

What is alcohol denaturing and why is it used?

Denaturing of alcohol is a process which renders the alcohol unfit for human consumption. Usual practice is that 3 components are used to prevent the product being consumed as drinkable alcohol, either accidentally (for example by children) or on purpose. These are:

- A smelling agent
- A foul tasting agent
- An analytical marker, which remains present (even in trace quantities) despite fraudulent attempts to remove all 3 elements above

Under EU excise rules alcohol for human consumption is subject to excise duties.

Alcohol which is not intended for human consumption (e.g. in cosmetics, cleaning products, biofuels etc) is exempt from excise duties. However, in order to benefit from this exemption, the alcohol must be denatured in accordance to required methods laid down at national level (Directive 92/83/EEC, Article 27).

Denaturing of alcohol is therefore an important anti-fraud measure, to prevent the criminal circumvention of excise duties.

What EU rules are in place for denaturing alcohol not intended for human consumption?

Alcohol for industrial use must be denatured in line with the provisions set down by Member States. EU Excise Duty legislation (Directive 2008/118/EC, Article 15 (2)) states that the denaturing process must take place in a tax warehouse. This is to ensure proper oversight of the denaturing process and prevent alcohol on which excise duty has not been paid from being released into circulation and illegally sold for consumption.

Why is the Commission reviewing the measures in place for the denaturing of cosmetics, perfumes and other products?

The project to harmonise alcohol denaturation was included in the 2012 Commission Anti-Fraud Action Plan. This was due to ample evidence that a more coherent approach was needed in this area for anti-evasion and health protection reasons.

The work to tighten provisions for denaturing alcohol used in cosmetic and perfume manufacturing is just one phase of a much wider project to review alcohol denaturation, which in later phases will also include products such as anti-freeze, biofuels and paint.

The work in the area of cosmetics and perfume is driven by three main considerations.

First, customs authorities have expressed a clear need for chemical markers in products using denatured alcohol to allow them to effectively identify and trace illegal alcohol. Many of the denaturants currently being used across the cosmetics industry are easy to remove from the product

(or even unnecessary to remove for the product to be consumed as alcohol), and undetectable when the denatured product is transformed back to drinkable alcohol. Therefore, there would be a major benefit in having a more harmonised approach to chemical markers in cosmetics using denatured alcohol, as it would allow a more effective clamp down on excise fraud.

Second, both Member States and industry agree on the need to act against the serious health risks linked to the use of methanol as a denaturant in cosmetics. There have been cases of illness, blindness and even many deaths due to people drinking illegal alcohol containing methanol.

Third, Member States' divergent interpretation of the rules for denaturing alcohol used in cosmetics is creating an un-level playing field for businesses within the EU. While most Member States, in line with EU law, require alcohol to be denatured in a tax warehouse, some seem to be permitting companies to process untaxed and non-denatured alcohol at the site of production without having the production facilities being authorised as a tax warehouse. This gives an unfair competitive advantage to the companies who are allowed a more lenient system of denaturing alcohol (not in line with EU law), and runs contrary to the free movement of goods. It also means that the traffic of non-denatured alcohol on which the duty has not been paid, may not be as controlled as it should be in some parts of the EU, opening opportunities for excise evasion.

What Recommendations has the Commission made in this regard?

The Commission itself does not adopt recommendations and opinions. They are developed, formulated and voted by a group of Member State experts, who give advice to the Commission and Member States. The Group is called "Indirect Tax Expert Group" (ITEG) and it has regular meetings chaired by the Commission. The Commission turns the proposals of the group into recommendations and opinions for adoption by the Group by simple majority. These recommendations and opinions are advisory and legally non-binding. They cannot change existing law.

The Commission submitted two non-binding Recommendations related to denaturing alcohol for cosmetics and perfume production, which were voted on by the Expert Group in October 2014.

The first Recommendation ([Recommendation 2/2014](#)) states that methanol should no longer be allowed as an alcohol denaturant in this sector, given the health risk it poses and the ease with which it can be removed as a denaturant from the liquid.

The other Recommendation ([Recommendation 3/2014](#)) proposes that at least one of two chemical denaturants (IPA and TBA) be used to denature certain products in the cosmetics, perfumes and personal hygiene sector, with an alcohol level above 20% (5% for mouthwash).

This would ensure that customs laboratories throughout Europe would always be able to identify (even traces of) a chemical analytical marker and, as such, clearly identify that it is alcohol that has been illegally reverted back from denatured products (such as perfumes or mouthwash) to drinking alcohol.

These Recommendations were approved by the Expert Group in October 2014.

In addition, the Commission put forward a number of Opinions developed by the Expert Group to clarify the interpretation of EU rules in relation to excise goods not intended for human consumption (including cosmetics and perfumes). As part of these Opinions, the Commission underlines that the Excise Duty legislation (Directive 2008/118/EC, Article 15 (2)) requires the processing of excisable goods - and that includes the denaturing process of untaxed alcohol - to take place in a tax warehouse.

Why has the Indirect Tax Expert Group recommended that methanol should not be used as a denaturant?

Methanol carries severe health risks if ingested, and this is more relevant when it is used as a denaturant in alcohol which can then easily be reverted back to drinkable alcohol. There have been a recent large number of deaths as a result of people drinking alcohol that had been denatured with substances and include methanol and then illegally reverted back to a drinkable liquid. In 2012, for example, there were 51 dead and many others suffered permanent health damage from methanol poisoning after drinking spirits distilled from illicit alcohol products in the Czech Republic. There is evidence from the WHO that approx. 22% of all global alcohol consumed is "unrecorded" and that approx.30% of that is originated from "surrogate" alcohol. There is also available statistical data from industry that deaths from drinking alcohol containing methanol are increasing.

