested the Commission to carry out the necessary studies to prepare a possible legislative proposal for the revision of Directive 92/83/EEC.

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<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions upgrading the Single Market: more opportunities for people and business (COM (2015) 550 final), p.4.

<sup>9</sup> Consolidated version of the Treaty on European Union (OJ C 326, 26.10.2012, p.13)

- **Proportionality**

This proposal complies with the principles of proportionality as set out in Article 5(4) of the Treaty on European Union. The proposed amendments do not go beyond what is necessary to address the issues at stake and, in that way, to achieve the Treaty objectives of ensuring that the internal market functions properly and effectively. In particular the proposed extension of the reduced rates for small independent cider makers would enhance the competitiveness of these producers with limited adverse effects in terms of foregone revenues and administrative burdens and put them on an equal footing with small beer and ethyl alcohol producers.

- **Choice of the instrument**

A Directive is proposed in order to amend Directive 92/83/EEC. No alternative national, bilateral or other international initiative would provide the same level of effectiveness in terms of the functioning of the internal market and the monitoring and control of excisable alcohol, and significant added value consequently accrues from establishing common definitions and rules of alcohol and alcoholic beverages for excise purposes at EU level.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

In preparing this proposal, the existing rules on the structures of excise duty applied to alcohol and alcoholic beverages have been evaluated. An external (evaluation) study was carried out in 2014/2016 by a consultant<sup>10</sup>. The recommendations and findings of the external (evaluation) study were taken into account in the Commission's evaluation report (SWD) submitted to the Council in October 2016<sup>11</sup>. In December 2016, Member States unanimously supported the call to review the Directive and the Council subsequently adopted Council Conclusions of 6 December 2016<sup>12</sup>, asking the Commission to carry out the necessary studies and consultation to submit a proposal for revision. An external study on the structures of excise duty on alcohol and alcoholic beverages was undertaken by another consultant<sup>13</sup> in 2017.

- **Stakeholder consultations**

The consultation strategy sought to gather feedback from stakeholders on the application of the current rules on the structures of excise duty applied to alcohol and alcoholic beverages and to get their views on possible changes to such provisions.

The strategy consisted of (i) an in-depth consultation of consultation of 161 stakeholders in several Member States and at EU level and (ii) an internet based open public consultation held over 12 weeks from 18 April 2017 to 11 July 2017, with 166 contributions received. The

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<sup>10</sup> Ramboll Management Consulting, Coffey, Europe Economics, "Evaluation of Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages", 2016

<sup>11</sup> 'Report from the Commission to the Council on the evaluation of Council Directive 92/83/EEC on the structures of excise duties on alcohol and alcoholic beverage', Brussels, 28.10.2016, COM (2016) 676 final.

<sup>12</sup> <http://data.consilium.europa.eu/doc/document/ST-15009-2016-INIT/en/pdf>

<sup>13</sup> A grouping led by Economisti Associati s.r.l. and including the Centre for European Policy Studies (CEPS), CASE - Center for Social and Economic Research, wedoIT-solutions GmbH, and ECOPA undertook the assignment titled "Study on Council Directive 92/83/EEC on the structures of excise duty on alcohol and alcoholic beverages"

synopsis report of the stakeholder consultation is available in Annex 2 of the impact assessment accompanying this proposal.

An external consultant assisted the Commission in conducting an Open Public Consultation to collect stakeholders' comments and feedback on the issues identified and the possible options for a revision of the Directive.

- **Collection and use of expertise**

This proposal is based on the analysis of the evaluation study carried out in 2014/2016, the Commission's report submitted to the Council in October 2016 and the study in 2017. The 2017 study gathered and analysed the evidence on the existing costs and benefits arising from the Directive to determine the scale of the problems identified in the evaluation study. This study developed options for amending the current rules and assessed the economic and social impacts of such options.

- **Impact assessment**

The impact assessment for the proposal was considered by the Regulatory Scrutiny Board on 24 January 2018. The Board issued a positive opinion with reservations on the proposal together with recommendations, which have been taken into account. In particular reservations were expressed regarding the assessment of the overall effects of the proposed REFIT measures in terms of simplification and reduction of administrative burdens. The opinion of the Board, the recommendations and an explanation of how they were taken into account are included in Annex 1 of the Staff Working Document accompanying this proposal.

- **Regulatory fitness and simplification**

The revision of the Directive is part of the Commission's REFIT programme. Evidence collected in the evaluation and feedback gathered from the day-to-day application of the Directive's provisions led to the conclusion that there was a perceivable – albeit hardly quantifiable – lack of legal certainty over the treatment of specific products, leading in turn to potential additional costs to economic operators. Most of the problems identified were specific to certain markets or certain products. In terms of REFIT objectives, these focus particularly on those areas where economic operators see excessive regulatory costs and burdens. Rather these costs and burdens, the proposal focuses on unnecessary regulatory costs and burdens, which could be avoided if the Directive functioned better. In particular the proposal focuses on the hassle costs from the lack of legal uncertainty over the treatment of specific products. Clarification of the exemption for indirect uses of partially denatured alcohol will ensure a fairer treatment across the EU and reduce the costs for users in the minority of Member States that currently do not consider that partially denatured alcohol used for such indirect uses qualify for this exemption.

