



Study on Council Directive 92/83/EEC on the structures of excise duty on alcohol and alcoholic beverages

Final Report

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Acronyms and Abbreviations

ABV	Actual Alcoholic Strength by Volume
AFC	Alcohol as a Flavour-Carrier
AWP	Aromatised Wine Products
bn	Billion
BR	Better Regulation
BTA	Bilateral Trade Agreement
BTI	Binding Tariff Information
CAGR	Compound Annual Growth Rate
CBA	Cost-Benefit Analysis
CDA	Completely Denatured Alcohol
CJEU	Court of Justice of the European Union
CN	Combined Nomenclature
CNEN	Combined Nomenclature Explanatory Note(s)
DG AGRI	Directorate General for Agriculture and Rural development
DG COMP	Directorate-General for Competition
DG GROW	Directorate General for Internal Market, industry, Entrepreneurship and SMEs
DG SANTE	Directorate General for Health & Food Safety
DG TAXUD	Directorate General for Taxation and Customs Union
DG TRADE	Directorate General for Trade
EBTI	European Binding Tariff Information
EC	European Commission
EDT	Excise Duty Tables
EMCS	Excise Movement and Control System
EPC	Excise Product Code
ET	Ethyl Alcohol
EU	European Union
FESS	Functional Excise System Specification
FAB	Flavoured Alcoholic Beverage
FPG	Fiscalis Project Group
hl	Hectolitre
hpa	Hectolitre of Pure Alcohol
HS	Harmonised System
IA	Impact Assessment
IP	Intermediate Products
IIA	Inception Impact Assessment
ISSG	Inter-Service Steering Group
ITEG	Indirect Tax Expert Group
lpa	Litre of Pure Alcohol
MCA	Multi-Criteria Analysis
mn	Million
MS	Member State(s)
NGO	Non-Governmental Organisation
OFB	Other Fermented Beverages
OLAF	European Anti-fraud Office
OPC	Open Public Consultation
PDA	Partly Denatured Alcohol
PDO / PGI	Protected Designation of Origin / Protected Geographical Indication
REFIT	Regulatory Fitness and Performance Programme
RTD	Ready-to-Drink products
SME	Small and Medium-sized Enterprise
TFEU	Treaty on the Functioning of the European Union
ToR	Terms of Reference
WHO	World Health Organisation

1 Open Public Consultation - Synopsis Report

1.1 Overview

This Annex provides an overview of the results of the Open Public Consultation (OPC) carried out in the framework of the Assignment.¹ The English version of the OPC was launched on 18 April 2017, followed three weeks later by the other versions translated into all the EU official languages. It remained open until 11 July 2017, for a total of 12 weeks. A total of 166 responses were received, from 21 MS.²

The OPC questionnaire consisted of 58 questions, divided into six sections, including one introductory section about the respondent's profile, four thematic sections, and a final section for the upload of additional documents. Questions primarily concerned (i) the respondent's perception of the issues at stake; (ii) the agreement / disagreement with a subset of possible options and approaches to the issues, and (iii) the respondent's expectation about the impact that may derive from the adoption of certain measures.

To take the disparity of respondents' background into account, each thematic section included general questions suitable for all type of respondents, and more specific questions requiring a more in-depth knowledge of (or specific interest in) the technical functioning of Directive 92/83. However, there were no restrictions to the participation of every respondent to every section of the questionnaire. For a more straightforward interpretation of answers, 'don't know' answers have been treated as blank answers and are not shown in this report. Considering that no section or question was mandatory, the number of respondents varies from question to question.

The Annex reproduces the structure of the questionnaire, exception made for section 3 (on reduced rates or exemptions for certain producers and types of alcoholic beverages, namely small / private producers and low-strength beverages), which was split into three different parts focusing on: (i) reduced rates for small producers, (ii) reduced rates for low-strength products, and (iii) exemptions for private production. For every question, we provide the cross-tab statistics of responses, as well as a brief descriptive commentary. To enhance the significance of results, in addition to the segmentation of respondents by type (industry stakeholders, private individuals, etc.), producers and industry associations have also been grouped by sector of interest (beer production, wine production, etc.). The segmentation of industry respondents by sector of interest – based on answers provided to question 6 of the questionnaire³ and fine-tuned via desk research – varies from question to question in order to distinguish respondents who have a specific interest in the issue at hand from those who do not. To the contrary, the number of SME taking part in the survey was too limited to categorize their responses separately in a meaningful way.

1.2 General section

The OPC attracted a total of 166 responses, a somewhat low number possibly due to the fact that many companies submitted a joint reply to the OPC via their EU-level industry associations, as emerged during the fieldwork of the Study. Respondents included 62 economic operators and 56 industry associations and other similar entities.⁴

¹ https://ec.europa.eu/taxation_customs/consultations-get-involved/customs-consultations/public-consultation-structures-excise-duties-applied-alcohol-and-alcoholic-beverages_en

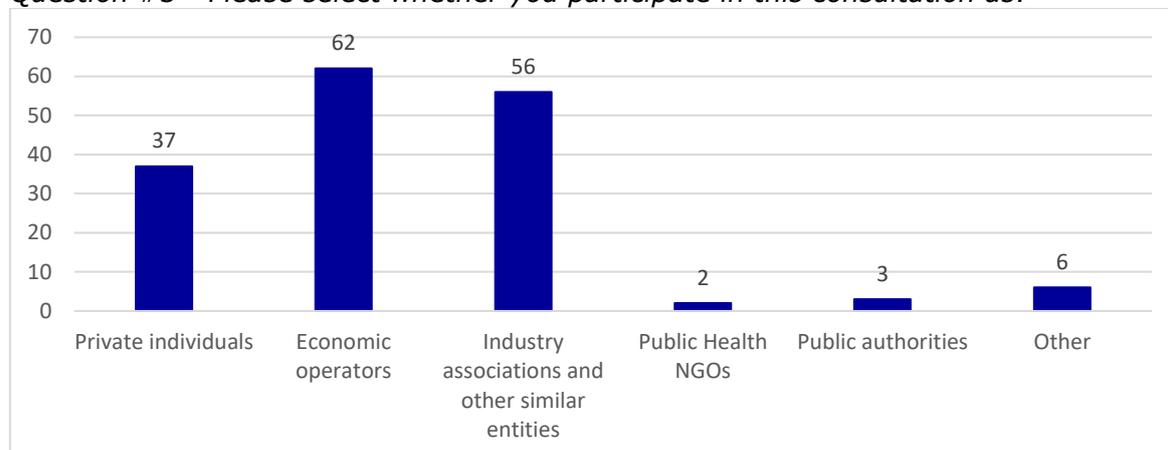
² The total number of responses initially reached 171. However, after a preliminary analysis three entirely blank responses and two duplicates were discarded.

³ Question # 6: 'If you fall under respondent groups B or C above (economic operators / industry associations) please indicate if your business / organisation is involved in any of the following activities'.

⁴ Note that a number of companies had erroneously classified themselves as "industry associations" and therefore had to be reclassified as "economic operators". Moreover, certain entities – self-declared as NGOs

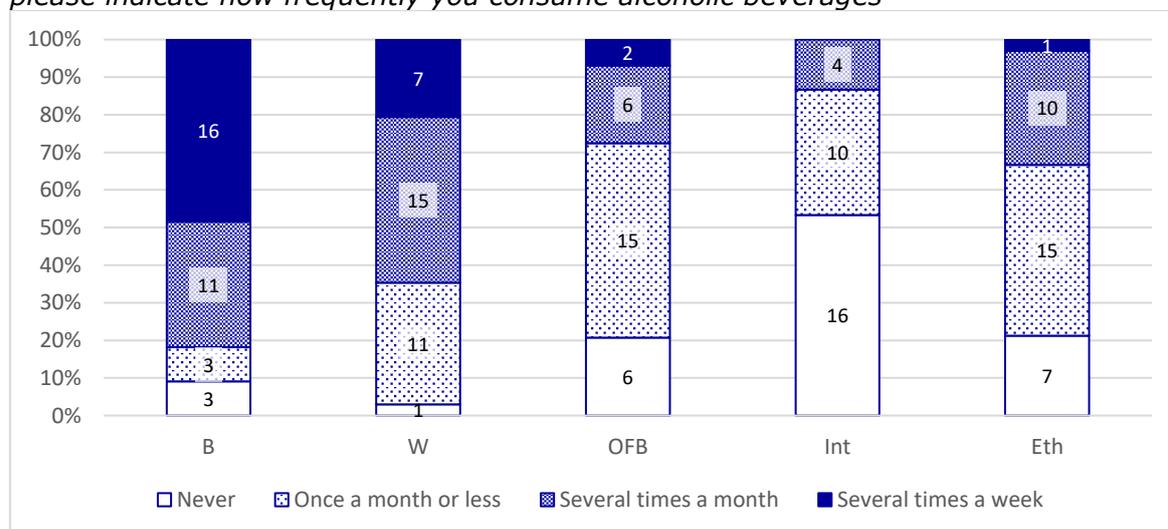
In addition, 37 private individuals took part in the survey, while the participation of the other respondent groups was more limited: only 2 public health NGOs, 3 public authorities and 6 miscellaneous respondents.⁵ For this reason, throughout the rest of this OPC report, these respondents have been grouped together into a single “other” category.

Question #3 - Please select whether you participate in this consultation as:



The question on consumption habits of private individuals responding to the OPC showed that lower-strength alcoholic beverages – such as beer and wine – are more likely to be consumed more frequently.

Question #5 - If you fall under respondent group A above (individual / private capacity) please indicate how frequently you consume alcoholic beverages



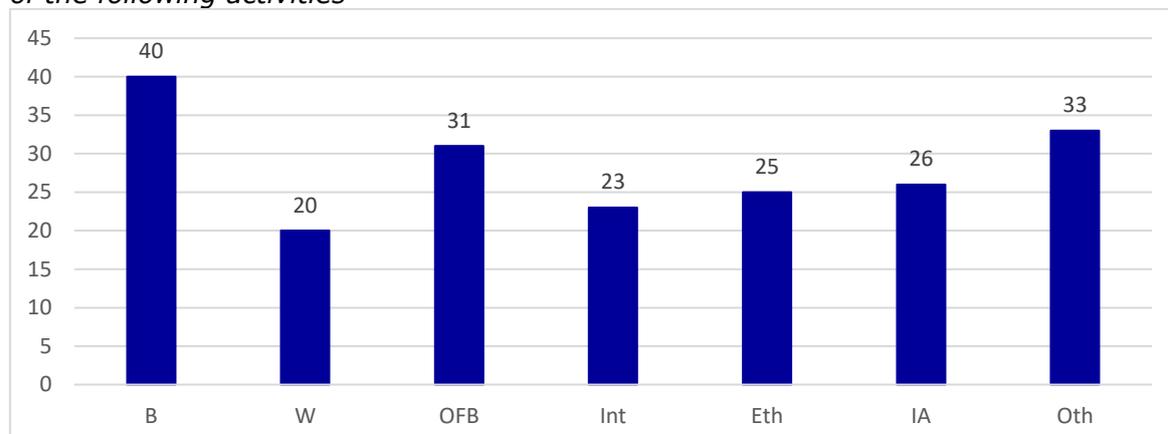
Legend: B: beer; W: wine; OFB: other fermented beverages; Int: intermediate products; Eth: ethyl alcohol.

The majority of industry respondents (including both economic operators and industry associations and other similar entities) were brewers (40 out of 118, i.e. over one third), followed by those involved in the production of other fermented beverages. The other product categories (wine, intermediate products, ethyl alcohol and industrial alcohol) were also fairly represented, with the participation of at least 20 stakeholders per area of activity.

but having specific interests in certain products and sectors – were included in the “industry associations” group, which was for this reason renamed as “industry associations and other similar entities”.

⁵ The 6 miscellaneous respondents include a trade association of farmers, an advocacy firm, an alembics manufacturer, a canning company, a private consultant for farmers and a consulting company for the beverage industry.

Question #6 - If you fall under respondent groups B or C above (economic operators / industry associations) please indicate if your business / organisation is involved in any of the following activities

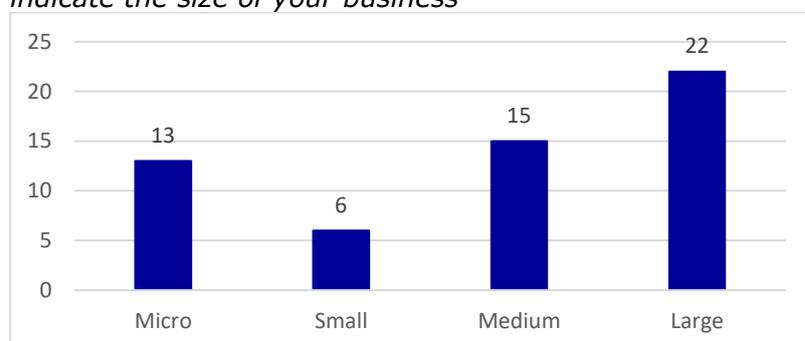


Legend: B: production of beer; W: production of wine; OFB: production of other fermented beverages; Int: production of intermediate products; Eth: production of ethyl alcohol; IA: production or end-use of alcohol for industrial uses; Oth: other (e.g. production of fermentable raw materials, distribution and retail of alcoholic beverages).

Note: the sum of respondents by area of activity exceeds the total number of economic operators/industry associations since many of them operate in more than one area of activity.

As far as the size of economic operators is concerned, the majority of respondents were SMEs (including micro, small and medium size companies, for a total of 34). In addition, 22 large companies with more than 250 employees also took part in the questionnaire.

Questions #8 - If you fall under respondent group B above (economic operators) please indicate the size of your business



Legend: Micro: 1-9 employees; Small: 10-49 employees; Medium: 50-249 employees; Large: 250 or more employees.

Note: 6 economic operators did not provide information on their size.

Respondents from 21 EU MS participated in the OPC. France and Austria contributed relatively greatly, with 30 and 26 respondents respectively. Other significant countries in terms of absolute number of contributions were the United Kingdom, Italy and Poland. Moreover, 21 responses were collected from EU-level or multinational entities.⁶

Question #10 - In which country are you based?

Geographical origin of respondent	Number of respondents
France	30
Austria	26
United Kingdom	20

⁶ A number of EU-level organisations had improperly classified themselves as being based in Belgium and were therefore reclassified.

Italy	16
Poland	11
Portugal	7
Germany	5
Spain	5
Belgium	4
Denmark	3
Romania	3
Slovenia	3
Netherlands	2
Slovak Republic	2
Bulgaria	1
Estonia	1
Finland	1
Ireland	1
Luxembourg	1
Malta	1
Sweden	1
EU-level and/or multinational	21
Non-EU country (Norway)	1
Total	166

The section that attracted the greatest interest was that on the reduced rates or exemptions for certain producers and types of alcoholic beverages, which totalled a number of responses ranging from 68 to 132. Similarly, the section on the issues related to the classification of certain products was filled in by between 51 and 131 respondents. Finally, the two sections on the excise duty exemptions for denatured alcohol and on the calculation of excise duty on sweetened/flavoured beer using the Plato method registered a relatively lower interest, with 16-82 and 50-60 responses respectively.

Number of respondents by sub-section (not including "Don't know" answers)

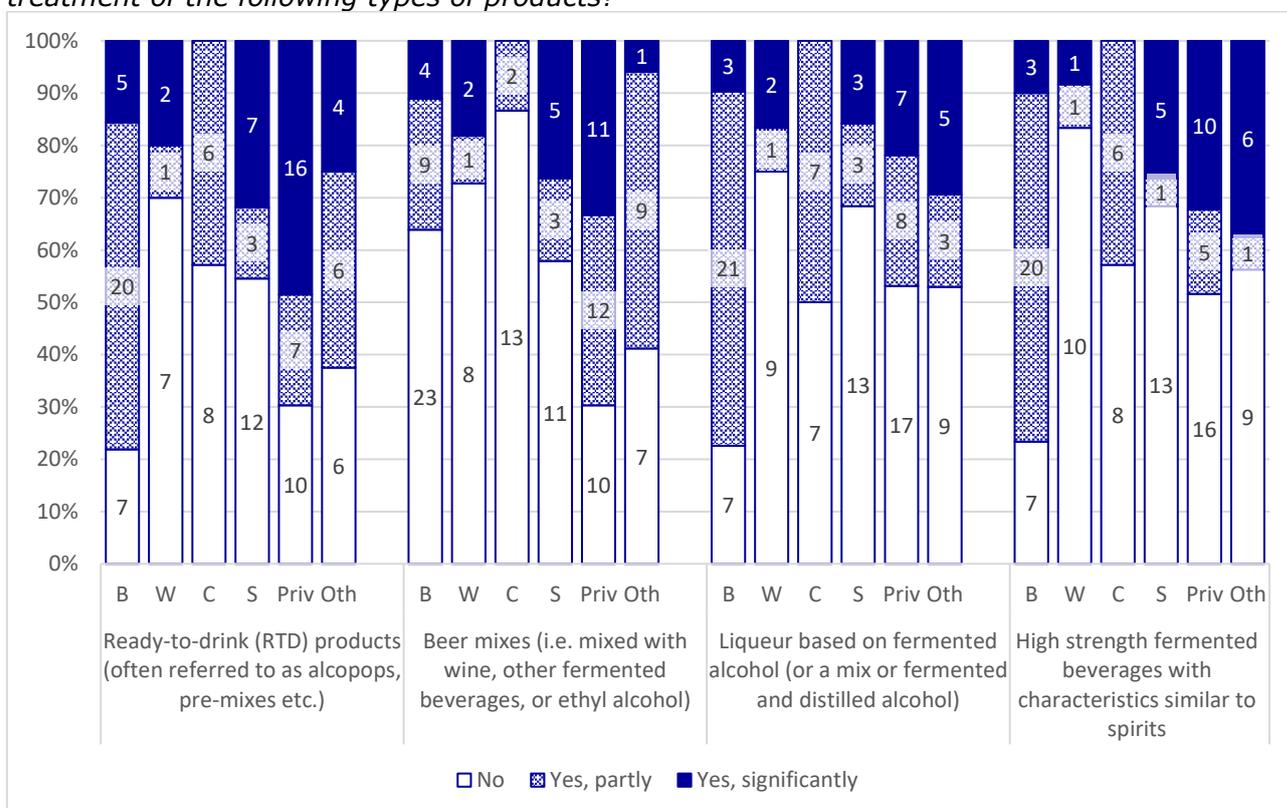
	Classification	Reduced rates or exemptions	Denatured alcohol	Plato method
Minimum and maximum number of respondents	51 - 131	68 - 132	16 - 82	50 - 60

Note: The number of respondents across different questions within the same section varies, therefore the range between the question with the lowest number of responses and that with the highest number is indicated.

1.3 Classification of alcoholic beverages

All industry stakeholders tend to agree that there is no need to reconsider the tax treatment of RTDs, beer-mixes, fermented-base liqueurs and high strength fermented beverages, with the only exception of beer producers who – while they see no issue with beer-mixes – consider that the treatment of the other products may require a partial revision. To the contrary, the majority of private individuals and of respondents falling into the residual ‘other’ category believe the tax treatment of the products, and especially RTDs, needs to be reconsidered. In addition to the four products envisaged in the questionnaire, respondents flagged aromatised wine-based drinks, sometimes referred to as ‘new generation vermouths’, as products requiring greater clarity in terms of classification and taxation.

Question #13 - The current classification rules may create situations where certain new beverages may be placed on the market at a relatively affordable price, due to a favourable tax treatment. In your opinion is there a general need to reconsider the tax treatment of the following types of products?

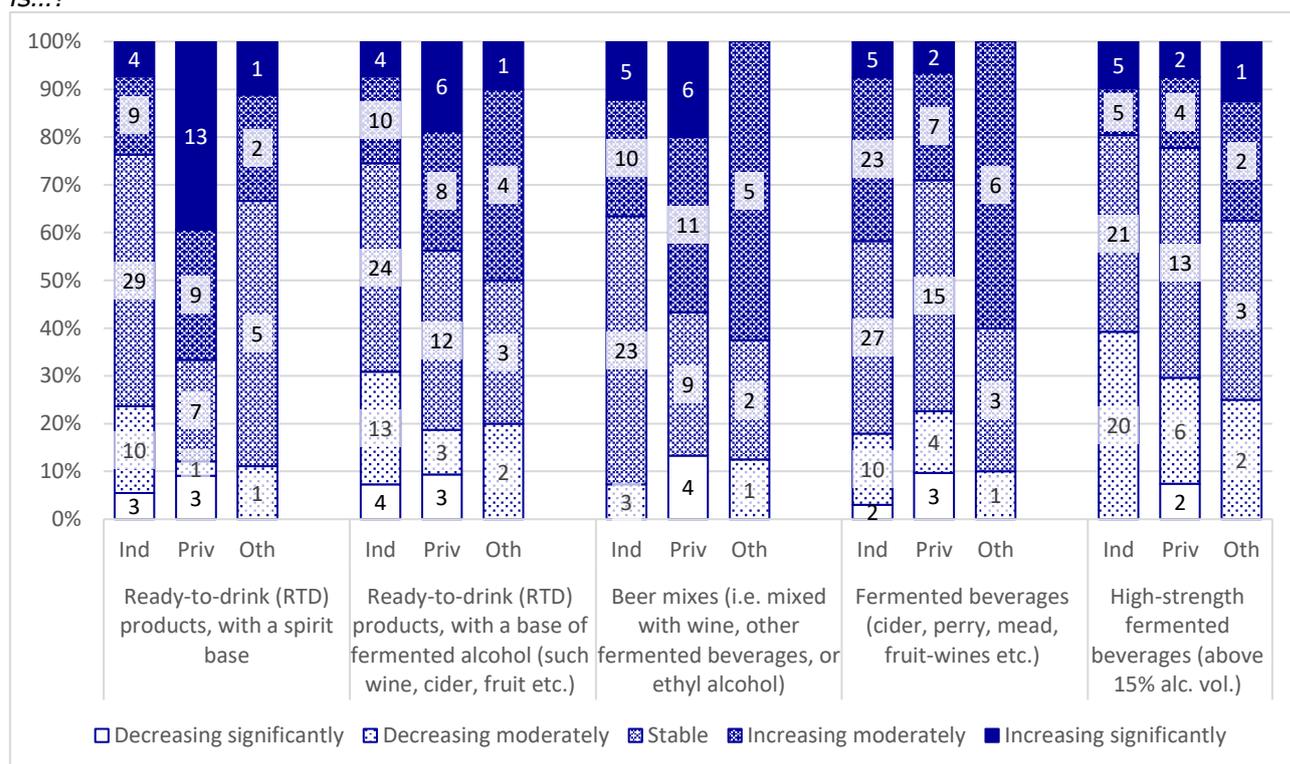


Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

Note: producers and associations of fortified wines have been included in the wine industry group.