Therefore, the Expert Group considers that methanol poses too high a risk to human health when used as a denaturant in this sector, and recommends that Member States ban its use.

Why has the Expert Group recommended that Member States use particular denaturants (chemical markers) to denature scented and aromatic cosmetics?

Member States backed (by simple majority) the Recommendation to use either isopropyl alcohol (IPA) and/or tert-Butyl alcohol (TBA) as a minimum denaturant to be added to alcohol used in the manufacture of certain products in cosmetic and perfume production. The denaturants should be used in products with an alcohol level above 20%, or 5% for mouthwash.

These chemical agents are proven effective analytical chemical markers, which allow authorities to prove that the illicit alcohol is actually one which has been denatured and has qualified for the exemption. This is an important addition to the use of the smelling and tasting agents, which can easily be removed with charcoal and/or distillation techniques and the residual taste and smell can easily be masked. For example, some mouthwashes which contain 40% alcohol volume only use a menthol essence to "denature" them, which leaves the product still drinkable as an alcoholic "spirit".

The Recommendation for the use of IPA and TBA was made on the basis of scientific advice from Member States' customs laboratories and input from other national and Commission experts, through the Fiscalis Project Group. Extensive consultations were also held with industry. The two denaturants in question are already widely used in the cosmetic sector, as well in other industrial sectors.

Will the recommended harmonisation of denaturants for cosmetics pose a financial burden on industry?

The financial impact of the Recommendation to use at least one of the two named denaturants (IPA and TBA) in cosmetics and perfumes should be extremely limited for the industry.

Under current EU rules, companies are required to denature alcohol used in the production of cosmetics and perfume products, in order to benefit from an exemption of excise duties. The two denaturants recommended by the Commission (and voted on by the Member States) are already widely used in this sector.

Moreover, the industry does have the option of choosing not to use these denaturants, and foregoing the subsequent excise exemption. Companies can choose to maintain a production process which does not meet the denaturing requirements in EU law. This would mean that their products should be considered as excise goods, and subject to the appropriate excise duties. However, even then the level excise duties imposed on e.g. a 50ml bottle of perfume would be extremely small, particularly compared to the final retail price of the product. For example, for an "Eau de Parfum" which typically contains 85% of alcohol, the EU excise duty rates would be an average of €0,75 across the EU.

Will these recommended denaturants affect the substance or quality of the cosmetics they are used in?

There is no evidence to suggest that the denaturants IPA and TBA will have any effect on the smell or flavour of cosmetic products. These denaturants are already widely used in the cosmetic industry, without any negative impact. Even companies that currently do not denature their cosmetics with chemical markers for the EU market are obliged to denature them for some non-EU markets.

The Recommendation to use IPA and/or TBA as chemical markers in cosmetic and perfume products does not impact industry's choice to use whatever fragrance or aroma compounds they wish beyond that. The Recommendation makes no suggestion that changes are needed to current cosmetic formulations, beyond the denaturing of the alcohol used in the products.

Do the recommended denaturants pose any risk to human health?

No. There is no evidence that either IPA or TBA poses any risk to human health, and they are both currently widely used as alcohol denaturants in the cosmetics sector and other sectors.

Why is the Commission against so-called "in situ" denaturing of cosmetics and perfumes?

There is no legal definition in EU legislation for "in situ". It does not exist. Certain industry representatives refer to "in situ" denaturation, to describe what they consider to be the denaturation of alcohol through the cosmetic production process, including the use of essential oils in isolation as denaturants. Such "in situ" denaturation means that the denaturing process is carried out in the factories without the premises being authorised as a tax warehouse. This is not permitted under EU law.

Article 15 (2) of the Excise Duty Directive (2008/118/EC) requires the denaturation of alcohol which is used in perfume and other industrial production to be carried out in a tax warehouse. There is no derogation from this requirement.

If some producers are allowed to carry out "in situ" denaturation of their products, it creates unfair competition for producers in those Member States where it is not allowed, and runs contrary to the free movement of goods. There should not be discrimination against producers who comply with EU law by denaturing their products in tax warehouses.

Moreover, there is evidence from Member States that certain products subject to "in situ" denaturing (e.g. perfumes, mouthwash, hand sanitising liquids etc) could more easily be reverted to drinking alcohol by criminal gangs, who then benefit from the excise exemption. Some products which have been denatured in this way don't even have to be "cleaned up", as the fragrances and essential oils do not render them undrinkable. Customs authorities have also insisted that, without a chemical analytical marker (such as the denaturants recommended by the Commission), it is very difficult to trace the origins of illicit alcohol and track down the origin of fraud.

Therefore, not only is "in situ" denaturation not using the means of a tax warehouse contrary to EU law, but it also can facilitate excise evasion and contraband alcohol activity.

How have Member States been involved in the review of the provisions for denaturing alcohol in cosmetics and perfumes?

Member States have been heavily involved in the project on denaturing alcohol for cosmetics and perfume. Experts from the customs laboratories and national policy experts have given advice and input into the Recommendations, which were then discussed and voted by all 28 Member States in the Indirect Tax Expert Group.

How has industry been involved in the process?

Industry has been consulted and informed throughout the process. They could give input at various stages, for example when they participated in the Fiscalis project group meetings focussed on this issue, or through a recently established collaborative platform. Moreover, there is a continuous chain of communication between industry, the Commission and Member States regarding denatured alcohol.

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