The annual administrative burden as a result of the proposed extension of the reduced rate scheme to small cider makers is estimated to be €178 per cider maker or an aggregated total of €200 000 annually. These burdens are similar to those incurred by small breweries availing of this scheme. For more information, see section 8 of the impact assessment accompanying this proposal in relation to the costs and burdens of this Directive.

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

The proposal does not have any implications for the Union budget.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Committee on Excise Duty, an advisory committee on excise issues in which representatives of all Member States participate, chaired by the Commission will monitor the implementation of the proposed amendments of the Directive and discuss and clarify possible interpretation issues between Member States regarding the new legislation.

The Committee on Excise Duty will report on any problems with the implementation and the evolution of problems with the functioning of the Directive and discuss and clarify possible interpretation issues between Member States regarding the new legislation. Member States and the Commission will evaluate the functioning of the evolutions provided for in the new legislation at least 5 years after its entry into force, allowing the markets to adjust and the results and impacts to materialise.

- **Explanatory documents (for directives)**

Explanatory documents are not required as the proposal aims to simplify and clarify the existing regime.

- **Detailed explanation of the specific provisions of the proposal**

Point 1 of Article 1 modifies Article 3, to clarify the provisions relating to the degrees Plato measurement of beer.

Point 2 of Article 1 modifies Article 4 to provide for a uniform certificate for small independent breweries across the EU. This will improve the cross border functionality of the existing relief for small breweries.

Point 3 of Article 1 amends Article 5 to increase the threshold to which reduced rates may be applied to low strength beer.

Point 4 of Article 1 modifies Article 12 to introduce a definition of 'cider'. This will also facilitate the application of reduced rates for independent small cider makers, which will be introduced in point 6.

Point 5 of Article 1 amends Article 13 to take account of the optional reduced rates for independent small cider makers introduced in point 6.

Point 6 of Article 1 inserts Article 13a to introduce optional reduced rates for independent small cider makers.

Point 7 of Article 1 modifies Article 27 to clarify the provisions relating to exemptions for denatured alcohol and to increase the legal certainty for economic operators and Member State authorities.

Point 8 of Article 1 deletes Article 28, which currently allows the UK to provide exemptions for certain products which are no longer exempted in the UK.

Point 9 of Article 1 inserts Article 28a which provides implementing powers to the Commission.



Proposal for a

## **COUNCIL DIRECTIVE**

### **amending Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament<sup>14</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>15</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Some provisions of Council Directive 92/83/EEC<sup>16</sup> are outdated and unclear and result in unnecessarily burdensome administrative procedures for both tax administrations and economic operators. The costs for economic operators of complying with those procedures have the effect of restricting the participation of small and medium-sized enterprises in trade in alcohol and alcoholic beverages in the internal market.
- (2) In order to ensure the uniform application of the conditions for fixing excise duty on beer, and in particular with regards to the measurement of degrees Plato for sweetened or flavoured beer, it is necessary to lay down the conditions for the measurement of degrees Plato.
- (3) The alcoholic strength of beer to which reduced rates for low strength beer may be applied is in general too low to provide any tangible incentive for brewers to be innovative and create new low strength products. In order to encourage the development of low strength beer, the threshold for low strength alcohol rates should be increased.
- (4) In order to ensure the uniform application of the conditions for classifying certain beverages as "other fermented beverages" and address the legal uncertainty that causes those beverages to be treated differently in the internal market, it is necessary to lay down the definition of the term 'cider'.
- (5) Member States may apply reduced rates to beer and ethyl alcohol produced in small volumes by independent small producers. In order to avoid cider being treated

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<sup>14</sup> OJ C , , p. .

<sup>15</sup> OJ C , , p. .

<sup>16</sup> Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).

differently from beer and ethyl alcohol, Member States should also have the power to apply reduced rates to cider produced in small volumes by independent small cider makers.

- (6) In order to facilitate the recognition of their status as independent small producers in all Member States, for the purposes of the application of the reduced excise duty rates on beer and cider implementing powers should be conferred on the Commission in respect of laying down a form for a uniform certificate confirming the annual output of the small producer and its compliance with the criteria laid down in Directive 92/83/EEC. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>17</sup>.
- (7) In order to reduce the compliance burden for economic operators and to increase legal certainty, the conditions for applying the exemptions for any type of denatured alcohol should be revised.
- (8) In order to ensure the uniform application of the exemption for completely denatured alcohol, it is necessary to further clarify the conditions for the mutual recognition of completely denatured alcohol. In order to increase the legal certainty it is also necessary to clarify the procedures for the notification changes to the requirements for the complete denaturing of alcohol.
- (9) In order to lay down the procedures for the assessment of Member States' requirements for the complete denaturation of alcohol, implementing powers should be conferred on the Commission in respect of accepting or rejecting the requirements for the complete denaturation of alcohol notified by Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (10) In order to ensure the uniform application of the exemption for partially denatured alcohol, it is necessary to clarify the conditions for the mutual recognition of partially denatured alcohol and to lay down that maintenance and cleaning of the manufacturing equipment is part of the manufacturing process and that the partially denatured alcohol used for that purpose is therefore covered by the exemption. In order to reduce the fraudulent use of that exemption, it is necessary to lay down further conditions for its application.
- (11) The exemptions for the United Kingdom laid down in respect of two specific alcoholic beverages reflected exemptions provided for in the national legislation of the United Kingdom. As those exemptions from the harmonised excise duty were repealed in the United Kingdom's national legislation, they are no longer relevant and should be abolished at Union level.
- (12) Since the objectives of this Directive, namely to reduce the compliance burden of economic operators and administrative burden for tax administrations, cannot be sufficiently achieved by the Member States but can rather, by reason of the effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