In general, the majority of industry stakeholders believe the consumption of the products under consideration – namely spirit-based RTDs, fermented-based RTDs, beer-mixes, fermented beverages, and high strength fermented beverages – to be fairly stable, exception made for fermented beverages (e.g. cider, perry, mead), which are thought to be growing. However, private individuals are of the opinion that the market of RTDs (especially with a spirit base) is increasing significantly.

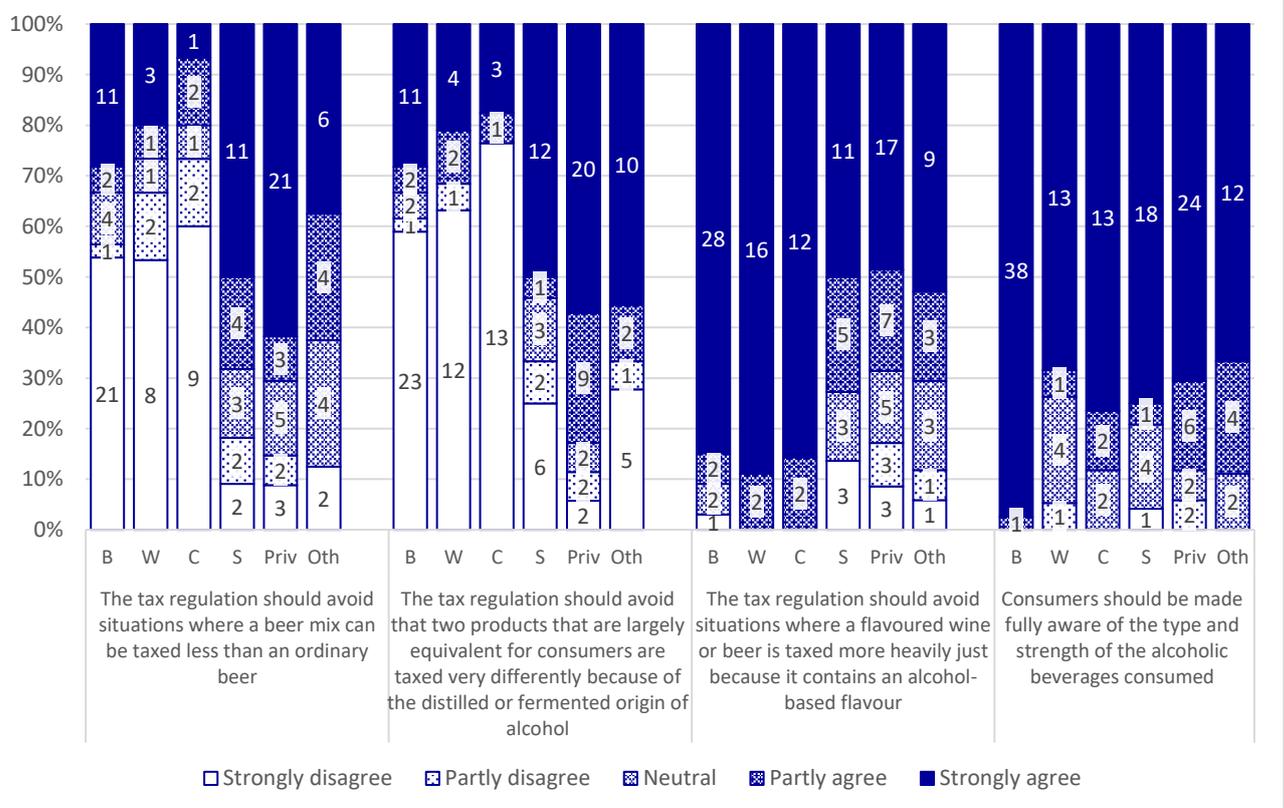
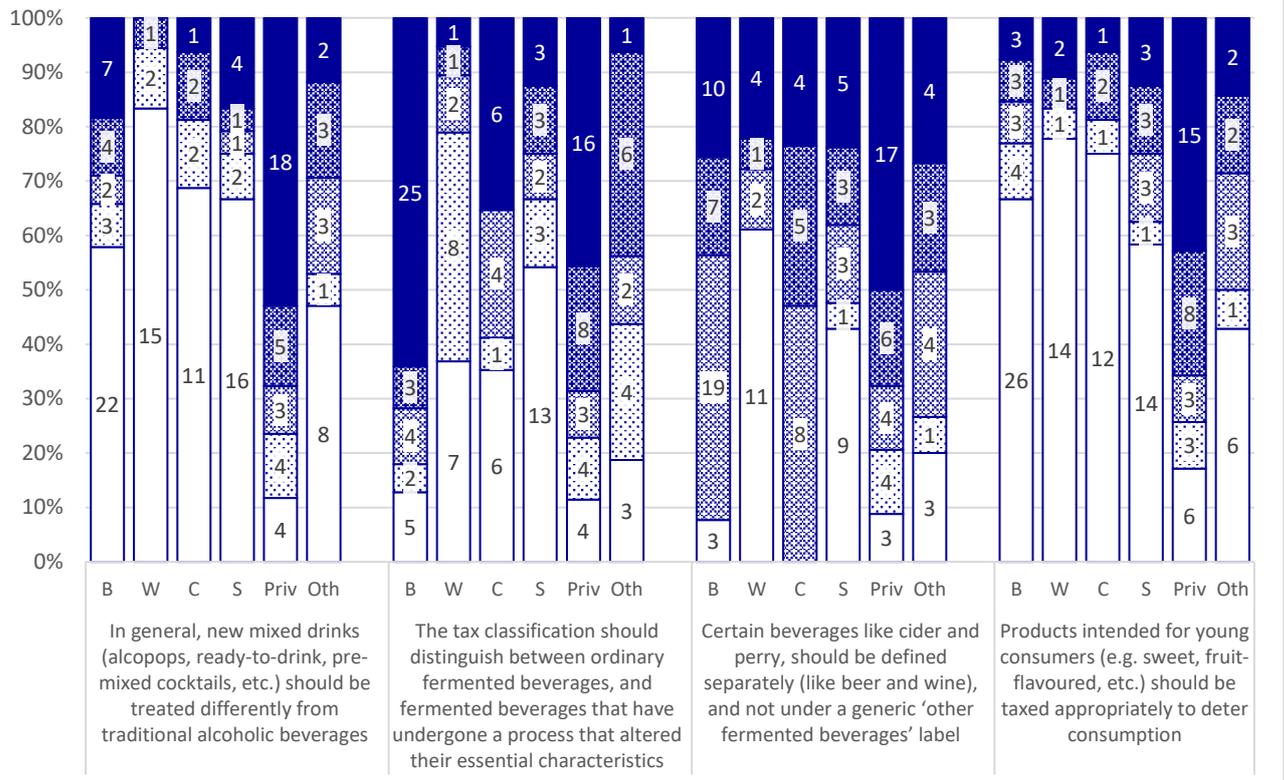
Question #15 - In your experience, the consumption of the following alcoholic beverages is...?



Legend: Ind: industry stakeholders; Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

A clear majority of the industry opposes a different treatment of new mixed drinks from more traditional alcoholic beverages, whereas private individuals tend to agree with the principle. Similarly, the industry opposes special taxes on products intended for the youth, while private individuals and the 'other' respondent category are in favour. Unsurprisingly, the taxation of products that are equivalent for consumers but based on fermented or distilled alcohol divides the industry, with producers of fermented beverages (beer, wine and OFB) in favour of different levels of taxation depending on the base (fermented or distilled), and spirits producers advocating for an equal treatment, regardless of the base. To the contrary, all respondent groups agree that wines and beers using alcohol as flavour-carrier should not be taxed more heavily for this.

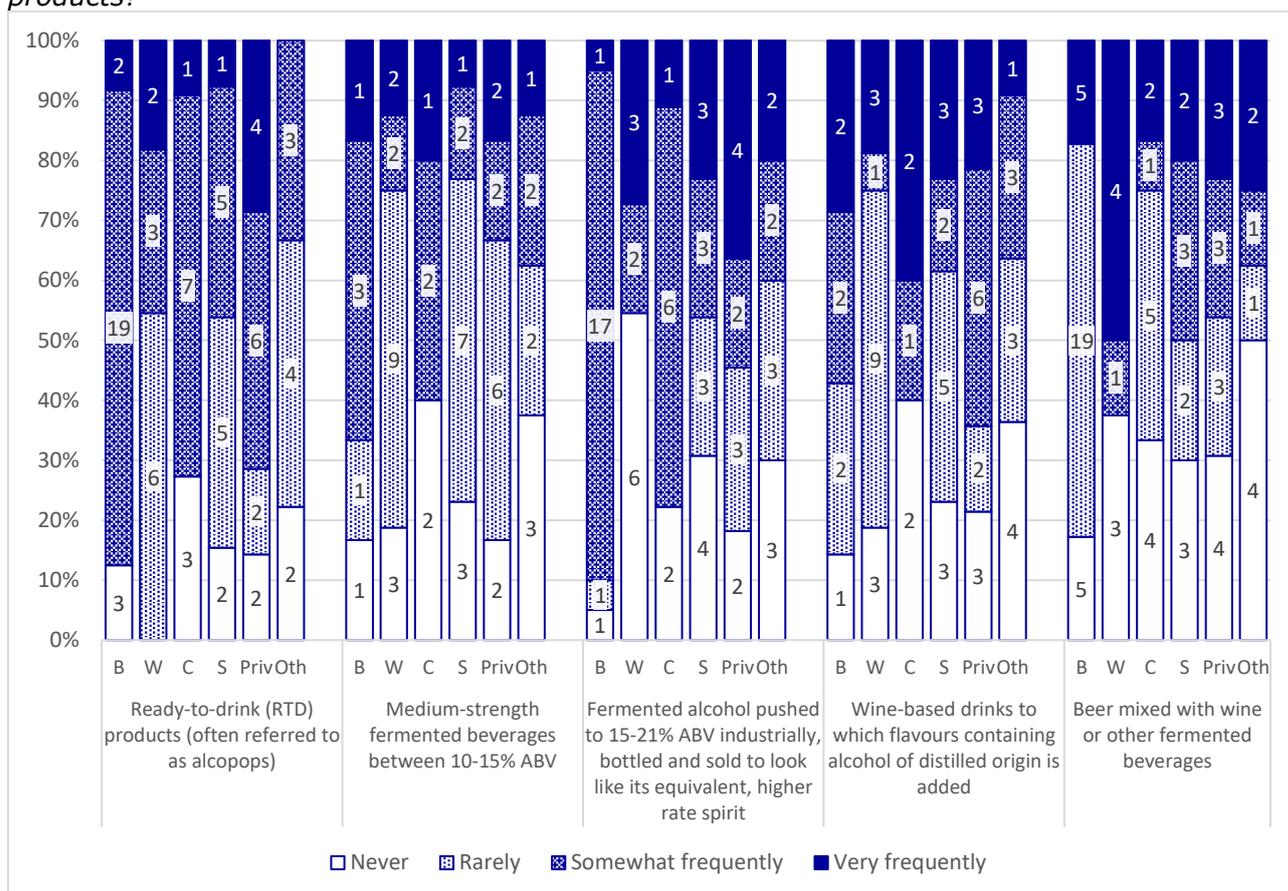
Question #16 - In your opinion, which principles should guide a possible revision of the tax classification of alcoholic beverages? Please express your agreement / disagreement with the following statements



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).
 Note: producers and associations of fortified wines have been included in the wine industry group.

Beer and cider producers, which in many cases coincide since producers are involved in multiple markets, consider the classification of beer-mixes as largely straightforward, while to the contrary the classification of all the other 'difficult-to-classify' products allegedly creates somewhat frequent issues and disputes. Conversely, the majority of wine and spirits producers tend to experience issues of classification only rarely, if not at all.

Question #17 - The evaluation of the Directive carried out in 2015/16 identified several 'difficult-to-classify' product groups, which are listed below. In your experience, how often do classification uncertainties and disputes occur with the following classes of products?

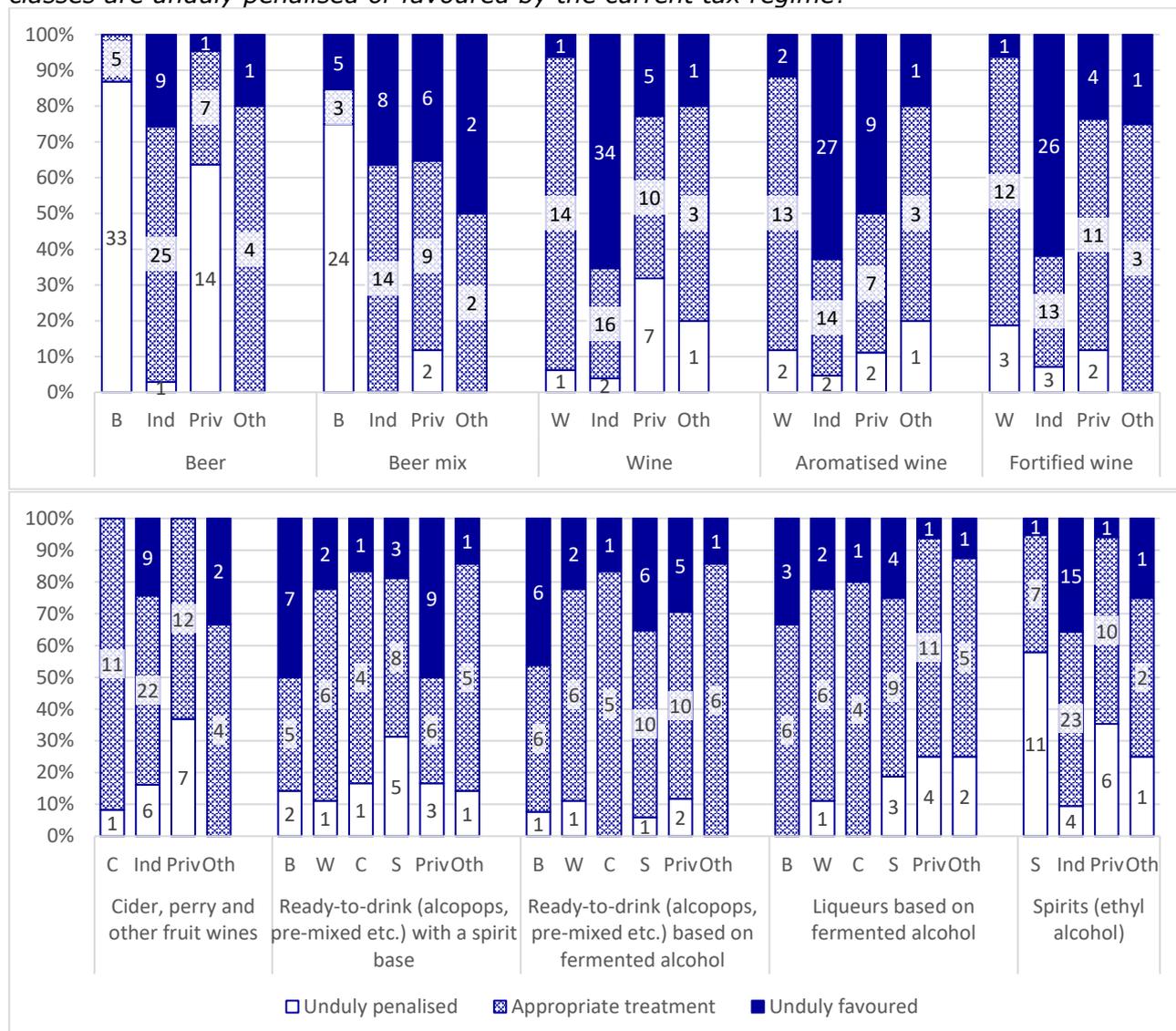


Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

Note: producers and associations of fortified wines have been included in the wine industry group.

Ciders and 'difficult-to-classify' products, such as RTDs (both spirit- and fermented-based) and liqueurs based on fermented alcohol, are generally considered to be appropriately taxed. To the contrary, beer producers and private individuals believe beer is unduly penalised, especially when compared to wine (and other wine products, such as aromatised wines and fortified wines), which is considered by the non-wine industry to be unduly favoured. Similarly, spirits producers are of the opinion that their products are currently unduly penalised.

Question #18 - The current tax classification system may potentially create competitive advantages or disadvantages for different classes of products. In your opinion, which classes are unduly penalised or favoured by the current tax regime?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Note: industry stakeholders with an interest in the production or end-use of industrial alcohol have been included in the "Ind" category whenever present. If not present, they have been included in the residual "Oth" category.

Note: producers and associations of fortified wines have been included in the wine industry group.

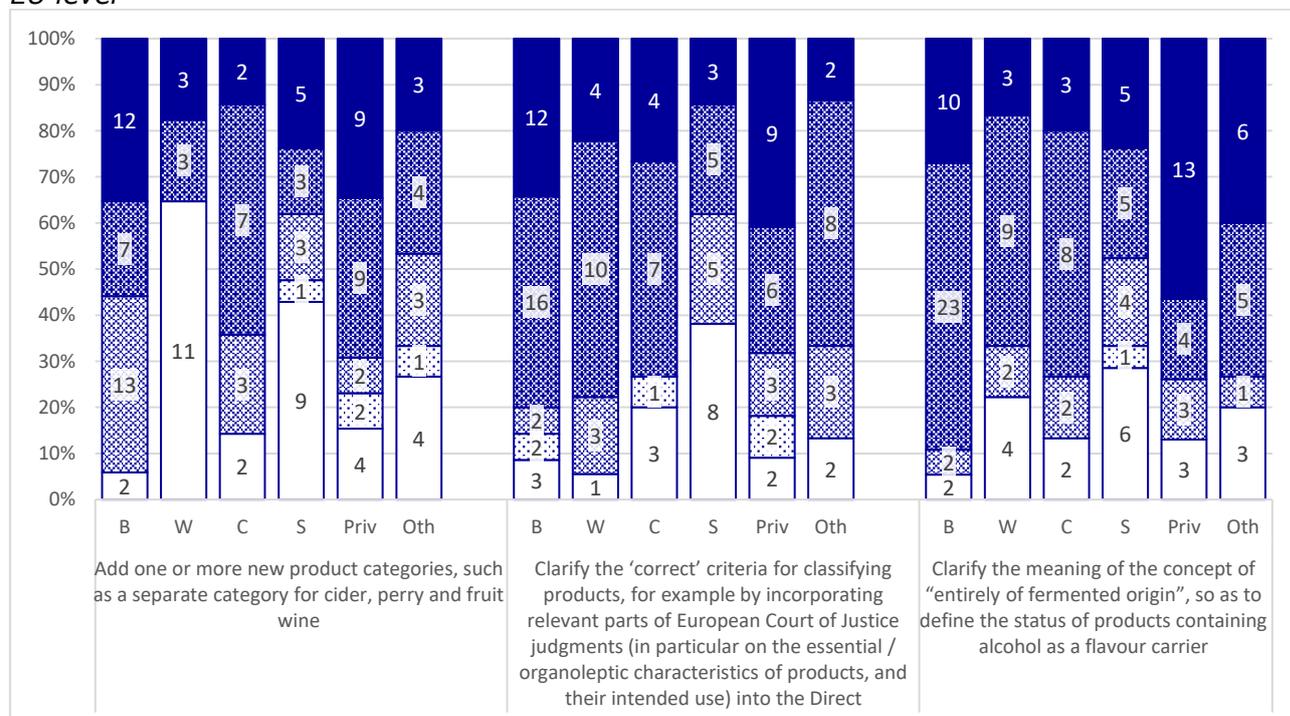
As shown in the figure below, seven different policy options were suggested in the OPC. While private individuals were in general in favour of all the options proposed, industry stakeholders had more varied views, namely:

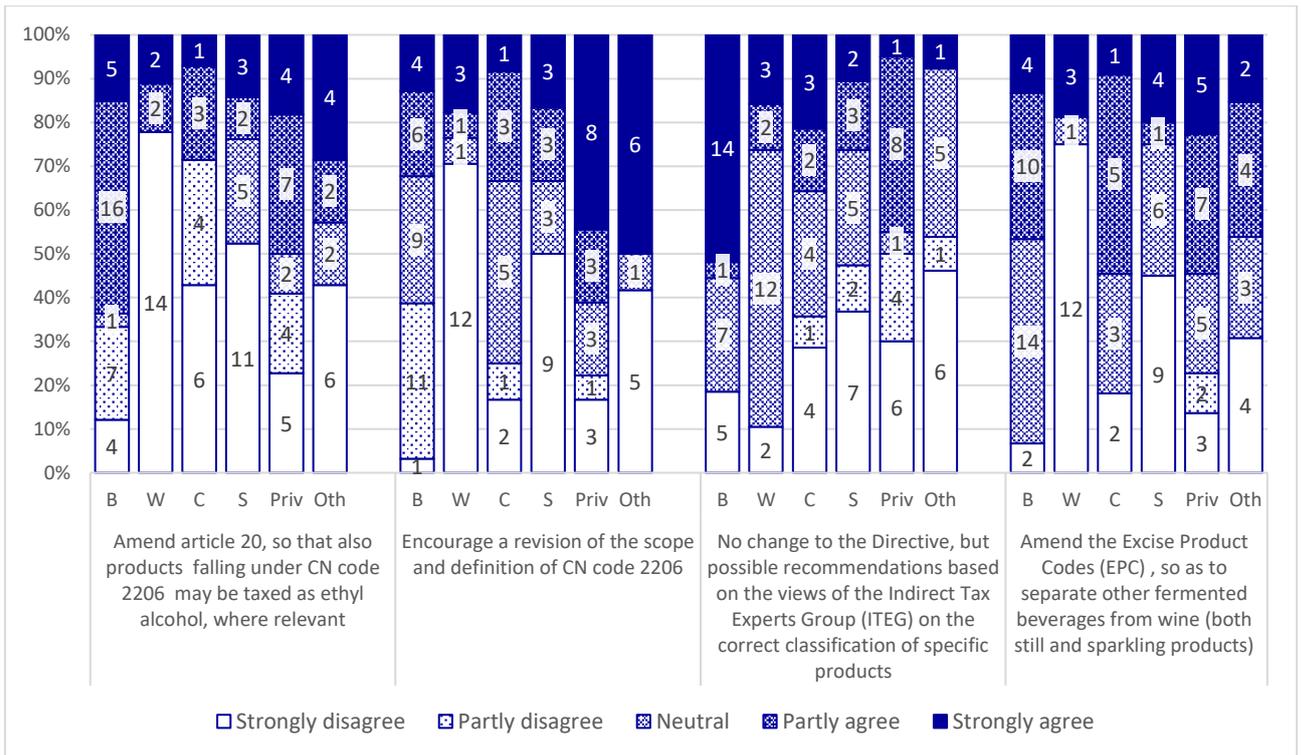
- *Add one or more new product categories, such as a separate category for cider, perry and fruit wine.* While this option was positively received by the beer and cider industries, wine and spirits producers strongly opposed it.
- *Clarify the 'correct' criteria for classifying products, for example by incorporating relevant parts of European Court of Justice judgments (in particular on the essential / organoleptic characteristics of products, and their intended use) into*

the Directive. Exception made for the spirits industry, the majority of producers agreed, if not strongly agreed, with the option.

- *Clarify the meaning of the concept of "entirely of fermented origin", so as to define the status of products containing alcohol as a flavour carrier*. As in the previous case, the industry agreed with this policy option, with spirits producers expressing a somewhat more cautious opinion.
- *Amend article 20, so that also products falling under CN code 2206 may be taxed as ethyl alcohol, where relevant*. Wine, cider and spirits producers strongly opposed this option, while to the contrary over 60% of brewers expressed an at least partial agreement with it.
- *Encourage a revision of the scope and definition of CN code 2206*. As in the previous case, this option attracted major criticism from the wine and spirits industry. Beer and cider producers were instead mainly neutral.
- *No change to the Directive, but possible recommendations based on the views of the Indirect Tax Experts Group (ITEG) on the correct classification of specific products*. In this case, industry stakeholders expressed rather mixed views, with for instance the majority of brewers strongly in favour and over 60% of wine producers taking a neutral stance.
- *Amend the Excise Product Codes (EPC), so as to separate other fermented beverages from wine (both still and sparkling products)*. As in multiple other instances, this option was characterised by a polarisation of industry respondents, with wine and spirits producers mainly against on one side and, on the other, beer and cider producers mainly in favour.

Question #19 - Please express your opinion on the following possible approaches to address the problems of the definition and classification of alcoholic beverages at the EU level



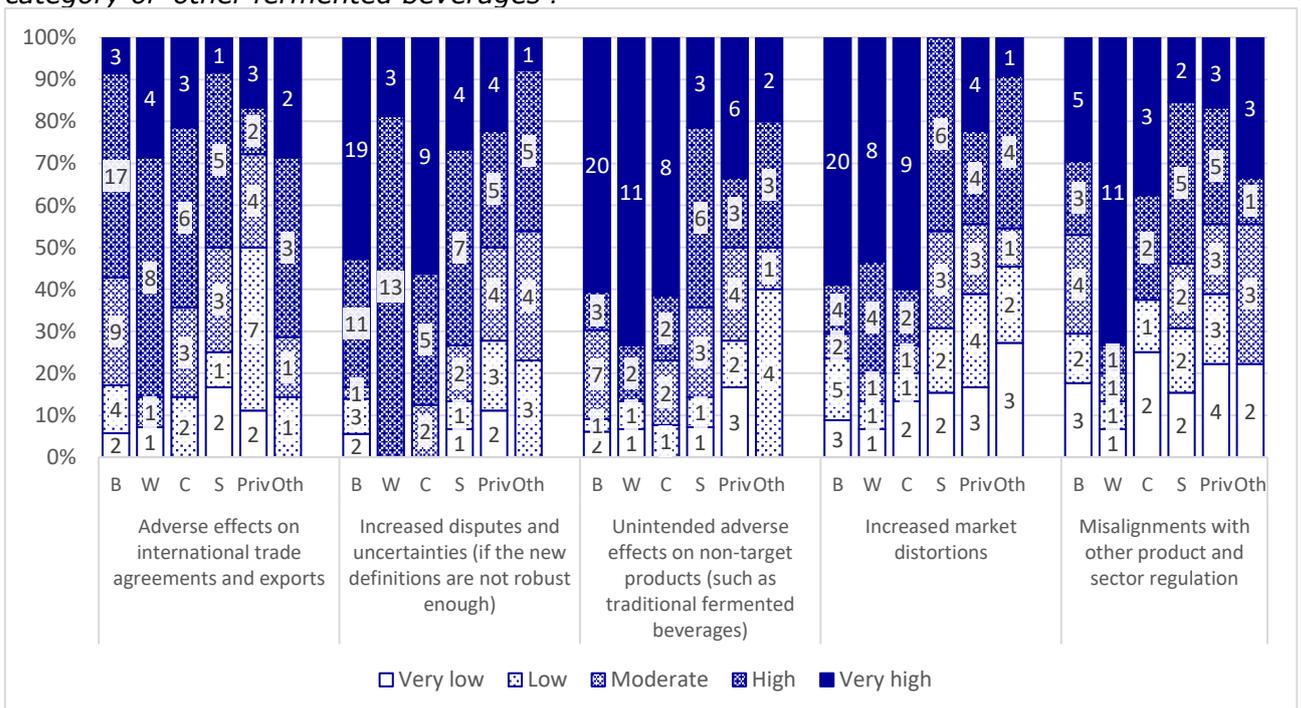


Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

Note: producers and associations of fortified wines have been included in the wine industry group.

A clear majority of all industry respondents believe that a revision of the OFB tax category would generate negative effects on all fronts, including adverse effects on international trade, classification uncertainties and disputes, market distortions, etc. Private individuals and the residual 'other' category of respondents had to the contrary more mixed views.

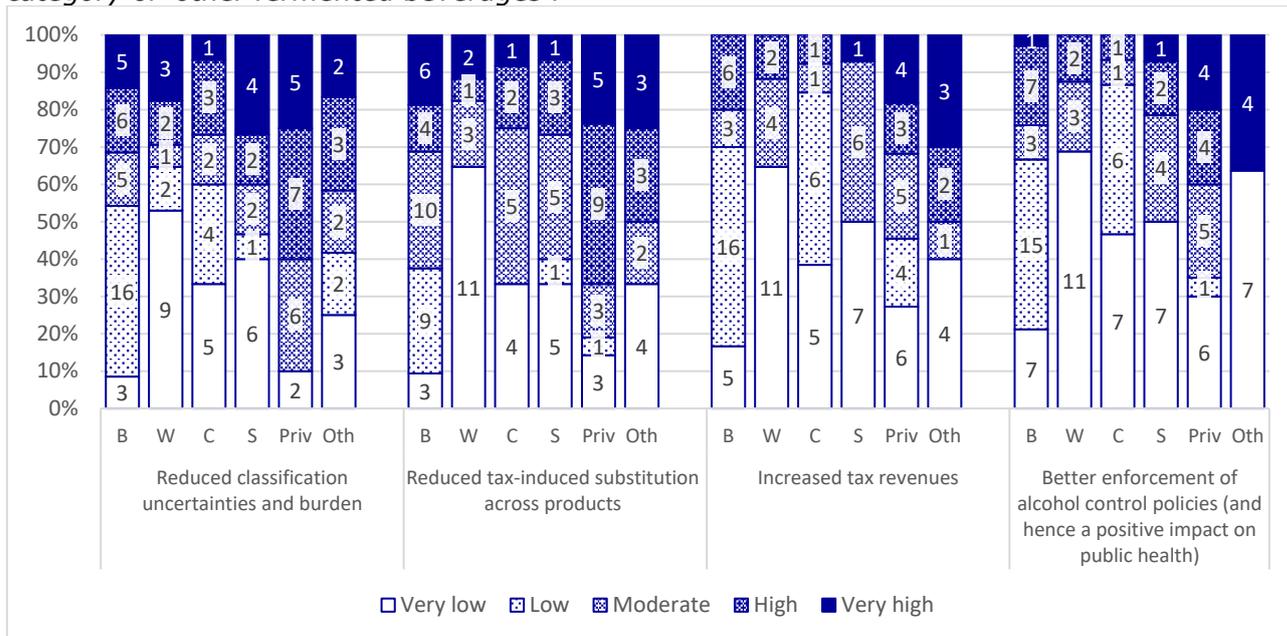
Question #20 - In your opinion, what are the risks of a possible revision of the tax category of 'other fermented beverages'?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).
 Note: producers and associations of fortified wines have been included in the wine industry group.

In line with the previous question, the industry judged the benefits of a revision of the OFB tax category (e.g. reduced classification uncertainties and disputes, reduced tax-induced substitution across products) would be rather low. Private individuals and the residual respondents were somewhat more optimistic.

Question #22 - In your opinion, what are the benefits of a possible revision of the tax category of 'other fermented beverages'?



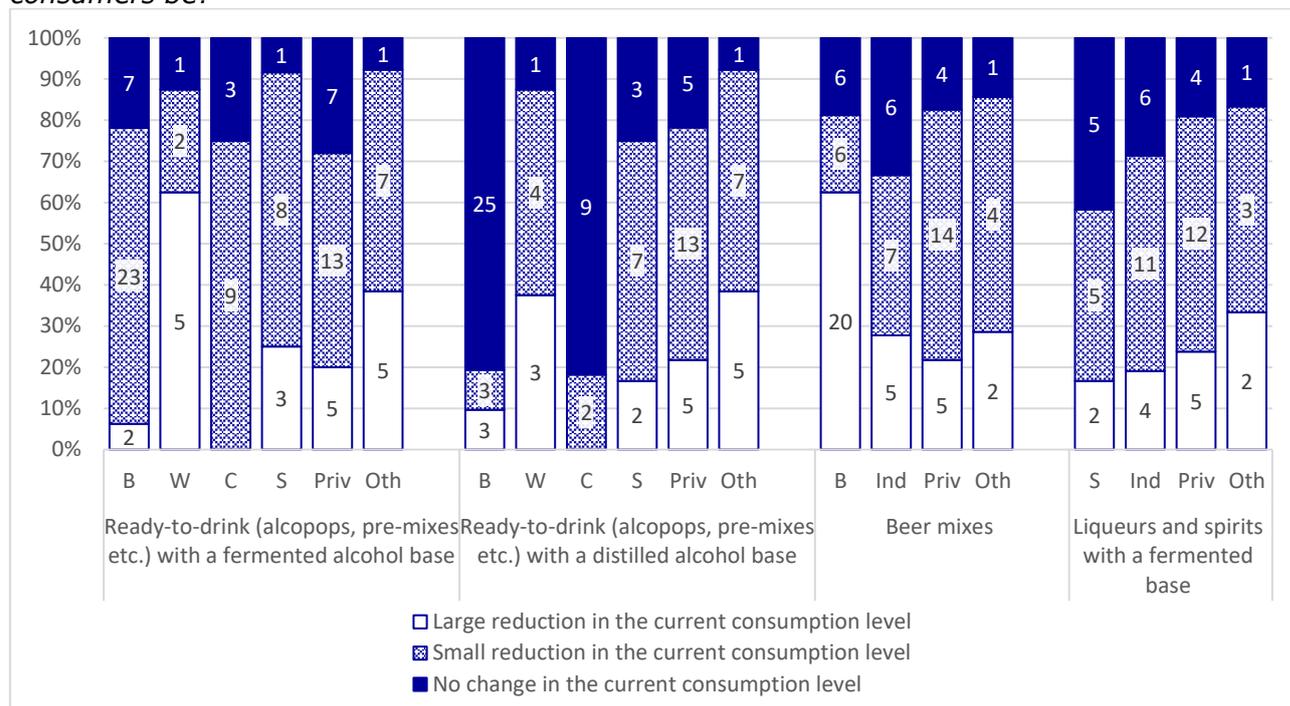
Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).
 Note: producers and associations of fortified wines have been included in the wine industry group.

In the additional comments, a number of respondents underlined how taxation policies should not be designed to reach public health objectives.

On the possible creation of a new definition for cider, various cider producers stressed the fact that a new definition would have to be broad enough to capture the current portfolio of cider producers in order not to disrupt the market.

The majority of respondents believe that a price increase would generate a small decrease in consumption of all products under consideration. Rather differently from the other respondents' categories, beer industry stakeholders consider beer-mixes consumers as very price-sensitive and, to the contrary, spirit-based RTDs consumers as much less influenced by price.

Question #24 - In the event a revised taxation would increase the consumer price of the following alcoholic beverages, in your opinion what would the likely reaction of consumers be?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; C: industry stakeholders with an interest in the cider sector; S: industry stakeholders with an interest in the spirits sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Note: industry stakeholders with an interest in the production or end-use of industrial alcohol have been included in the "Ind" category whenever present. If not present, they have been included in the residual "Oth" category.

Note: producers and associations of fortified wines have been included in the wine industry group.

Question #25 - Would you like to add any comments or suggestions on the problems with the classification of alcoholic beverages, and/or how they should be addressed?

The additional comments provided to this section can be grouped under 4 main themes:

- The general issue of classification: according to many associations of the wine sector, the Directive does not pose any classification problem. In particular, aromatised wine and liqueurs are considered to be well regulated by Directive 251/2014 and Regulation 110/2008 respectively. Moreover, they argued that – in case classification uncertainties were indeed present – national authorities would have the means to tackle the problem.
- The structure of taxation: many stakeholders suggested that, in order to solve the issue of classification issues at its root, it would be sufficient to tax every alcoholic beverage according to its volume of pure alcohol. However, many of them were also aware that it would be difficult to find an agreement among MS on this. For this reason, some suggested taxing by pure alcohol per volume at least those products that can be both fermented-based and spirit-based (e.g. RTDs, liqueurs). In particular, it was suggested that products competing on the same markets should be taxed in the same way – regardless of the origin of alcohol – by taking into account production processes and organoleptic characteristics.
- The classification of sweetened/flavoured beer and beer-mixes: a number of stakeholders involved in the production of beer underlined that these products

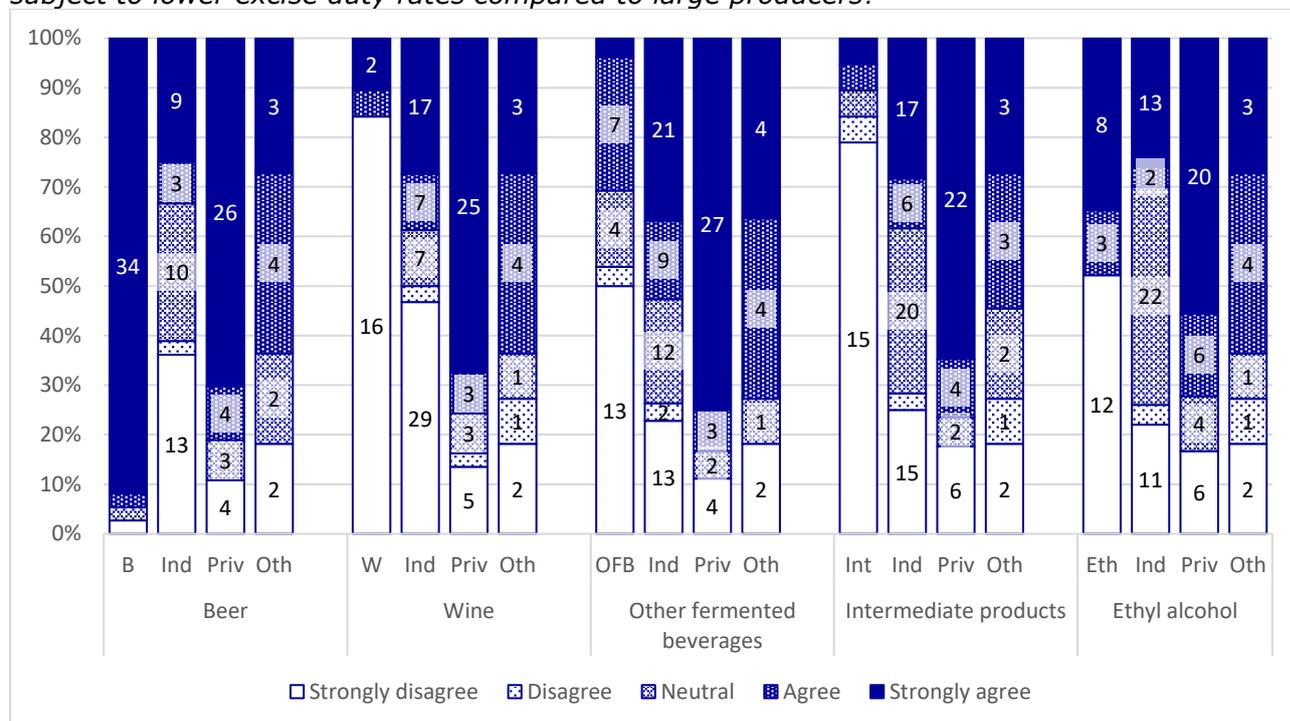
do not lead to classification disputes. For this reason, they believe that any new legislation (e.g. a new definition of 'entirely of fermented origin' or a new definition of RTDs) should carefully avoid impacting on the market of beer and its sub-products.

- The scope of the OPC: various respondents lamented the fact that a number of OPC questions allegedly fall outside the scope of the Directive, dealing for instance with rates (Directive 92/84).

1.4 Reduced rates for small producers

While private individuals and the 'other' respondent category tend to be strongly in favour of reduced rates for small producers of all alcoholic beverages, industry stakeholders present more varied positions. Those involved in the production of beer, for instance, strongly agree with reduced rates for small breweries. To the contrary, those involved in the production of wine and intermediate products strongly disagree with reduced rates for small wineries and small producers of intermediate products.

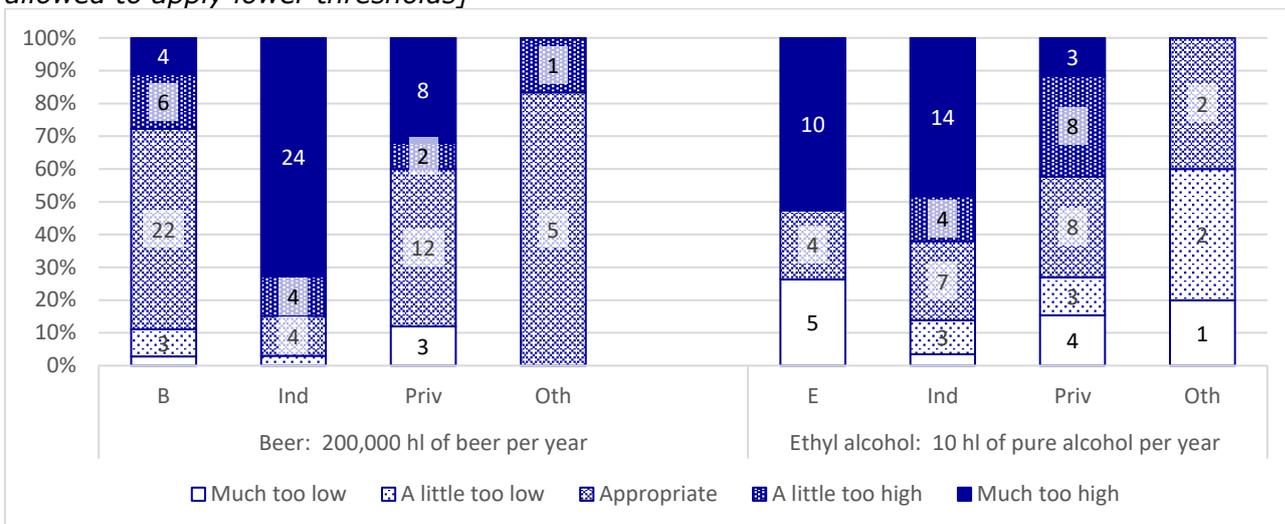
Question #26 - Do you agree that small producers of alcoholic beverages should be subject to lower excise duty rates compared to large producers?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

A substantive majority of the beer industry consider the threshold of 200,000 hl of beer produced per year as appropriate. Conversely, over 70% of the rest of the industry believe it is much too high. As far as ethyl alcohol is concerned (threshold of 10 hl of pure alcohol per year), there is a general agreement among industry stakeholders that the threshold is too high.

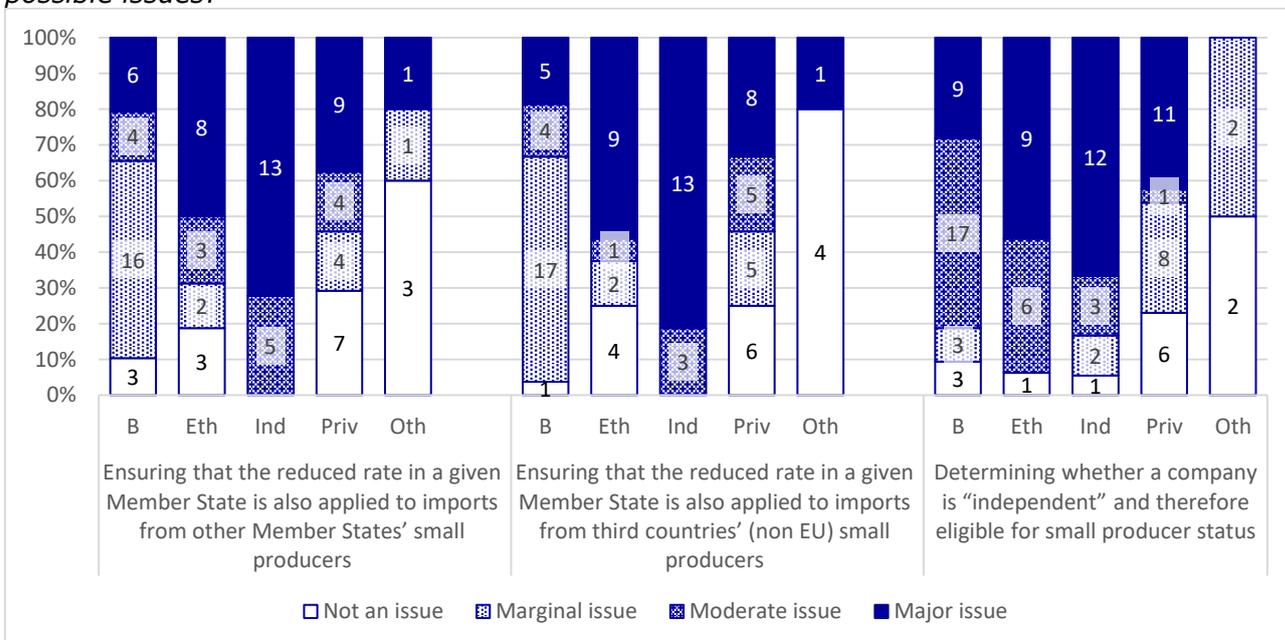
Question #31 - In your opinion, are the thresholds used in the Directive to define small producers of beer and ethyl alcohol appropriate? [Note: Member States are currently allowed to apply lower thresholds]



Legend: B: industry stakeholders with an interest in the beer sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

According to stakeholders involved in the beer sector, ensuring that reduced rates are applied also on products from other MS (or third countries) is only a marginal issue. To the contrary, approximately 50% of those involved in the production of spirits consider it a major issue. In addition, determining the independence of a company appears to be a moderate, if not major issue for both beer and spirits producers.