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<sup>17</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(13) Directive 92/83/EEC should therefore be amended accordingly,  
HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 92/83/EEC is amended as follows:

(1) in Article 3(1), the following subparagraph is added:

"All the ingredients of the beer, including those added after fermentation, shall be taken into account for the purposes of measuring the degree Plato.";

(2) in Article 4, the following paragraphs 4 and 5 are added:

"4. Member States shall, on request, provide a certificate to independent small breweries established in their territory confirming their annual total production of beer and confirming their compliance with the criteria in paragraph 2.

5. The Commission shall adopt implementing acts laying down the form of the certificate referred to in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28a(2) .";

(3) in Article 5, the words "2,8 %" are replaced by the words "3,5 %";

(4) in Article 12, the following point 3 is added:

"3. The term 'cider' means a beverage having an actual alcoholic strength by volume exceeding 1,2 % vol but not exceeding 8,5 % vol, obtained only from the fermentation of apple or pear juice or both, and without the addition of any other alcohol or alcoholic beverage.";

(5) in Article 13(2) the words "Except as provided in paragraph 3" are replaced by the words "Except as provided for in paragraphs 3 and Article 13a";

(6) the following Article is inserted:

*"Article 13a*

1. Member States may apply reduced rates of duty, which may be differentiated in accordance with the annual production of the cider makers concerned, to cider made by independent small cider makers within the following limits:

- the reduced rates shall not be applied to undertakings producing more than 15 000 hl of cider per year,
- the reduced rates, which may fall below the minimum rate, shall not be set more than 50 % below the standard national rate of excise duty for cider.

2. For the purposes of this Article the term 'independent small cider maker' shall mean a producer of cider which is legally and economically independent of any other cider maker, which uses premises situated physically apart from those of any other cider maker and does not operate under licence. However, where two or more small cider makers cooperate, and their combined annual production does not exceed 15 000 hl, those cider makers may be treated as a single independent small cider maker.

3. Member States shall ensure that any reduced rates they introduce apply equally to cider delivered into their territory from independent small cider makers situated in other Member States. In particular they shall ensure that no individual delivery from another Member States ever bears more duty than its exact national equivalent.

4. Member States shall, on request, provide a certificate to independent small cider makers in their territory confirming their annual total production of cider for the cider maker and confirming their compliance with the criteria in paragraph 2.

5. The Commission shall adopt implementing acts laying down the form of the certificate referred to in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28a(2).";

(7) Article 27 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

"Member States shall exempt the products covered by this Directive from excise duty under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse:";

(ii) point (a) is replaced by the following:

"(a) when distributed in the form of alcohol which has been completely denatured in any Member State in accordance with the requirements of that Member State or denatured alcohol which has been imported into a Member State and was denatured in accordance with the requirements of that Member State, where such requirements have been duly notified in writing and authorised in accordance with paragraphs 3 and 4 of this Article;";

(iii) point (b) is replaced by the following:

"(b) when used as part of the manufacturing process of any product not for human consumption, including for the maintenance and cleaning of the manufacturing equipment, provided the alcohol has been denatured in accordance with the requirements of the Member State in which that manufacturing process takes place:"

(b) the following paragraph is inserted:

"1A. For the purposes of paragraph 1(b) Member States shall apply the provisions of [chapter 4 of Directive 2008/118/EC] to movements of any product, containing alcohol, not for human consumption:

- where the manufacturing process has not been completed and the product in question is not in its finished form, or
- where the product in question contains alcohol of an alcoholic strength by volume of 90% or higher.";

(c) paragraph 3 is replaced by the following:

"3. A Member State wishing to introduce a change to the requirements for the complete denaturing of alcohol referred to in paragraph 1(a) shall notify such new requirements to the Commission in writing together with all the relevant information about the denaturants which it intends to employ.

If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within one month of receipt and specify what information is required. Once the Commission has all the information it considers necessary, it shall transmit the notification to the other Member States within one month.";

(d) paragraph 4 is replaced by the following:

"4. The Commission shall adopt implementing acts authorising or rejecting the requirements notified in accordance with paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28a(2).";

(8) Article 28 is deleted;

(9) in Section VIII, the following Article is inserted:

*"Article 28a*

1. The Commission shall be assisted by the 'Committee on Excise Duty'. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.".

#### *Article 2*

1. Member States shall adopt and publish, by 1 January 2020 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2020.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 3*

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

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*