Question #32 - In your experience, are there issues with the practical implementation of reduced rates for small producers? In particular, how relevant are the following possible issues?

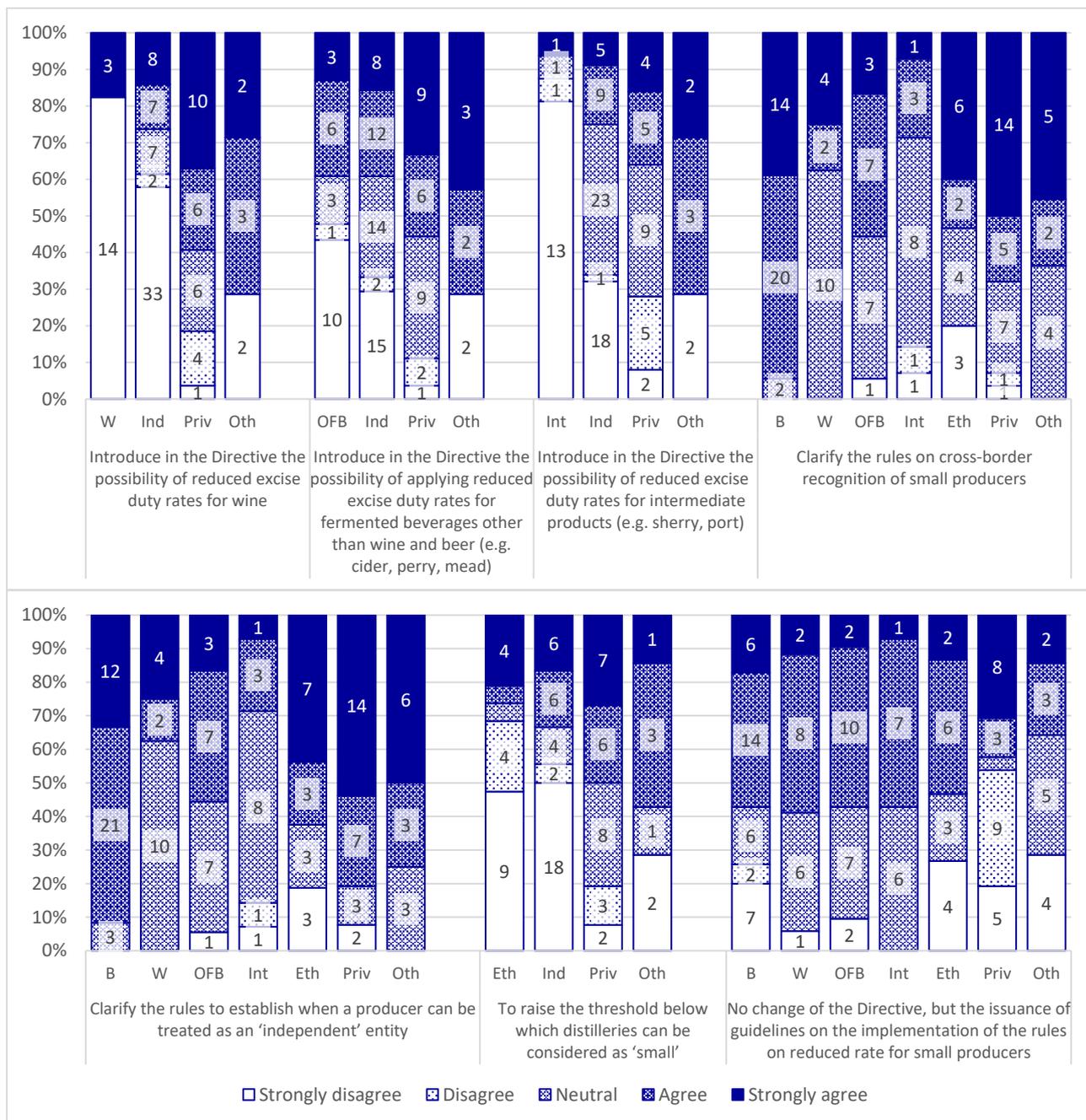


Legend: B: industry stakeholders with an interest in the beer sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Industry stakeholders involved in the production of those products that cannot currently benefit from the possibility of having reduced rates for small producers – namely wine, other fermented beverages and intermediate products – tend to strongly disagree with

the possibility of introducing them. To the contrary, all respondent groups expressed agreement (or at least a neutral stance) with the various options aiming at clarifying the rules surrounding small producers (cross-border recognition, certification of independence) and with the 'no-change' option.

Question #33 - Please express your opinion on the following possible approaches to extend the application of reduced rates to small producers of alcoholic beverages that are not currently covered and/or to clarify the implementation rules



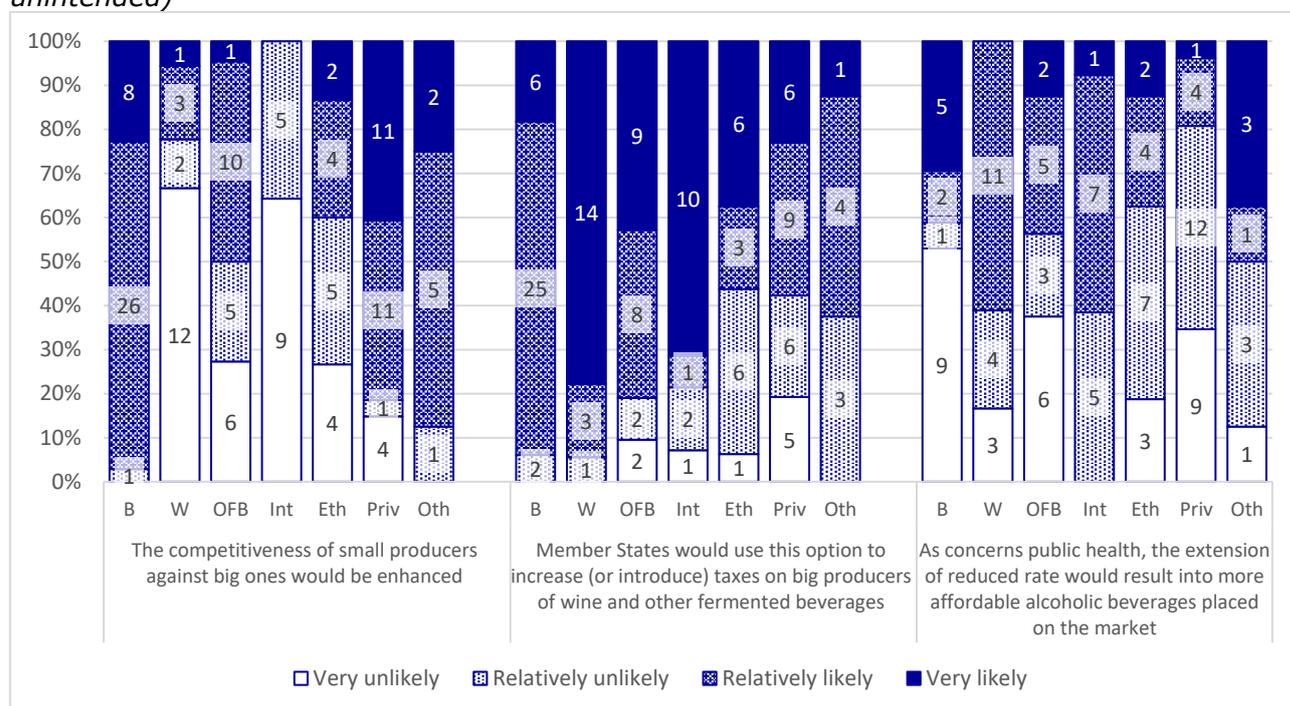
Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Note: industry stakeholders with an interest in the production or end-use of industrial alcohol have been included in the "Ind" category, whenever present. If not present, they have been included in the residual "Oth" category.

Industry stakeholders involved in the production of wine, OFB and intermediate products are of the opinion that the introduction of optional reduced rates for small producers in their areas of activity would not reach the goal of increasing small producers' competitiveness. To the contrary, they fear that this would be the first step for the introduction or the increase of taxes on big producers.

The huge majority of stakeholders active in the beer sector maintain that reduced rates are likely, if not very likely, to enhance the competitiveness of small producers, but they agree with the rest of the industry that it may be a tool for MS to introduce/increase taxes for big producers. Opinions on the effects on public health were more mixed, with notably over 80% of private individuals considering it unlikely or very unlikely that reduced rates would translate in more affordable products.

Question #34 - In your opinion, what would the likely impact of extending optional reduced rates to wine, other fermented beverages (e.g. cider, perry, mead), and intermediate products (e.g. sherry and port) be? (including both intended and unintended)

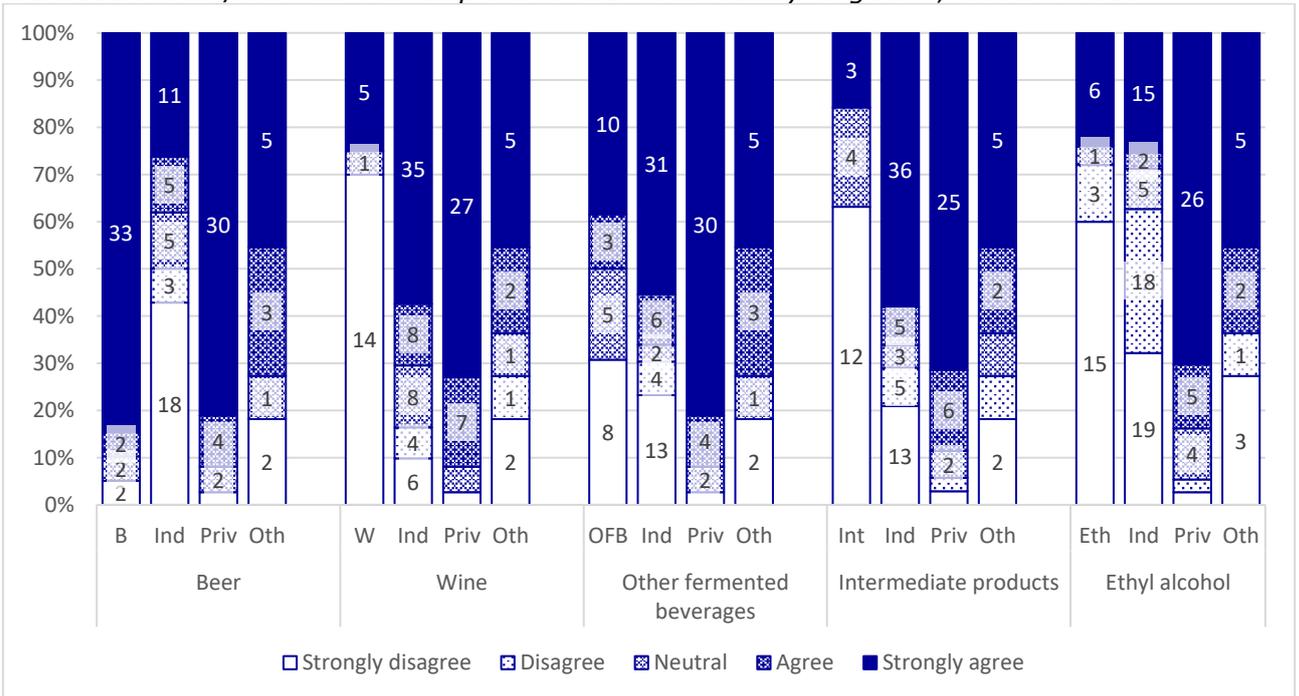


Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

1.5 Exemptions for private producers

There is a general consensus among respondents that public authorities should be allowed to exempt private production. An exception is represented by wine producers (and intermediate products producers), who strongly oppose exemptions for the private production of wine (and intermediate products). Moreover, ethyl alcohol producers and – more generally – the entire industry tend to be against exemptions for the private production of ethyl alcohol.

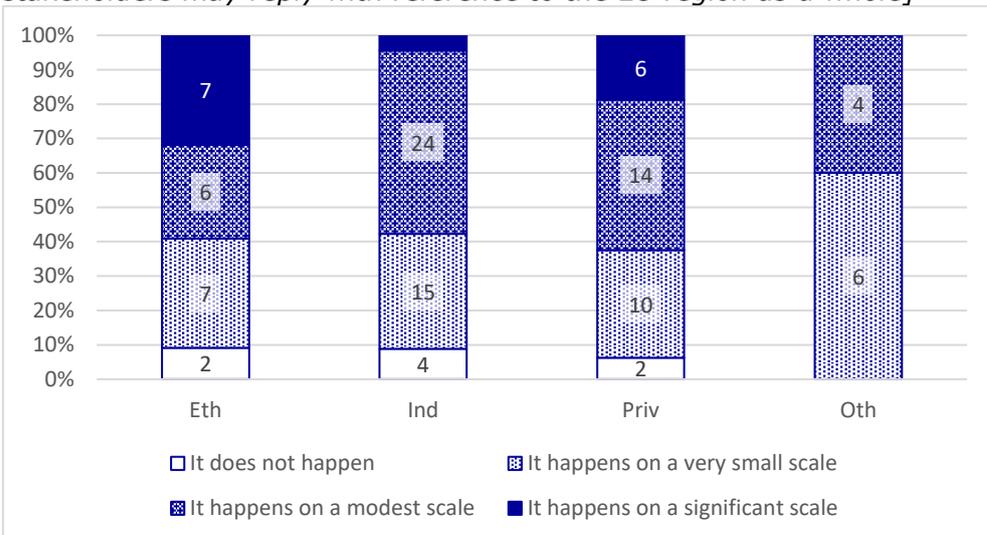
Question # 27 - Do you agree that public authorities should be allowed to exempt the following alcoholic beverages from excise duty if they are produced by a private individual for his/her own consumption or that of his family or guests, and not sold?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

While 30% of industry stakeholders involved in the production of ethyl alcohol consider the private distillation of spirits a widespread phenomenon, the majority of the other respondents believe it happens on a very small or modest scale.

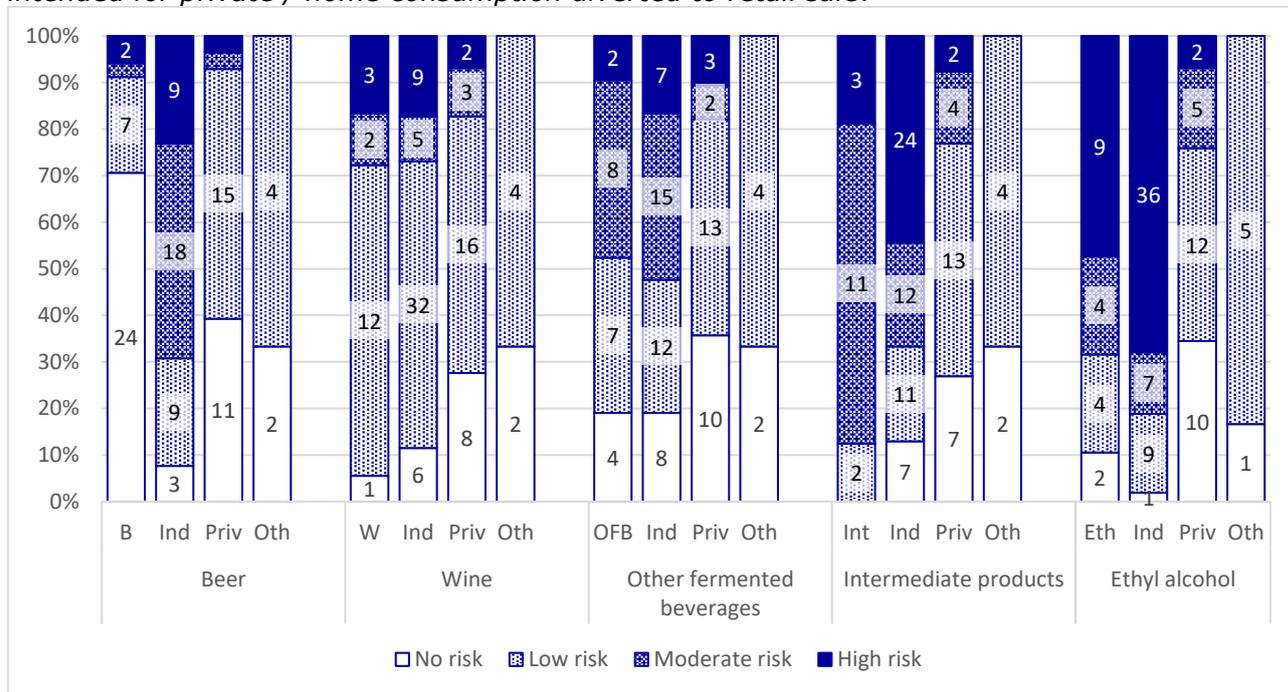
Question # 28 - In your experience, how widespread is the practice of private (non-commercial) distillation of ethyl alcohol (spirits) in your country? [Note EU-level stakeholders may reply with reference to the EU region as a whole]



Legend: Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

While private individuals and the 'other' respondent group seem to be unconcerned about the sale of privately produced alcoholic beverages, the majority of the industry believe there is a moderate/high risk of tax fraud in the ethyl alcohol sector.

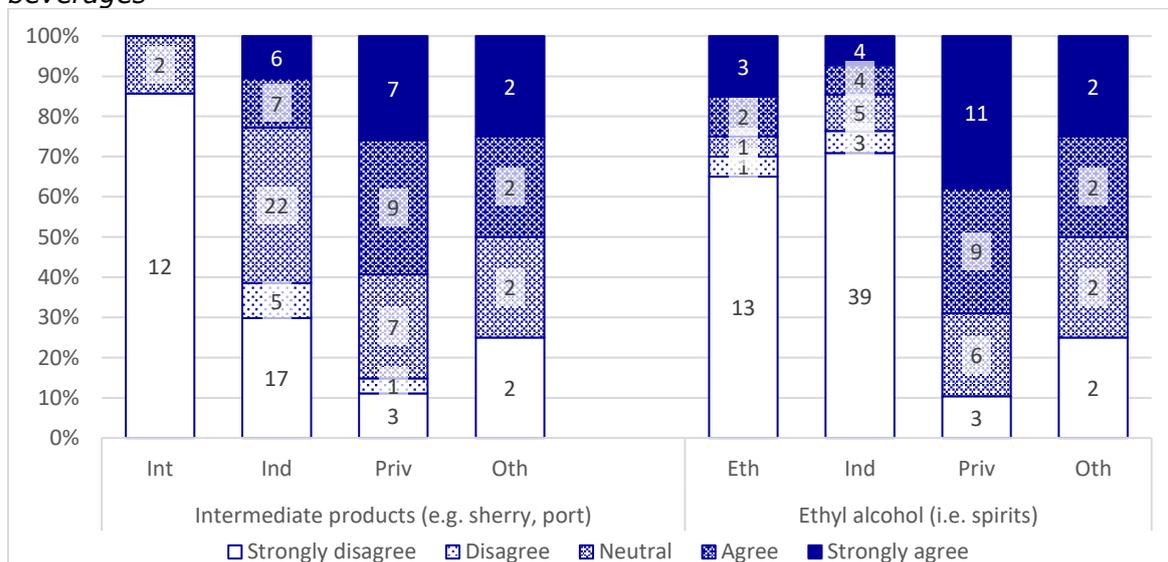
Question # 35 - In your opinion, what is the risk of tax fraud from alcoholic beverages intended for private / home consumption diverted to retail sale?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

The majority of the entire alcoholic beverages industry strongly oppose the extension of possible tax exemptions to the private production of ethyl alcohol. As far as intermediate products are concerned, stakeholders active in the sector are very much against, while the rest of the industry has a more neutral stance.

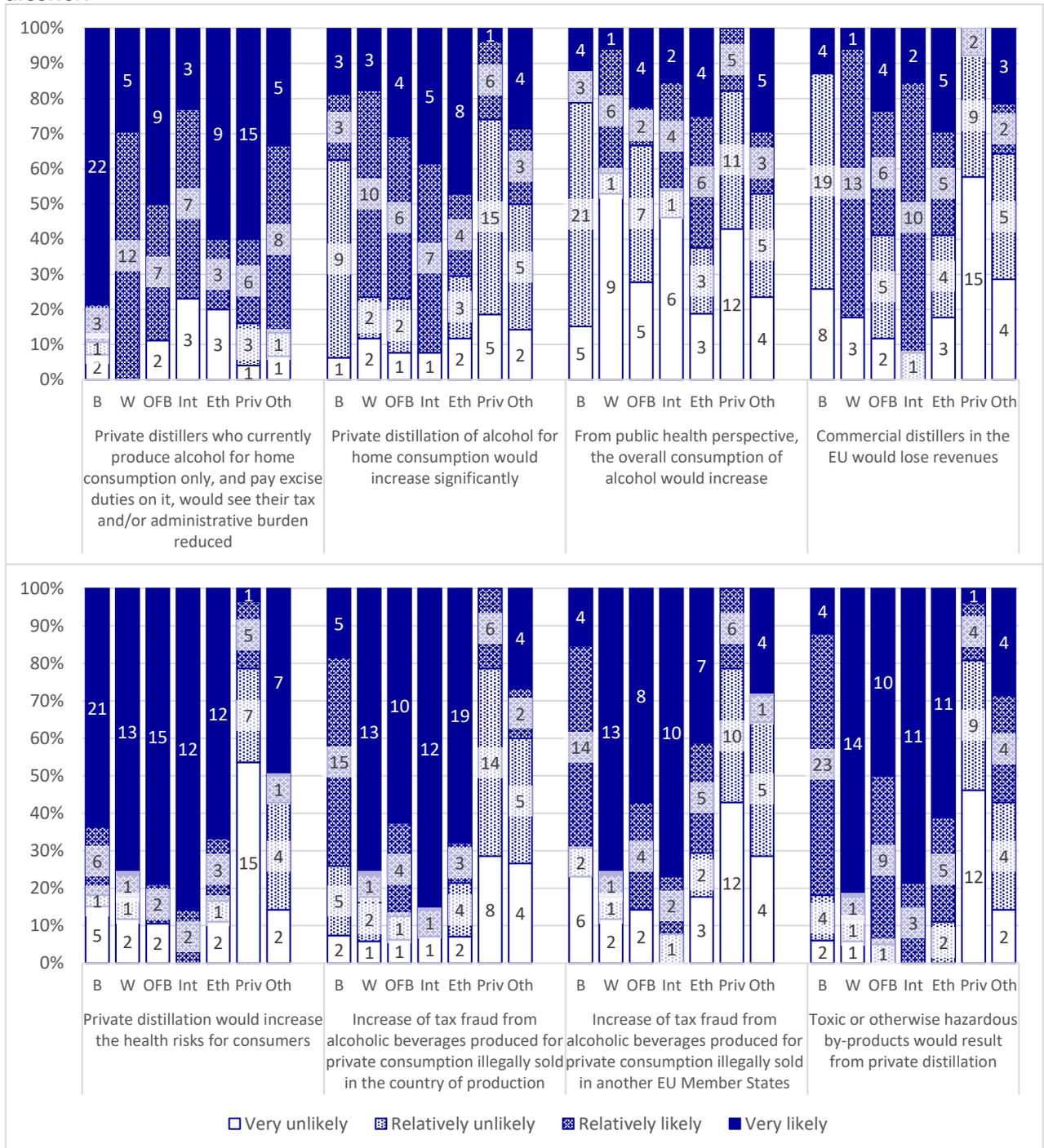
Question # 36 - Please express your opinion on a possible extension of optional tax exemptions for private / home consumption to the following categories of alcoholic beverages



Legend: Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

A significant polarisation between the industry on one hand and private individuals and 'other' respondents on the other is noticeable regarding the impacts of extending the exemption for private production to intermediate products and ethyl alcohol. The industry agrees that private distillation would significantly increase, generating health risks for consumers, tax frauds and revenue losses. To the contrary, private individuals – and in a few cases also the beer industry – tend to consider all risks as unlikely or very unlikely.

Question # 37 - In your opinion, which of the following (if any) would occur if the exemption for private production were extended to intermediate products and ethyl alcohol?



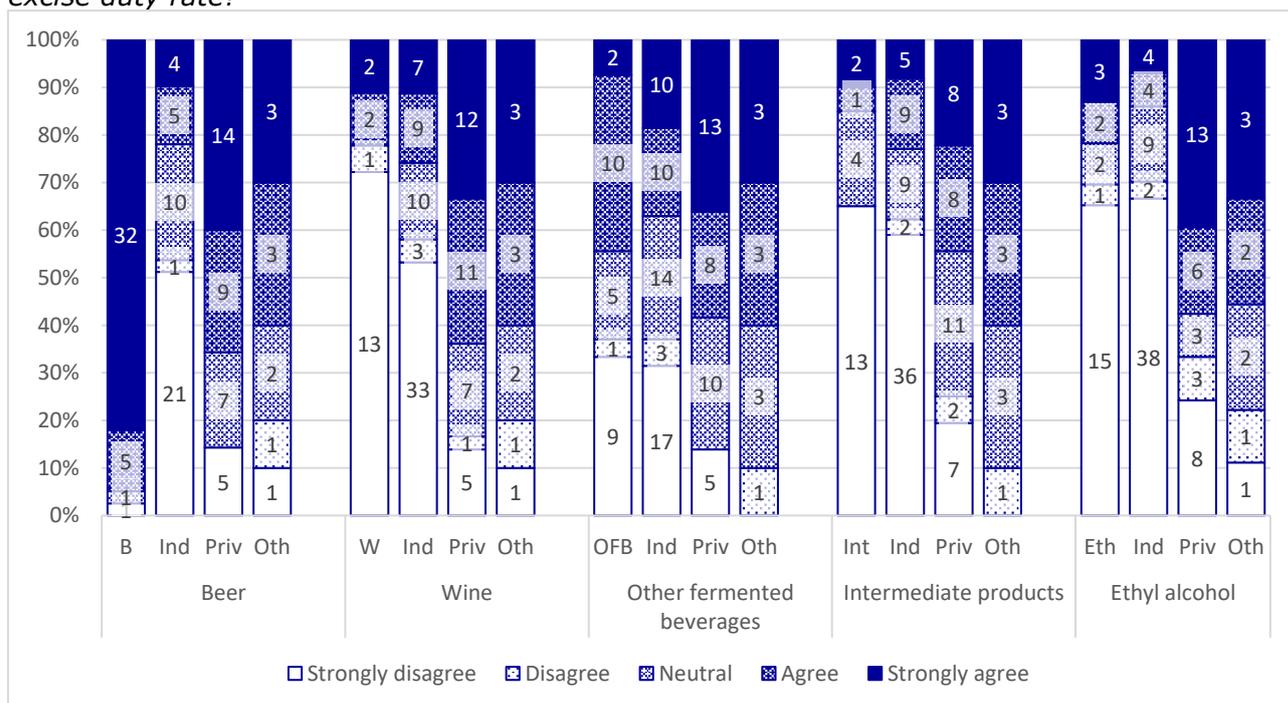
Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

In the additional comments, a couple of respondents stressed the importance of granting exemptions for private production, as homemade traditional products allow to preserve the ecosystem and offer an alternative to industrial products. At the same time, other respondent underlined that private production poses health risks and should for this reason be closely monitored.

1.6 Reduced rates for low-strength beverages

As far as wine, intermediate products and ethyl alcohol are concerned, the majority of the industry is against reduced rates for low-strength products. More favourable positions are shown for the other products, especially beer: over 80% of stakeholders in the beer industry are strongly in favour of reduced rates for low-strength beer. Private individuals and other respondents are generally in favour of reduced rates.

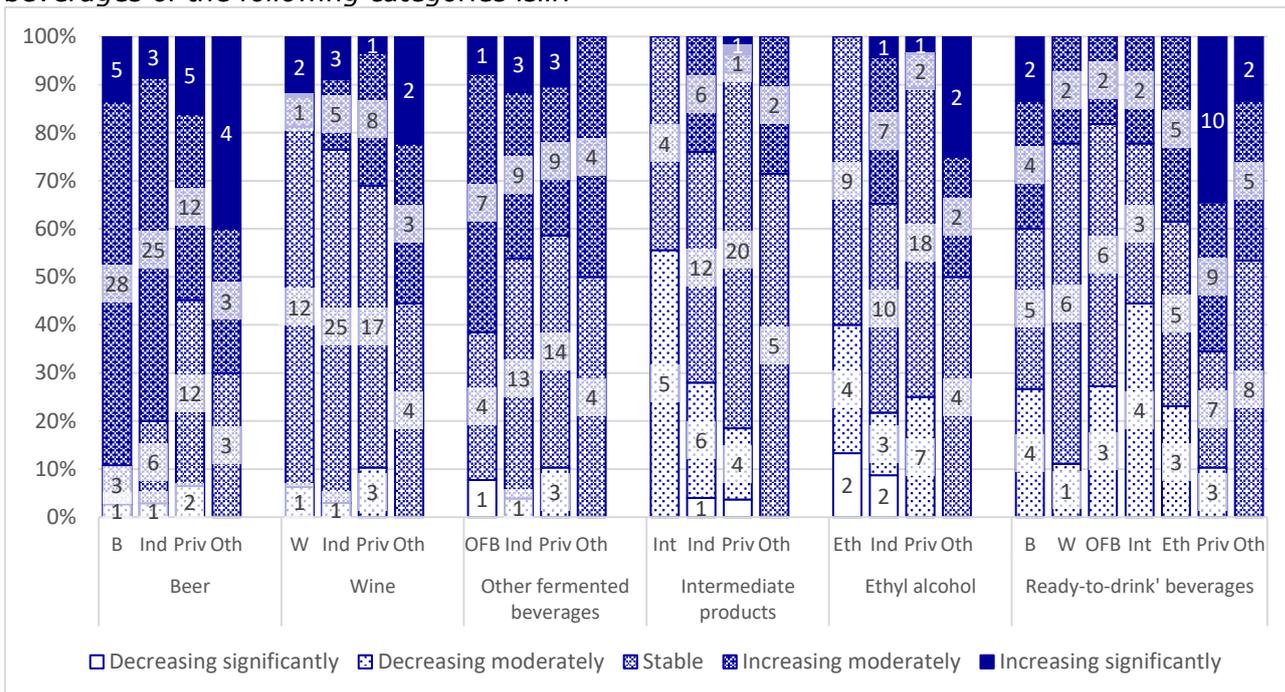
Question # 29 - Do you agree that alcoholic beverages that are of a lower strength (compared to "typical" beverages in the same category) should benefit from a reduced excise duty rate?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

There is a general consensus on the overall stability of the market of low-strength products, with the exception of beer and OFB that are considered to be increasing moderately.

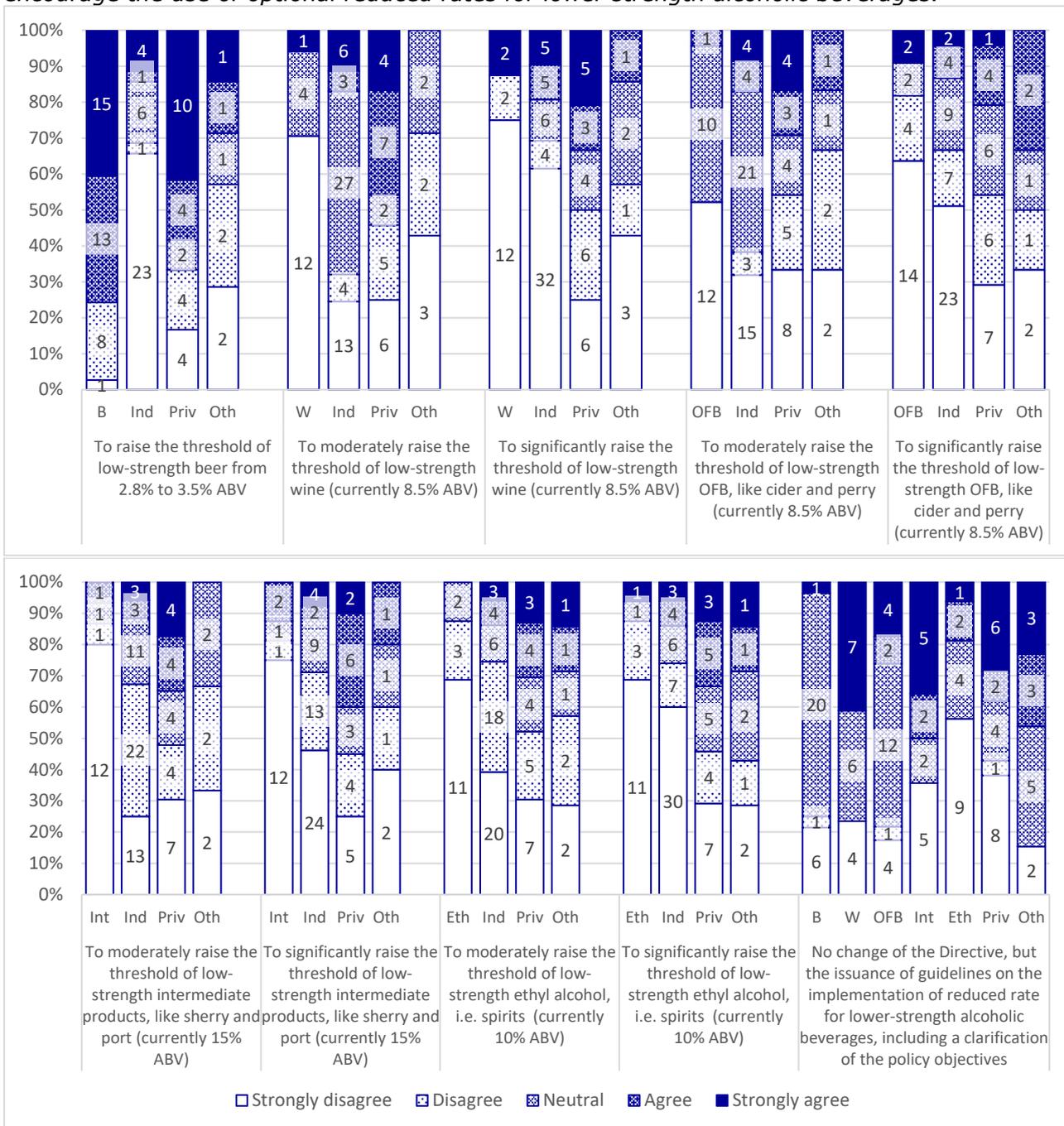
Question #30 - In your experience, the consumption of 'low strength' alcoholic beverages of the following categories is...?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).
 Note: industry stakeholders with an interest in the production or end-use of industrial alcohol have been included in the "Ind" category whenever present. If not present, they have been included in the residual "Oth" category.

The policy option of raising the threshold of low-strength alcoholic beverages – be it moderately or significantly – was faced with strong disagreement by the majority of all respondent groups. The only exception was represented by the beer sector, where almost 80% of brewers would welcome a new threshold for beer set at 3.5% ABV. Opinions on the 'no-change' policy option were more varied, with substantial shares of neutral respondents.

Question # 39 - Please express your opinion on the following possible approaches to encourage the use of optional reduced rates for lower strength alcoholic beverages.



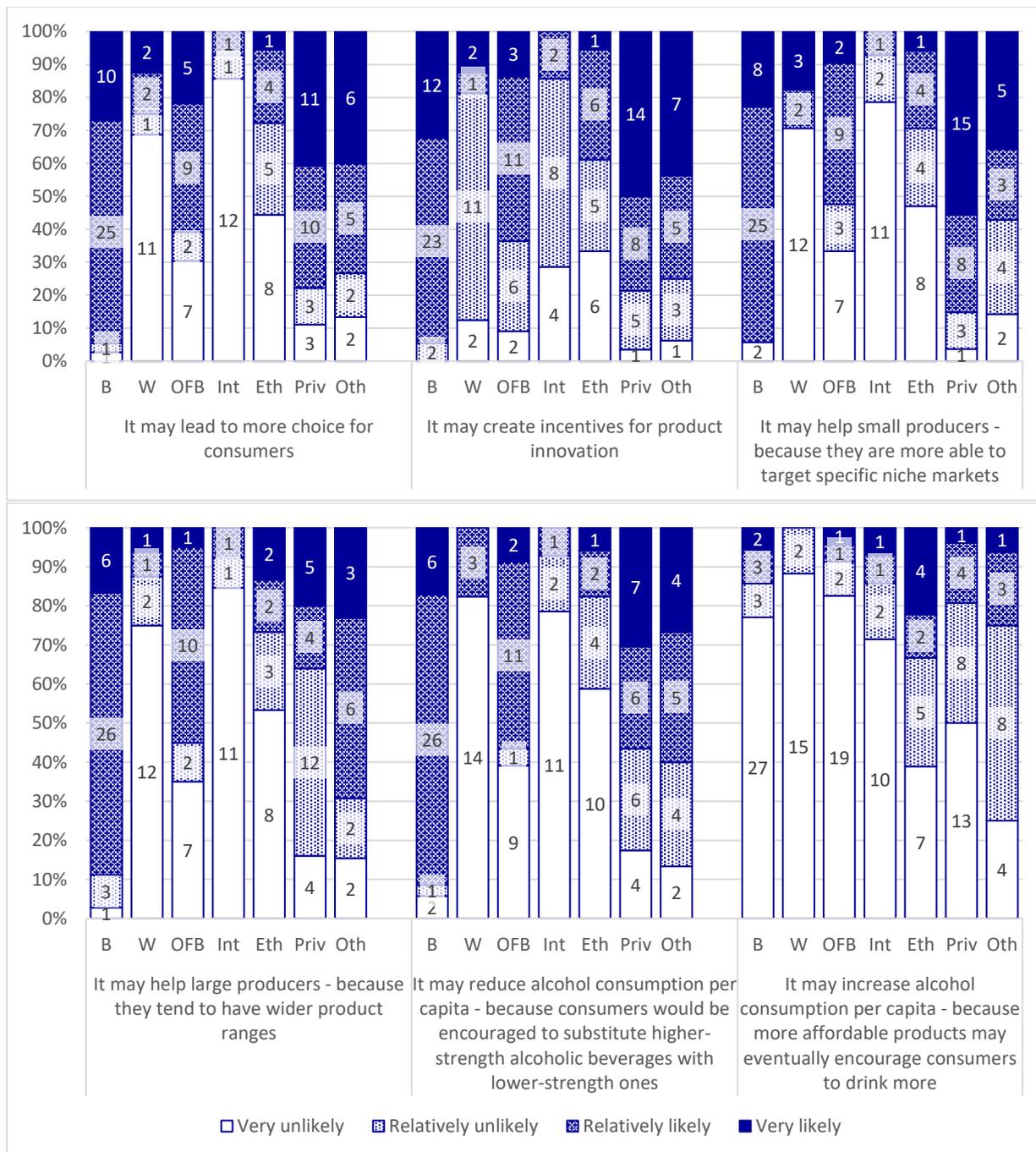
Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Note: industry stakeholders with an interest in the production or end-use of industrial alcohol have been included in the "Ind" category whenever present. If not present, they have been included in the residual "Oth" category.

As far as the likely results of reduced rates for low-strength products are concerned, the huge majority of stakeholders involved in the production of beer (and, to a lesser degree, those in the production of OFB) agree that there would be greater incentives for product innovation, with more choice for consumers. Moreover, both small and big producers would benefit, despite a reduction of alcohol consumption per capita. The rest of the industry, however, tend to be far more sceptical on the possible benefits of

reduced rates for low-strength products. Unsurprisingly, all respondents – including private individuals and the ‘other’ category, agreed that more affordable low-strength products would not increase the overall consumption of alcohol per capita.

Question # 40 - In your opinion, which of the following (if any) is likely to result from a greater adoption of reduced excise duty rates for lower-strength alcoholic beverages?



Legend: B: industry stakeholders with an interest in the beer sector; W: industry stakeholders with an interest in the wine sector; OFB: industry stakeholders with an interest in the other fermented beverages sector; Int: industry stakeholders with an interest in the intermediate products sector; Eth: industry stakeholders with an interest in the ethyl alcohol sector; Priv: private individuals; Oth: Other (public health NGOs, public authorities, industry stakeholders with an interest in the production or end-use of industrial alcohol, etc.).

Question # 41 - Would you like to add any comments or suggestions on the problems with the reduced rates for small producers, lower strength alcoholic beverages and

exemptions for private production / own consumption and/or how they should be resolved?

Reduced rates for small producers: In the additional comments to this section, various small producers and private individuals underlined how reduced rates allow to preserve traditional productions and to protect the environment. On the other hand, certain big producers argued that it is unfair to tax the same product differently, based on whether it was produced by a big or a small producer. Moreover, many associations and big producers involved in the wine industry expressed their concerns that the introduction of reduced rates for small wine producers would distort the playing field, discriminating against those producers with a production above the threshold. Finally, a few small distilleries pointed out that, while the threshold for small breweries is very high – de facto leaving out only very big international producers – the threshold for small distilleries is very low.

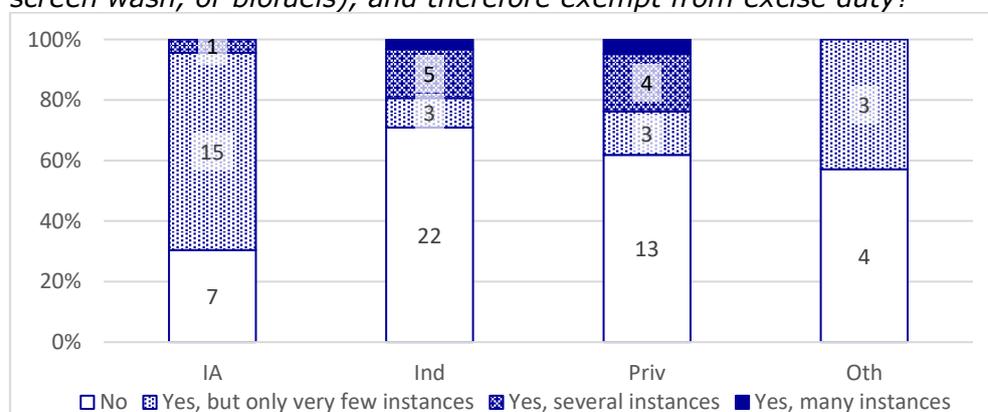
Reduced rates for low-strength alcohol: A number of industry stakeholders expressed their doubts on the validity of the rationale behind reduced rates for low-strength alcoholic beverages, suggesting that educational campaigns are likely to be more effective in driving people towards a more responsible consumption of alcohol. Others, to the contrary, would welcome the measure, which would be beneficial to those producers currently trying to diversify their portfolio and innovate the market with the creation of low-strength products.

Exemptions for private production: certain small producers and private individuals pointed out that private production – similarly to reduced rates for small production – allows to preserve traditional productions. At the same time, big producers expressed their concerns that privately produced alcoholic beverages are often found in commercial sales channels, generating unfair competition, undermining tax revenues and posing health risks.

1.7 Excise duty exemptions for denatured alcohol

The huge majority of all respondents – including those involved in the industrial alcohol sector – stated that in the past 10 years there were no or very few instances of tax frauds involving alcohol sold as potable, even though designated as industrial alcohol.

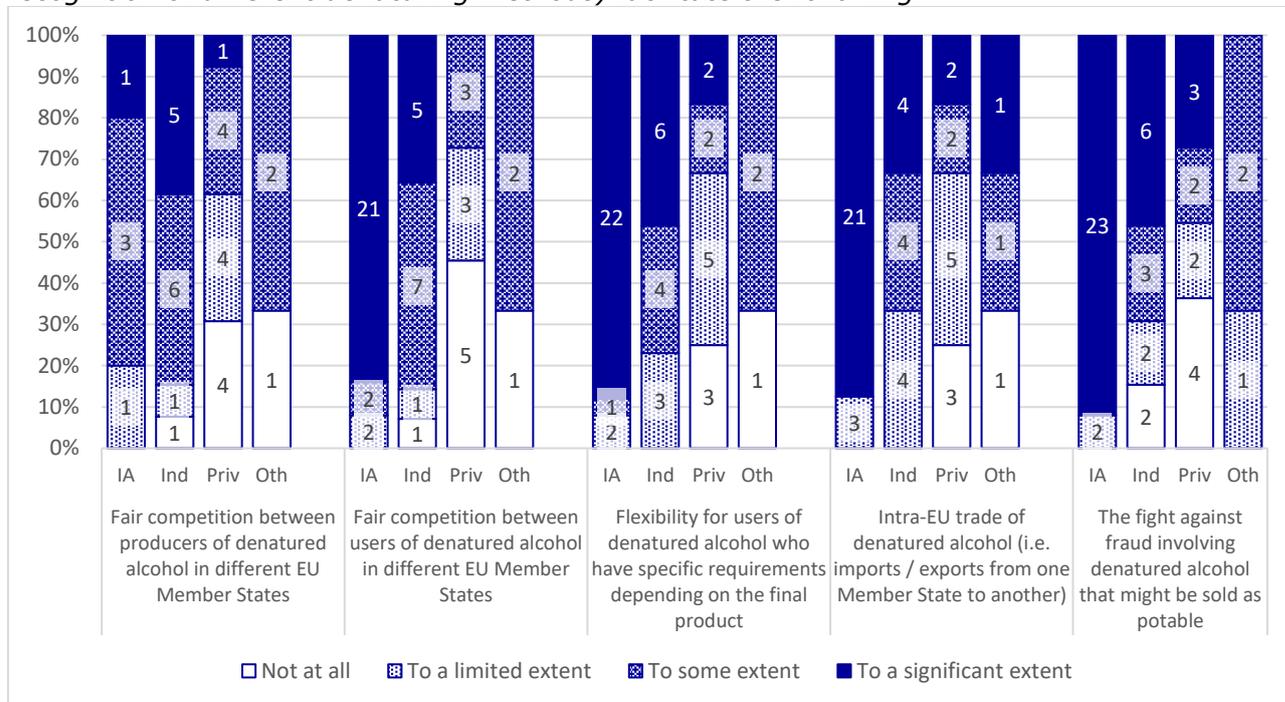
Question #42 - Are you aware of any instances of tax fraud in the EU in the last 10 years involving alcohol sold (explicitly or implicitly) as potable, but containing alcohol that was designated as intended for industrial applications (such as for cosmetics, screen wash, or biofuels), and therefore exempt from excise duty?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Over 80% of the industrial alcohol industry, and to a lesser degree also the rest of the industry, agreed that the current legal framework ensured fair competition and flexibility for users of denatured alcohol, facilitating intra-EU trade and helping to fight fraud. Private individuals expressed a somewhat more sceptical opinion.

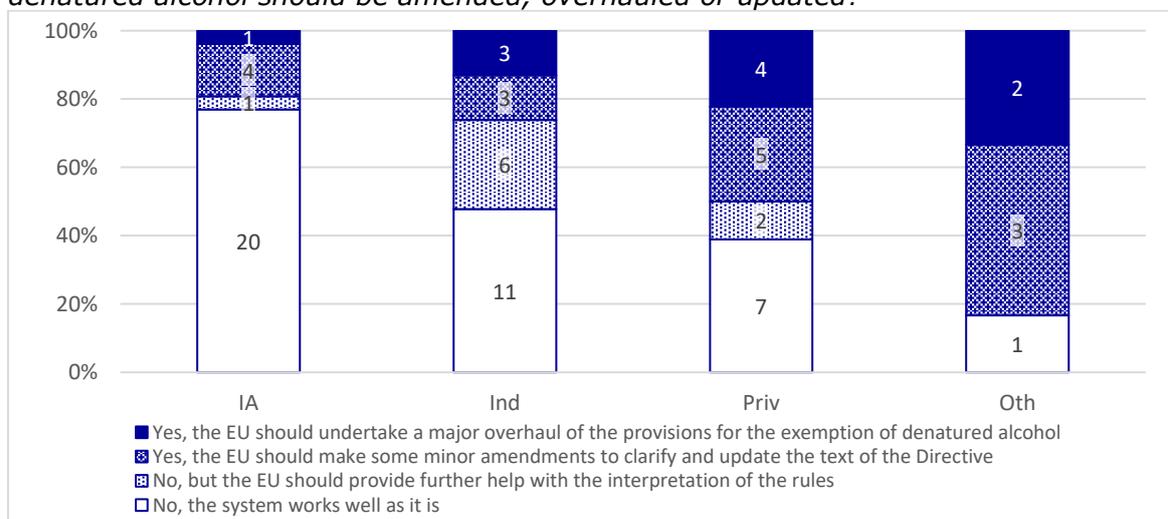
Question #43 - In your opinion, does the current legal framework (including the mutual recognition of different denaturing methods) facilitate the following:



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

In line with the previous question, the industrial alcohol industry maintains that the current system is effective and appropriate. The rest of the industry shared the same positive view, with some respondents suggesting that the EU should provide some guidance for the interpretation of the rules.

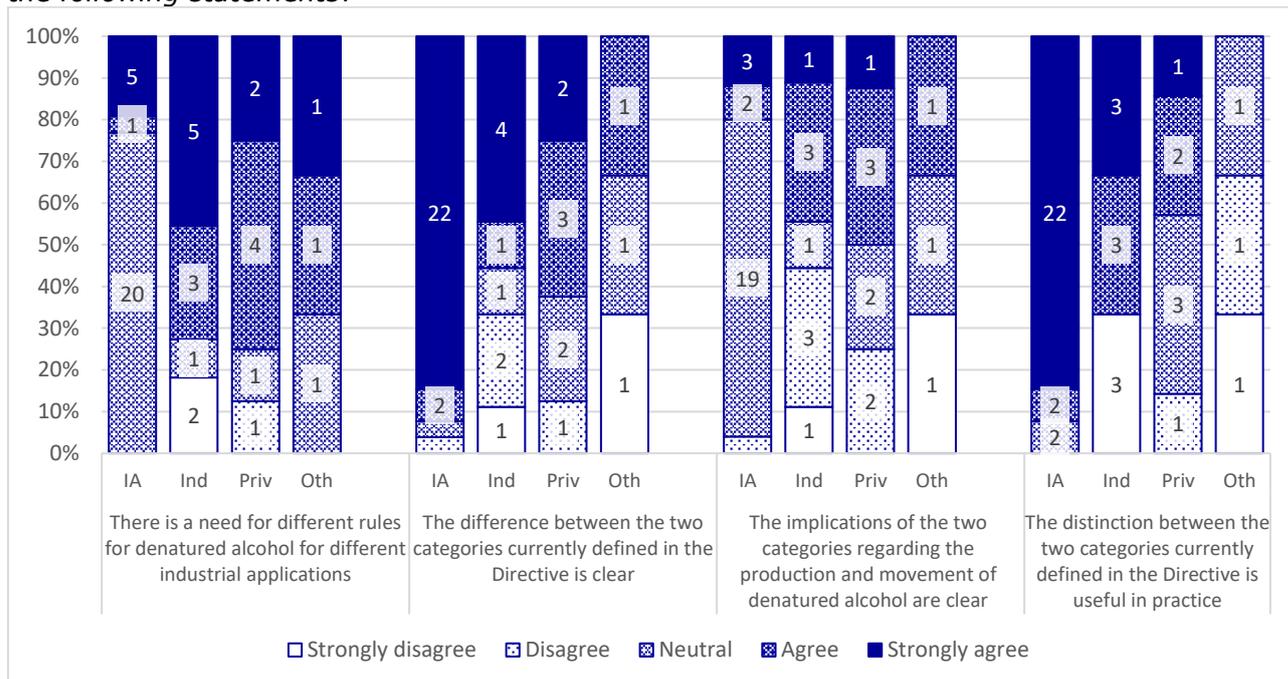
Question #44 - Do you believe that the current provisions for the exemption of denatured alcohol should be amended, overhauled or updated?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

The industrial alcohol industry strongly believes that the distinction between 'completely denatured' and 'denatured' alcohol is useful and well-defined. At the same time, however, it is of the opinion that the implications of the two categories may not be entirely clear and it is not against the possibility of changing the rules for 'denatured' alcohol.

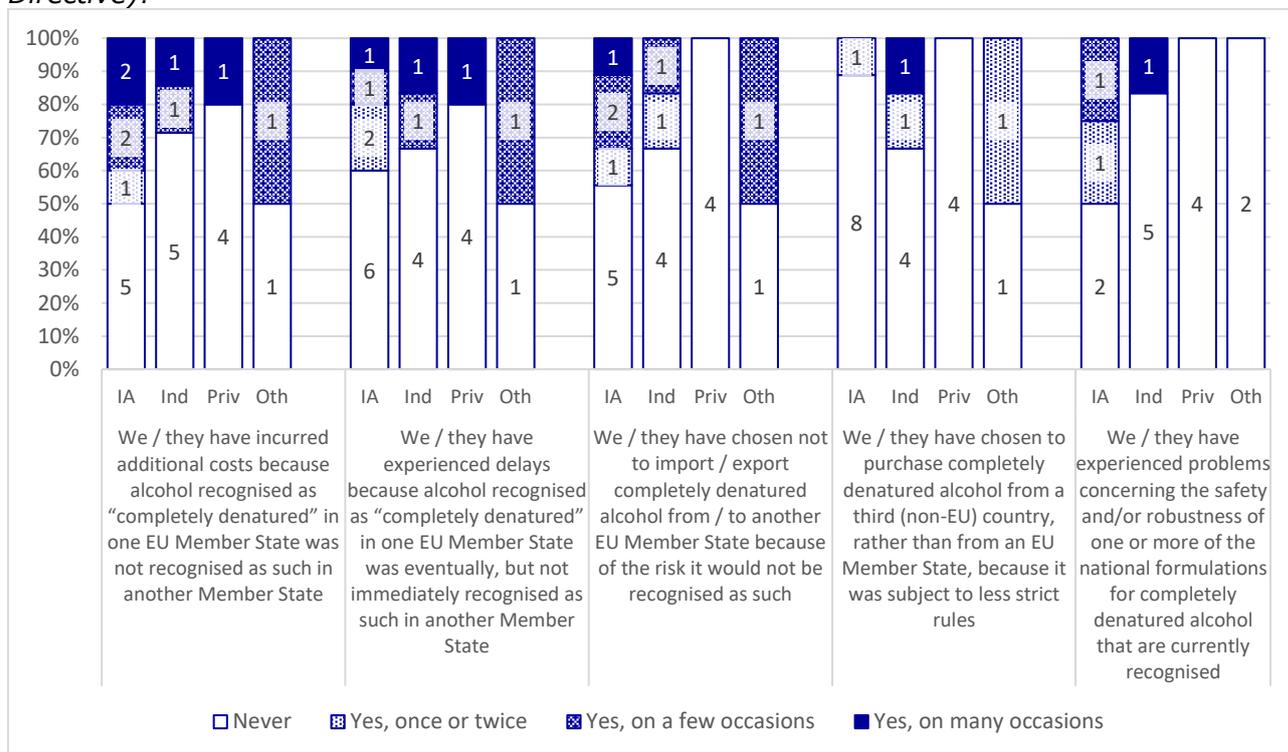
Question #45 - The Directive distinguishes between "completely denatured" alcohol (article 27.1 (a)) and "denatured" alcohol (article 27.1 (b)). The original purpose of this distinction was to create a system of mutual recognition to allow alcohol denatured using methods deemed sufficiently robust by all Member States to move freely across EU territory, while also affording Member States the flexibility to allow other (usually less "invasive") methods for industries that have specific requirements. Do you agree with the following statements?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

The following question on the issues related to completely denatured alcohol received a relatively low degree of attention, with no more than 10 responses from each group. Taking the low response rate into consideration, the various issues under consideration do not seem to occur for the majority of respondents.

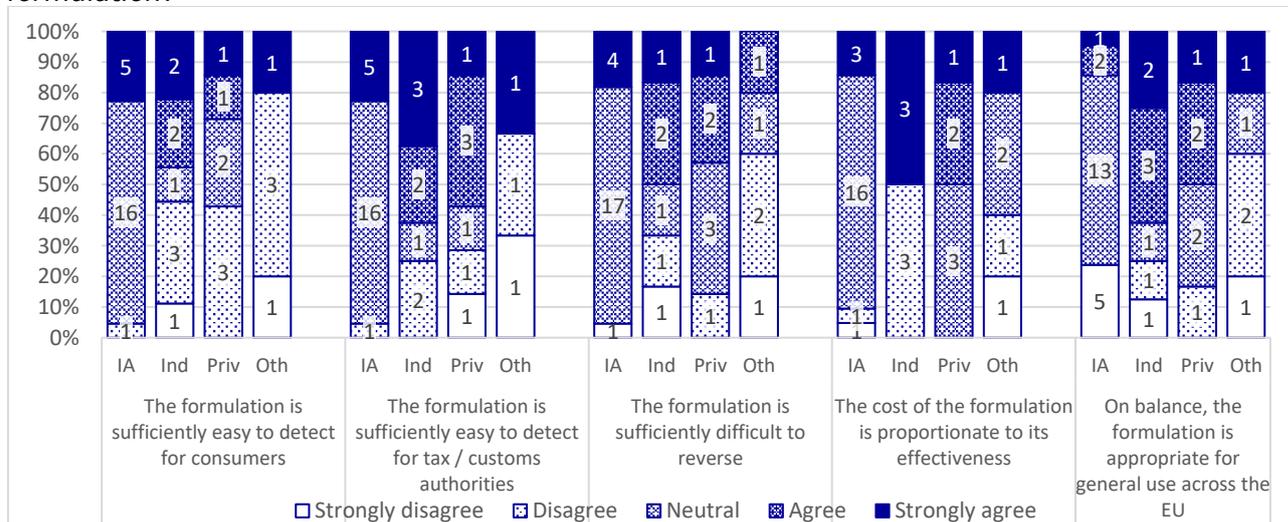
Question #46 - Have you, the company you represent, and/or a company that you have done business with or are in direct contact with, ever experienced any of the following issues related to completely denatured alcohol (as regulated by article 27.1 (a) of the Directive)?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

On the formulation of the so-called 'Eurodenaturant', producers and end-users of industrial alcohol adopted a generally neutral stance. The rest of respondents, which even in this case were not particularly interested in the question, appear to be more mixed.

Question #47 - Most Member States have recently communicated the "Eurodenaturant" formulation for completely denatured alcohol consisting of 1 litre of isopropyl alcohol (the chemical analytical marker), 1 litre of methyl ethyl ketone (the smelling agent), and 1 gram of denatonium benzonate (the tasting agent) per hectolitre of absolute ethanol. Do you agree with the following statements concerning this specific formulation?

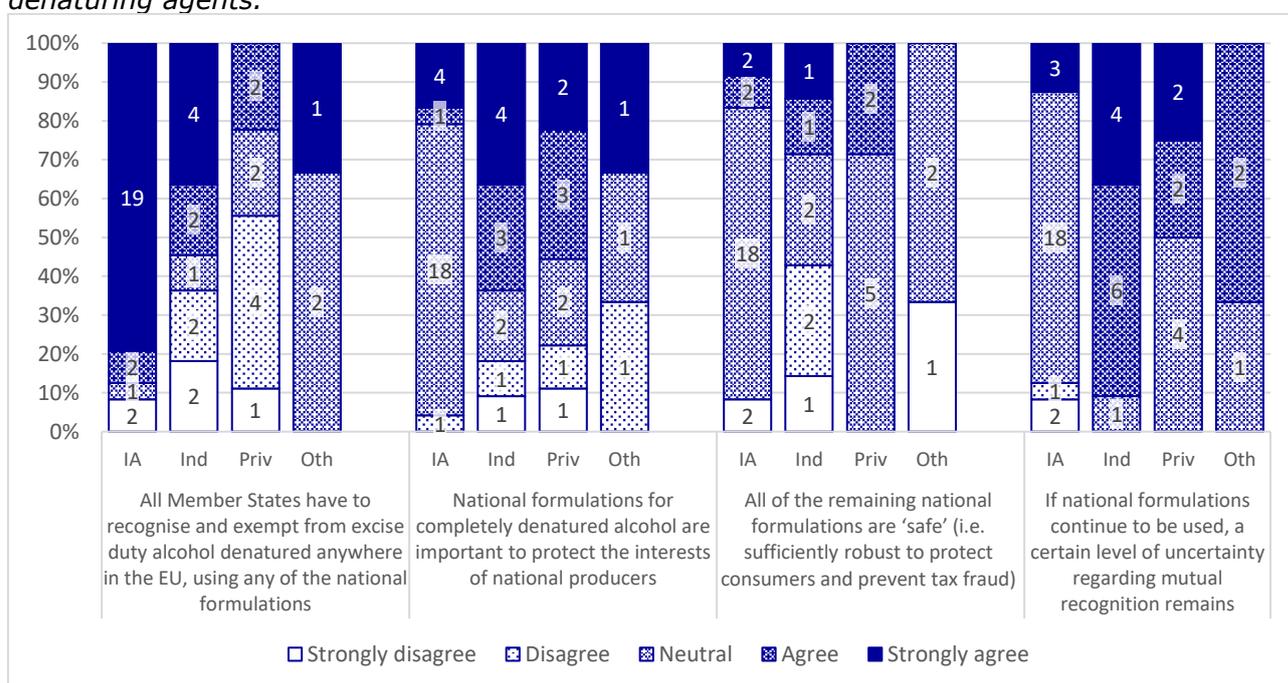


Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

As in the previous question, the majority of industrial alcohol stakeholders did not express neither positive nor negative judgements on the safety of national denaturing formulations for completely denatured alcohol, and on the uncertainty they may generate. At the same time, they strongly agreed with the necessity of MS recognising formulations used in other MS.

Question #48 - Some Member States have communicated other formulations instead of or in addition to the one described in the previous question. Do you agree with the following statements on the continued use of certain national denaturing formulations for completely denatured alcohol, alongside the "Eurodenaturant"?

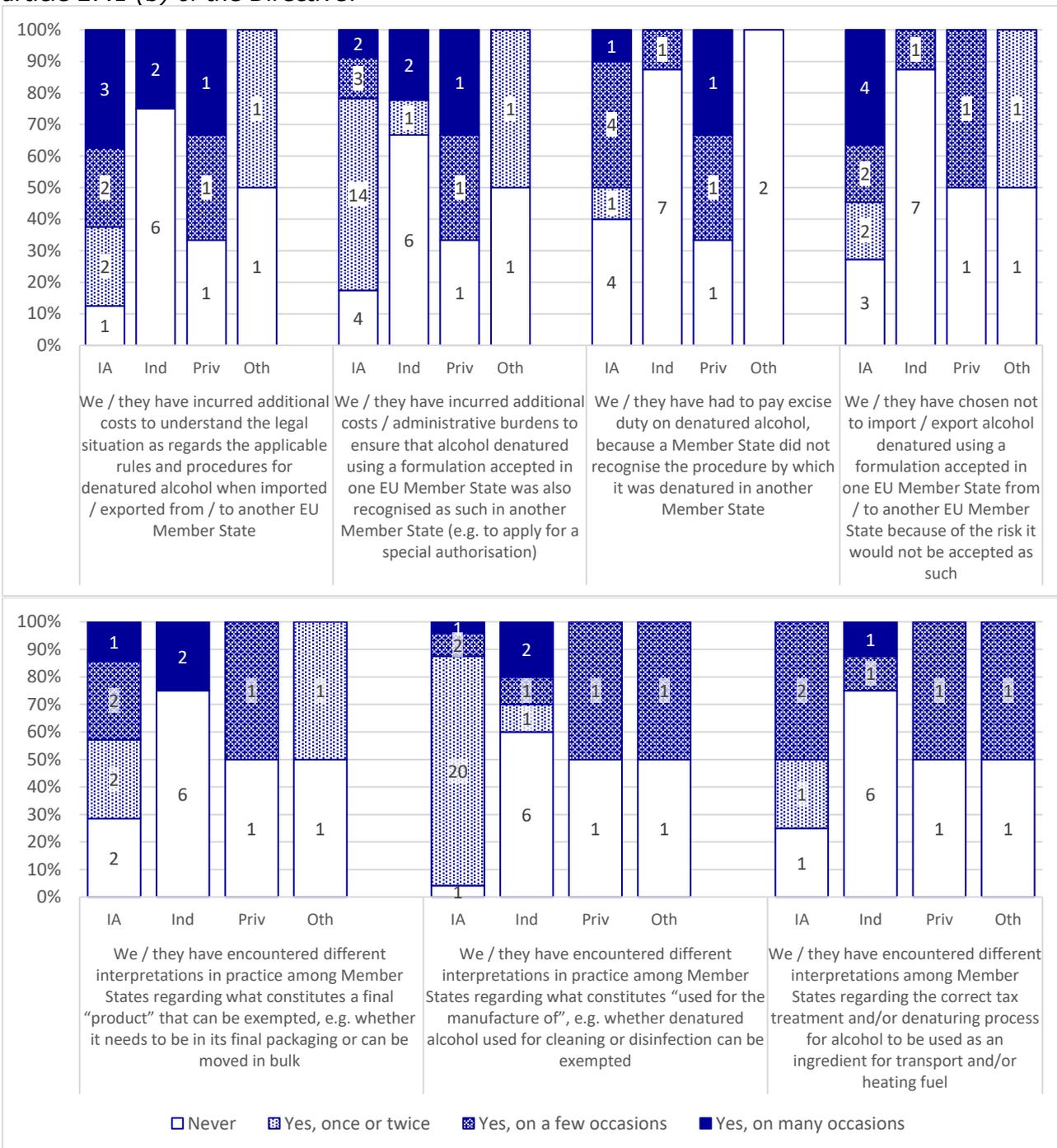
NB: Some of the remaining national formulations consist of differing concentrations some of the ingredients of the Eurodenaturant as defined above; others contain different denaturing agents.



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

The following question on the issues related to partly denatured alcohol attracted a limited number of responses. The only issues that received greater attention from the industry were: (i) the additional costs and administrative burdens to ensure that alcohol denatured using a formulation accepted in one MS is also recognised in another Member State, and (ii) possible different interpretations on the meaning of "used for the manufacture of". Both issues however were described as quite rare, having happened only once or twice.

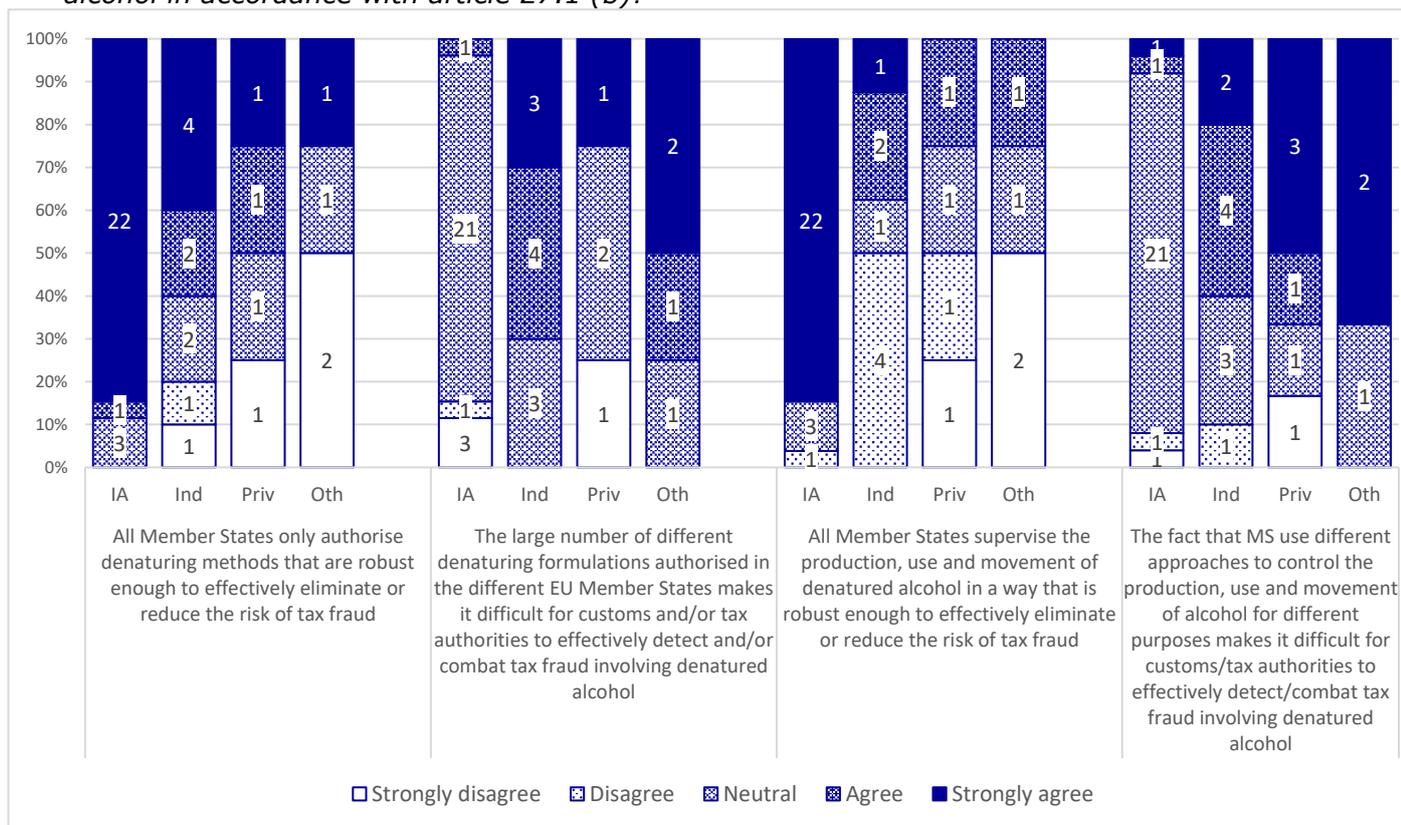
Question #49 - Concerning article 27.1 (b): Have you, the company you represent, and/or a company that you have done business with or are in direct contact with, ever experienced any of the following issues related to denatured alcohol as regulated by article 27.1 (b) of the Directive?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Industrial alcohol stakeholders strongly agreed with the fact that MS only authorise robust methods for partial denaturation and that they also effectively supervise the production, use and movement of partly denatured alcohol. However, they were neutral on the difficulties that different formulations (and different control strategies) may generate for public authorities.

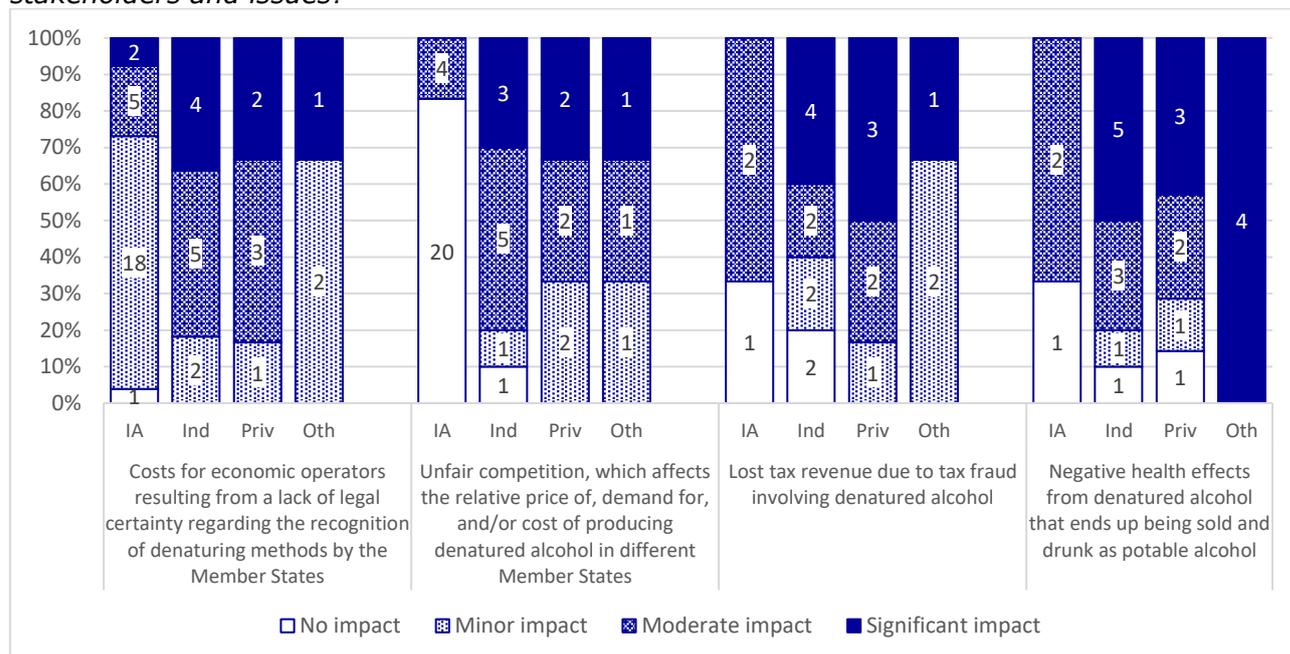
Question #50 - Do you agree with the following statements regarding the competent authorities' ability and capacity to detect and/or combat tax fraud involving denatured alcohol in accordance with article 27.1 (b)?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

Once again, the industry involved in the production and use of denatured alcohol considers the current system to be fairly effective, generating only minor costs due to the lack of legal clarity and no costs at all due to unfair competition. Perspectives on revenue losses and public health effects were somewhat more mixed, characterised however by a very limited number of responses. In the additional comments to the question, Poland was flagged as a problematic country where PDA is subject to strict procedures, forcing economic operators to make use of CDA instead.

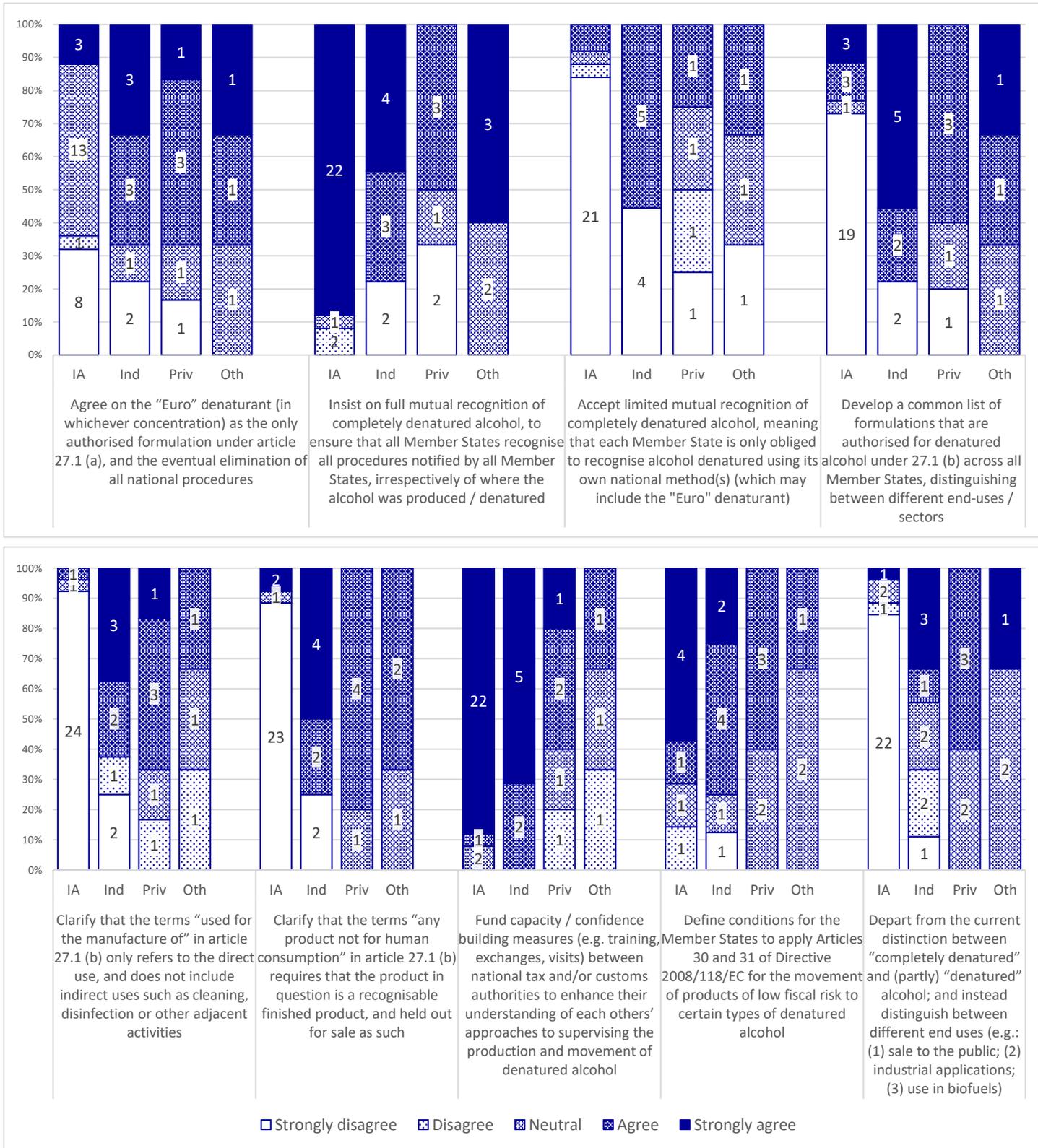
Question #51 - Overall, how would you describe the economic and/or social impacts of the problems with the exemptions for denatured alcohol (if any) on the following stakeholders and issues?



Legend: IA: industry stakeholders with an interest in the production or end-use of industrial alcohol; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

The industry of denatured alcohol expressed a strong disagreement with all the policy options that may limit the allowed formulations for the denaturation of alcohol. Moreover, they are against a strict interpretation of Art. 27.1(b). To the contrary, they are strongly in favour of a full mutual recognition, supported by exchanges between public authorities of different MS to better understand each other's approaches. All the other respondents – including the rest of the industry, private individual and the miscellaneous 'other' category – expressed more mixed views on the proposed policy options. As in the previous cases, however, the number of responses from each respondent category is below 10 and cannot be therefore considered truly representative.

Question #53 - Please express your opinion on the following possible approaches to address the problems with the exemption of denatured alcohol.



Question #54 - Would you like to add any comments or suggestions on the problems with the exemptions for denatured alcohol, and/or how they should be addressed?

In the additional comments, various stakeholders from the cosmetic industry stressed that they consider the current system as efficient, with no substantial tax frauds. For

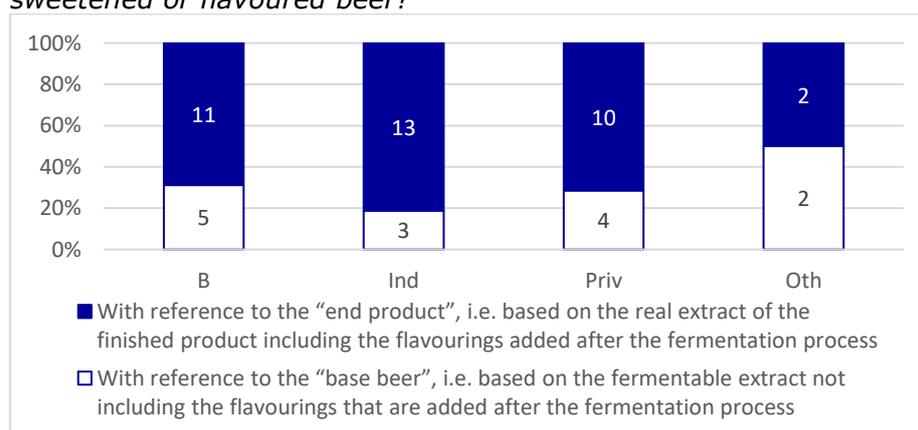
this reason, they believe that any changes of the Directive aimed at tackling potential frauds would be disproportionate.

Similarly, a number of fragrance associations noted that they are not aware of tax frauds in their sector of activity, and warned against the disruptive effects that the harmonisation of partial denaturation methods would have.

1.8 Calculation of excise duties on sweetened or flavoured beer using the Plato method

The majority of respondents, including those involved in the production of beer, believe that the term “finished product” in Art.3.1 should be interpreted as the end product, after the addition of sweeteners and flavourings. It is worth noting, however, that big beer producers and many associations of breweries decided not to answer the question, clarifying their position in the additional comments. They explained that, while the Directive makes reference to the Plato method, it does not clearly define how to measure the Plato degree. For this reason, they suggest applying the common and ‘everyday’ understanding of the brewing industry relying on the Balling equations, which cannot be used when unfermented sugars are considered.

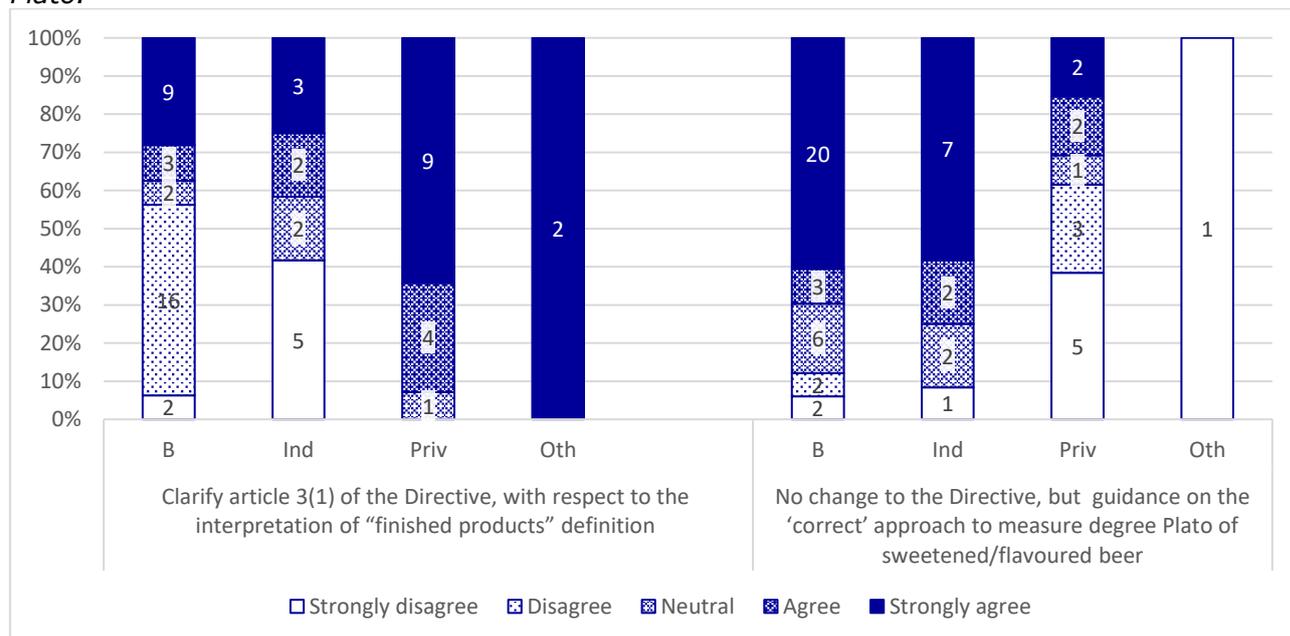
Question #55 - In your opinion, how should the term “finished product” in Article 3.1 of the Directive be interpreted when it comes to establishing the degrees Plato of sweetened or flavoured beer?



Legend: B: industry stakeholders with an interest in the beer sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

While private individuals would be in favour of a revision of Art. 3.1 to clarify the meaning of finished product, the beer industry tends to disagree. The rest of the industry, whose response rate was rather low, expressed varied positions on the issue. To the contrary, the majority of the industry – both involved and not involved in the production of beer – agreed or strongly agreed with the ‘no-change’ policy option, with guidance on the ‘correct’ approach to measure the Plato degree.

Question #56 - Please express your opinion on the following possible approaches to the issue of excise duty applicable to sweetened or flavoured beer measured by degree Plato.



Legend: B: industry stakeholders with an interest in the beer sector; Ind: rest of the industry (not included in the previous category); Priv: private individuals; Oth: Other (public health NGOs, public authorities, etc.).

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3 Report Presentation

Study on Council Directive 92/83/EEC on the structure of excise duty on alcohol and alcoholic beverages

Presentation of the Draft Final Report

Brussels, 07 September 2017

Economisti Associati

Agenda

- **Overview of scope and methodology**
- **#1 Classification of alcoholic beverages**
- **#2 Exemptions for denatured alcohol**
- **#3 Reduced rates for small producers**
- **#4 Exemptions for private productions**
- **#5 Reduced rates for low-strength alcohol**
- **#6 Measurement of Plato degree for sweetened / flavoured beer**

Overall Purpose of the Study

- ➔ Contribute to the EC's impact assessment of policy options for a possible revision of Directive 92/83/EEC
- ➔ Three main tasks:
 1. Investigate the **scale of the problems** previously identified (*Ramboll* evaluation), and the expected evolution if no action is taken ('dynamic baseline').
 2. Elaborate **policy options** to address these problems, and **assess their likely impact** in various areas (market functioning / competition, administrative burden, tax revenues, risk of fraud, alcohol control policies etc.)
 3. **Compare 'no change' and 'change' scenarios**, with a multi-criteria approach.

Key Issues at Stake

- ➔ Six thematic areas of possible **revision of the current legal framework** (mostly independent of each other).

1. Classification of alcoholic beverages	Legal uncertainties in the classification of certain 'borderline' OFB products, with possible adverse effect on market functioning and tax revenues. Uncertainties with the notion 'entirely fermented origin', and administrative issues with the EPC.
2. Exemptions for denatured alcohol (art. 27)	Possible ineffective functioning of the market and associated costs, as well as risk of fraud under the current rules for completely and 'partially' denatured alcohol.
3. Reduced rates for small producers	Issues with the functioning of the scheme for small producers and possible extension to other alcoholic beverages not covered.
4. Reduced rates for low-strength alcohol	Unclear objective of this provision and possible need to revise the current ABV thresholds.
5. Exemptions for private production	Risk of fraud and possible impact of an extension to other products not currently covered.
6. Measurement of Plato degree for sweet. / flav. beer	Interpretation disparities across MS and stakeholders; market and tax revenue impact.

Stakeholders Consultation

Fieldwork in 12 Member States

	'Core' Countries						'Non-core' Countries					
	DE	FR	IT	PL	RO	UK	CZ	ES	AT	FI	NL	BE
Denatured Alcohol	✓	✓		✓		✓	✓	✓				
Classification issues	✓	✓	✓		✓					✓	✓	
RR for small producers		✓	✓	✓		✓			✓			✓
RR for low-strength alcohol			✓	✓	✓	✓				✓		✓
Private production			✓	✓	✓	✓			✓	✓		
Plato for special beers	✓		✓	✓	✓				✓			✓

In-depth interviews with ca. 160 stakeholders (planned 120)

MS Competent Authorities	33	Economic operators and trade associations	112*
Tax/customs authorities	21	Beer	30
Public Health authorities	7	Wine	34
Other (Min. of Agriculture)	5	Cider and OFB	32
European Commission	5	Spirits and liqueurs	30
Public Health NGOs	7	Industrial alcohol	32
		Others (e.g. experts etc.)	5

Open Public Consultation: 165 responses.

Databases and documentary sources

Databases and Statistics

- **IWSR** Data on the market of alcoholic beverages: (i) brand-line data for nearly 1,400 relevant products (since 1990); (ii) top-line data for all categories of products at EU28 level; (iii) country analytical profiles.
- **LMC International** report on the European Market for Industrial & Potable Alcohol.
- DG TAXUD's **Excise Duty Tables** (2000-2017)
- Other data sources: **Eurostat's** (Prodcom) database; (ii) **Eurobarometer** surveys; (iii) **WHO-GISAH** and ESPAD data; (iv) **EBTI** database etc.

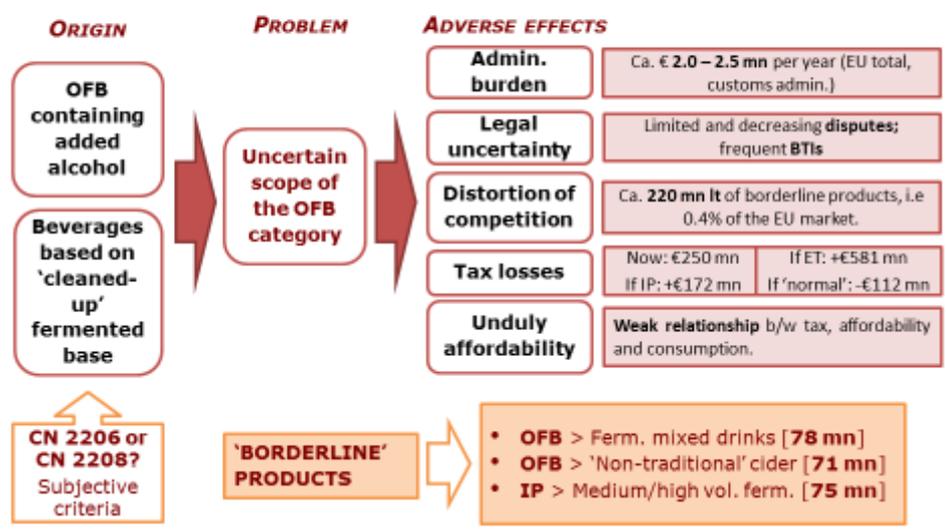
Other documentary sources

- National legislation, tax and customs authorities guidelines and reports.
- Public health authorities and NGO studies, reports, strategy paper etc.
- Industry materials: market reports, studies, position papers etc.
- Scientific literature, media articles and other 'grey' literature.

1. Classification of alcoholic beverages

Baseline and Problem Analysis (1)

1st Issue: Uncertain scope of the OFB category



Policy Options and Impact Analysis (1)

Policy options (1st issue)

- I. **Clarify the excise duty structure for 'borderline' products:** i.e. introducing the ECJ criteria in the Directive allowing certain OFB to be taxed under Art. 20 (supporting guidelines are needed).
- II. **Differential tax treatment for certain OFB:** i.e. a separate tax category for (i) real cider and fruit wines; or (i) mixed drinks.
- III. **Non regulatory options:** (i) review of CNEN note 2206 00; (ii) sectoral regulation for cider etc.; (iii) guidelines to operationalise ECJ criteria; (iv) enhance monitoring and control of new products.

Impact

- I. **Effective in avoiding disparities of treatment on the same market but not across MS. Some admin. burden savings. But market and (minor) tax losses, and risks for international trade. Non-target products affected.**
- II. **More harmonised structure across MS, but increased complexity and risk of uncertainty and burden. Market (and tax) losses for concerned categories, benefits for competitors (e.g. 'real' cider). Non-target products affected.**
- III. **Clarification of ECJ criteria for CN codes high in demand and potentially very effective. Sectoral regulation for cider and OFB useful. Better market monitoring needed.**

Impact area	No change	Clarify definitions	Introduced new categories	Non-reg. options
Legal certainty	0	+1	0	+2
Competition and market effects	0	0 / +1	0 / -1	0 / +1
Tax revenues	+1	0 / -1	-2 / -1	0 / -1
Administrative burden	0	-1 / +1	-2 / -1	+1

Baseline and Problem Analysis (2)

2nd issue: Unclear application of the 'entirely fermented origin' provisions

- The addition for technical purposes of small quantities of alcohol as a flavour carrier (AFC) is explicitly accepted by most MS. Some have set a precise threshold (e.g. 0.5% of vol.), others not. But a strict interpretation of Art 8 (wine) and Art 12 (OFB) would ban it. For wine, AFC is accepted by Reg 251/2014.
- In principle, this may create legal uncertainties, but no dispute is reported.
- AFC-containing products may amount to 150 mn lt (gross estimate) – especially aromatized wine - and are slowly increasing.

3rd issue: Indefinite Excise Product Code for wine and OFB

- Wine and OFB share the same EPC in the EMCS system (W200 – still; W300 sparkling). This may hamper market monitoring and may cause erroneous tax classification.
- However, concrete risks are minimal: in most cases there is no ambiguity between wine and OFB, and in only 6 MS rates actually differ. In most MS the tax revenue 'risk' is < € 2.5 mn. So, it is primarily an administrative issue.

Policy Options and Impact Analysis (2)

Policy option (2nd issue)

- Clarify the notion of 'entirely fermented beverages' for AFC-containing products: i.e. by introducing an explicit margin of tolerance (with/without a fixed threshold).

Impact

- Cross-MS harmonisation and reduced risk of disparity if treatment. Limited positive market effects, but potential difficulties of enforcement and control through laboratory analysis.

Impact area	No change	Clarify the notion
Legal certainty	-1	0 / +1
Market effects	0 / -1	0 / +1
Tax revenues	0	0 / -1

Policy option (3rd issue)

- Establishing a separate EPC for OFB (review of EMCS and related administrative regulation).

Impact

- Improve monitoring and reduce existing (small) risk of mis-classification. But administrative costs to update the system (ca € 1 mn for OFB-makers)

Impact area	No change	Differentiate EPCs
Administrative costs	0	-1
Tax enforcement and revenues	-1	+1

2. Exemptions for denatured alcohol

Baseline and Problem Analysis

The market for denatured alcohol

Application	Annual EU consumption (mn l)	Of which denatured (mn l)	Est. denat. market value (mn €)
Potable	1,000	0	0
Industrial	1,200	800	560
Biofuels	5,500	5,500	3,300
Total	7,700	6,300	3,860

- Industrial alcohol:
 - EU-15: 90-95% PDA
 - EU-13: 60-70% CDA
- Alcohol for biofuels: 98% PDA
- Two very distinct markets:
 - 'Raw' alcohol (large players, high volume of intra-EU trade, moved undenatured)
 - Rectified industrial alcohol (more fragmented, domestic)

Problems

Inconsistent mutual recognition of CDA	Proliferation of national approaches to PDA	Interpretation of the terms of art. 27.1 (b)	Fraud risk
<ul style="list-style-type: none"> • Uncertainty over recognition of national formulations • Operating costs for EOs in specific circumstances • Largely resolved with CIR 2017/1112 	<ul style="list-style-type: none"> • Compliance / admin. / operating costs, but not linked to Directive • Barriers to intra-EU trade, minor costs • Enforcement costs of up to €100k pa for labs in certain MS 	<ul style="list-style-type: none"> • Uncertainty around definition of 'finished product' can result in higher costs, fraud risks • Uncertainty re indirect uses, very limited cost implications 	<ul style="list-style-type: none"> • Est. €170 mn pa of tax revenue lost due to fraud with denat. alc. in EU-13 MS • Main risks from 'weak' CDA (now eliminated), products containing PDA

Policy Options and Impact Analysis

Policy options

- **CDA: Clarify mutual recognition** ("alcohol which has been completely denatured in any MS in accordance with its requirements")
- **PDA: Mitigate the negative effects of the proliferation of national approaches**
 - **Partial harmonisation** of formulations, i.e. harmonised lists per sector, plus MS allowed to authorise different formulations in cases where the fiscal risk is low
 - **Non-regulatory options**, i.e. database of national PDA formulations, and/or confidence / capacity building measures
- **PDA: Clarify art. 27.1 (b)**
 - Explicit exempt indirect manufacturing uses such as cleaning
 - Clarify PDA needs to be moved under duty suspension until incorporated in a product in its recognisable finished form; define an ABV threshold

Impact Analysis

- Main benefit from a revision of article 27 would be **legal certainty**, and avoidance of possible future disputes & associated costs
- However, the **economic impacts** would be relatively limited, and would accrue mainly to EOs in highly specific circumstances, sectors and MS
- Likely displacement of **fraud** from CDA to products containing PDA may justify action

Comparison of Options

CDA

Impact area	No change	Clarify mutual recognition
Legal certainty	0	+1
Functioning of the Single Market and competition	0	0 / +1
Operating costs and conduct of business	0	0 / +1
Enforcement costs for national authorities	0	0
Fiscal fraud & associated revenue, health risk	0	0

PDA

Impact area	No change	Partial harmonisation	Database of formulations	Confidence building	Clarify uses (incl. indirect)	Clarify finished prod.
Legal certainty	0	+1	0 / +1	0	+1	+1
Functioning of the Single Market and competition	0	+1	0 / +1	0 / +1	+1	+1
Operating costs and conduct of business	0	+1	0 / +1	0 / +1	+1	0 / +1
Enforcement costs for national authorities	0	-1 / +1	-1 / 0	-1 / 0	0	0
Fiscal fraud & associated revenue, health risk	0 / -1	0 / +1	0	0 / +1	0	+1

Summary of conclusions

- The EU-level legal framework is complex, but works relatively well overall. Stakeholders see **no need for fundamental changes**.
- National regulatory and supervisory regimes generate **compliance and admin. costs**, which vary from MS to MS. But these are **not attributable** to the Directive!
- The ambiguous wording of parts of art. 27 has given rise to different national interpretations, which can complicate trade; however, this has only affected a small number of EOs, and most divergences have now been resolved via national measures.
- For **CDA**, the recent adoption of the "1-1-1" Eurodenaturant by almost all MS has greatly reduced the potential for problems concerning mutual recognition. Since a few MS are not ready to follow suit, a clarification of the rules would be desirable for the sake of legal certainty, but unlikely to result in significant economic benefits.
- For **PDA**, the flexibility for MS to define rules that balance the needs of their industry with their fraud risk tolerance is widely welcomed; complete harmonisation would be potentially very costly for certain sectors in certain MS.
- **Partial harmonisation** could improve transparency and the functioning of the Single Market, and potentially reduce fraud – but details would still need to be worked out.
- Article 27.1 (b) **should be amended** to reduce uncertainty, and limit the scope for the (potentially fraudulent) misclassification of PDA as a finished product.

3. Reduced rates for small producers

Baseline and Problem Analysis

Small Breweries

- Widespread (23 MS). Accounting for most of operators (~95%), but small market share (~5%). Consequently, no market distortion and negligible health impacts.
- The scheme is working well. MS appreciate its flexibility and limited enforcement costs. Admin burdens very low (0.09 €/hl). Foregone revenues very low (~1% of current revenues from beer). Two areas for improvement:
 - Definition of independent brewers
 - Cross-border application

Small Distilleries

- Seldom used (7 MS). Low output threshold, which covers mostly ancillary rural producers (unviable for stand-alone commercial activities).
- Consequently, no or negligible impacts across all areas (e.g. market, health)

Other Small Producers

- Risk of unequal treatment, but:
 - Reduced rate is only one factor. Small producers of other beverages benefit from different advantages (e.g. 0-rate, admin simplification)
 - Relevant markets usually defined along product lines: limited cross-competition, different market structures

Policy Options and Impact Analysis

Small Breweries

- **Clarify the definition of 'independent brewer' and cross-border application**, by means of a minor legislative revision or non-binding guidelines.
- Impacts are expected to be positive, but limited, since the scheme is generally working well. Legal certainty will improve, with small additional admin burdens.

Small Distilleries

- **Raise the output threshold for small distilleries:**
 - At 100 hlpa, market impacts and foregone revenues would remain negligible to low. Almost no change to SME competitiveness
 - At 10,000 hlpa, market impacts would be significant, due to the size of firms covered and the weight of excise duties over final price of spirits. Improvement of SME competitiveness, but negative health impacts

Other Producers

- **Extend the reduced rates to producers of wine, OFB, and IP:**
 - Wine. Impacts would be limited because most of it is already sold at 0 or near-0 rate. Few SME would benefit from the provision (e.g. wine growers or non-exporters would be excluded)
 - Cider. Small cider makers face market conditions similar to beer, hence the extension would have positive impacts, and, in particular, support SME competitiveness
 - In the case of fortified wine, it would hardly support SME competitiveness

Comparison of Options

Impact area	Breweries			Distilleries			Other Producers			
	No change	Leg	Soft	No change	100 hlpa	10,000 hlpa	No change	Wine	OFB	IP
<i>Legal Certainty</i>	0/-1	+1	+1/+2							
<i>Admin burdens</i>	0	0/-1	0/-1	0	0/-1	0/-1	0	-1	0/-1	0/-1
<i>Enforcement Costs</i>	0/-1	-1/-2	-1	0	0/-1	-2	0	-2	0/-1	0/-1
<i>SME competitiveness</i>	0/+1	+1	+1	0	0/+1	+2	0	+1	+2	+1
<i>Cross-border market effects</i>	0/-1	+1	+1							
<i>Market effects</i>				0	0/-1	-1	0	0/-1	+1	0/-1
<i>Tax revenues</i>				0	0/-1	-2	0	-1	0/-1	0/-1
<i>Health impacts</i>				0	0/-1	-1	0	0/-1	0/-1	0

Summary of conclusions

- For small breweries, most positive impacts from a mixed approach: non-binding guidelines for definition of independent brewers and exchange of information among customs authorities; legislative revision for ex ante certification of small brewers.
- For small distilleries, raising the threshold to 100 hlpa could benefit very small operators with limited market distortions and health impacts. Operators would benefit more with a threshold of 10,000 hlpa, but negative impacts would be larger.
- Claims of unequal treatment for other small producers are difficult to justify. Largest net impacts from the extension of reduced rates to small cider makers.

4. Exemptions for private productions

Baseline and Problem Analysis

Baseline Assessment

- ➔ Home production of fermented beverages is legal and non-problematic in all MS analysed.
- ➔ Home distillation, that is production of beverages consisting of or made with distilled alcohol (IP and ethyl alcohol), is illegal in most of MS analysed, except for AT and RO
 - Based on the Ecofin minutes.
- ➔ Illicit home distillation, is only a (small) part of unrecorded and illicit alcohol.

Problem Analysis

- ➔ Negligible negative market effects for legal players, except in RO.
- ➔ Cost for public budgets at or below 3% of revenues from ethyl alcohol in five out of six MS analysed.
- ➔ Home distillation is considered higher-risk from a health and tax fraud perspective, but limited effects in the current situation.

MS	Home distillation over spirit market	
	€ mln	% of revenues from EA
AT	1.0%	
FI	1.1%	
IT	2.6%	
PL	3.5%	
RO	5.9%	
UK	0.6%	

MS	Foregone revenues	
	€ mln	% of revenues from EA
AT	0.7	0.6%
FI	4.8	1.2%
IT	13.6	2.1%
PL	51.5	3.1%
RO	9.3	9.2%
UK	20.3	0.5%

Policy Options and Impact Analysis

Policy option

- ➔ Legislative revision: extending the exemption for private production to intermediate products and ethyl alcohol
 - Optional, in line with the current exemption for fermented beverages.

Impact Analysis

- ➔ Home distillation is expected to increase.
- ➔ Market impacts would be negligible: additional distillation would correspond at maximum 0.3% of the current market for spirits.
- ➔ Impacts on tax revenues would be limited: foregone revenues would amount to maximum 0.6% of current revenues from ethyl alcohol. Tax frauds would largely remain caused by surrogate alcohol and clandestine production.
- ➔ Health risks from private distillation – methanol poisoning – would increase.
- ➔ Limited appetite or strong resistance from MS reduces any foreseeable impact.

MS	New home distillation over spirit market
AT	0.1%
FI	0.1%
IT	0.2%
PL	0.3%
RO	0.0%
UK	0.0%

MS	Foregone revenues over revenues from EA
AT	-0.1%
FI	-0.2%
IT	-0.4%
PL	-0.6%
RO	0.0%
UK	-0.1%

Comparison of Options

Impact area	No change	Extension
<i>Tax revenues</i>	0/+1	-1
<i>Market effects (including cross-border)</i>	0	0/-1
<i>Health impacts</i>	0/+1	-1
<i>Enforcement costs</i>	0	0/-1
<i>Admin burdens</i>	0	0/-1

Summary of conclusions

- ➔ Currently, no issue with respect to the home production of fermented beverages.
- ➔ Home distillation is prohibited in most of the MS analysed, and considered more dangerous from a health and tax fraud perspective. However, it represents a modest share of the market for spirits, and foregone revenues are at or below 3% of current revenues from ethyl alcohol (with the exception of RO).
- ➔ Extension of the exemption would have limited market impacts on licit players and cause foregone revenues to public authorities. Health risks would increase. Benefits would hardly materialise. MS are unlikely to opt in.

5. Reduced rates for low-strength alcohol

Baseline and Problem Analysis

Baseline Assessment

- **EU market for low-strength alcohol:** Beer (1.4%, growing); wine (1.2%, growing); OFB (all cider and perry, some fruit wine); intermediate products (mainly flavoured alcoholic beverages); ethyl alcohol (mainly mixed drinks).
- **Foregone tax revenues:** Less than 1% of tax revenues for beer (FI, UK), and wine (BE, FI, UK). Relatively higher share of tax revenues for OFB (BE, FI, PL, UK) and intermediate products (BE, FI, UK). No foregone tax revenues for ethyl alcohol (only FI, below 2.8% vol.).
- **Rationale/objectives:** taxation policy; alcohol control policy; product innovation; agricultural/industrial policy; proportionality for wine, OFB, intermediate products.

Problem Analysis

- **Current alcohol content thresholds** (2.8% vol. for beer, 8.5% vol. for wine, 15% vol. for intermediate products, 10% vol. for ethyl alcohol) to apply reduced rates **are largely irrelevant**.
 - This impinges on the achievement of any policy objective.
 - No real incentive to produce/consume low-strength alcohol.
 - Limited uptake by Member States.

Policy Options and Impact Analysis

New threshold for low-strength beer (regulatory option)

- Allowing MS to apply reduced rates to beer with an actual alcoholic strength by volume not exceeding **3.5% vol.** (agreement on the threshold).
 - **Tax revenues:** Small reduction in tax revenues (between 0.2% to 0.7% of total tax on beer).
 - **Market effects:** Reduction in price (between -2% and -10%) and increase in consumption (between +2cl and +10cl per capita); new market opportunities/product innovation (3.5% vol. beer).
 - **Public health:** Limited public health impacts (max. per capita increase: +3-10cl; per capita beer consumption in sample MS: 31-90litres).

Revised thresholds for low-strength wine, intermediate products and ethyl alcohol (regulatory option)

- Raising thresholds to apply reduced excise duty rates (no agreement on thresholds).
 - **Tax revenues and market effects:** Limited impact from small increase in thresholds.
 - **Public health:** Limited public health impacts (very small increase in consumption, limited to wine-based beverages and mixed drinks).

Comparison of Options

Impact area	No change	New threshold for low-strength beer (3.5% vol.)	Impact area	No change	Revised thresholds for wine, intermediate products, ethyl alcohol
Tax revenues	0	-1	Tax revenues	0	-1
Market effects	0	+1	Market effects	0	+1
Public Health	0	0	Public Health	0	-1

Summary of conclusions

- The lack of an explicit objective for reduced rates on low-strength alcohol is not considered as a policy issue. MS used this flexibility to pursue national objectives.
- The Directive defines low-strength thresholds for beer, wine, intermediate products and ethyl alcohol at levels that make them largely irrelevant.
- Shifting the threshold for low-strength beer to 3.5% vol. would lead to foregone tax revenues of less than 1% of the current revenues from beer. This in turn would generate a small increase in *per capita* consumption of low-alcohol beer (between 2cl and 10cl per year).
- Revising the threshold for wine, intermediate products and ethyl alcohol would mainly affect aromatised wine-based products and mixed drinks. Impacts on tax revenues and consumption would be limited. While health impacts are also small due to limited changes in consumption, tax reductions on sweet alcoholic beverages may lead to some substitution effects with soft drinks and lead to negative public health effects.

6. Measurement of Plato degree for sweetened / flavoured beer

Baseline and Problem Analysis

Baseline Assessment

- ➔ **EU market for sweetened/flavoured beer:** 2.7% of beer market, growing.
- ➔ 14 Plato MS adopts three different approaches to measuring the Plato degree of sweetened/flavoured beer: before adding sugar (A); after adding sugar, on the real extract (B1); after adding sugar, on the present extract (B2).

Approach	Radler (50% lem.)	Other sweetened/flavoured
A	5.5° (base beer at 11.0°)	12.0°
B1	5.6°	11.7°
B2	10.0°	14.6°

Problem Analysis

- ➔ Depending on which approach is chosen, the addition of sugar/flavour in the beer after fermentation may artificially affect its Plato degree.
 - **Tax revenues and market effects:** Small distortions in excise duty may lead to small distortions in prices and consumption (with minor health impacts)
 - **Unfair competition:** A different excise duty could be applied to products with the very same alcoholic content.
 - **Litigation costs:** Conflicts between beer producers and tax authorities.
 - **Enforcement costs:** Approaches A and B1 do not allow to perform checks on bottled product.

Policy Options and Impact Analysis

Clarifying the term 'finished product' (regulatory option) and Non-binding guidelines (non-regulatory option)

- Base beer (A), sweetened/flavoured beer with real extract (B1), sweetened/flavoured beer with present extract (B2).
- **Market effects:** +0.1% consumption of beer selecting A and B1, no impact on consumption of sweetened/flavoured beer selecting B2.
- **Tax revenues:** -1% selecting A and B1, +0.1% selecting B2.
- **Public health impacts:** very limited, if any, impact on per capita consumption of alcohol (in the A and B1 scenario).
- **Enforcement costs:** A and B1 require the implementation of enforcement procedures to perform checks at the production facilities; ineffective for imported beer.
- **Unfair competition:** sweetened/flavoured beer pay excise duty higher than those charged on standard beer with a similar alcohol content.
- **Litigation costs:** increased legal certainty.

Comparison of Options

Impact area	No change	Base beer (1A/2A)	Real extract (1B1/2B1)	Present extract (1B2/2B2)
Tax revenues	0	-1	-1	0
Market effects	0	+1	+1	0 to -1
Public health	0	0	0	0
Enforcement costs	0	-1	-1	+1
Unfair competition	-1	+1	+1	-1
Litigation costs	0	+1	+1	+1

Summary of conclusions

- Different measurement approaches lead to different values for the Plato degree of sweetened/flavoured beer. Such difference has an impact on the applicable excise duty, and hence on the retail price and consumption.
 - A and B1 result in a lower Plato degree, lower retail price and higher consumption
 - Public health impacts are limited as changes in price and consumption are small.
 - A and B1 generate higher enforcement costs as checks at the production facilities are required.
 - B2 tends to overestimate the Plato degree of sweetened/flavoured beer.
- A, B1 and B2 may be selected at the EU level by either amending Article 3(1) of the Directive (Option 1) or providing non-binding guidelines (Option 2).
 - Option 1 could be more effective. Option 2 could increase litigation costs in the short run.

Thank you for your attention

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