



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.04.2001  
COM(2001) 223 final

Proposal for a

**COUNCIL DECISION**

**authorising Belgium, in accordance with Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to low-sulphur diesel and unleaded petrol**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

### **1. SUBMISSION OF REQUEST**

In a letter dated 2 February 2001, supplemented by a letter dated 14 February 2001, Belgium informed the Commission that it wanted to introduce a differentiated rate of excise duty on unleaded petrol and diesel fuel with a sulphur content not exceeding 50 particles per million (ppm) under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils.<sup>1</sup>

The terms “low-sulphur petrol” and “low-sulphur diesel” refer to petrol and diesel with a sulphur content meeting the 50 ppm environmental criterion laid down in Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels.<sup>2</sup>

Belgium explains that the purpose of the proposed reduction is to encourage the sales of these environmentally-friendly products. The tax reduction is necessary to offset the cost of desulphurisation and the removal of certain aromatics and to make the product slightly cheaper at the pump than what is currently available.

Excise duties would thus be reduced by BEF 0.65/litre for 98 and possibly 95 RON petrol and diesel fuel containing less than 50 ppm sulphur and aromatics. These reductions would be available to all users of these types of fuel.

The measures must enter into force on 1 May 2001 and 1 October 2001 respectively for 50 ppm unleaded petrol and diesel. No expiry date is envisaged at this stage.

The Belgian authorities consider that this measure does not constitute state aid, since it affects everyone without discrimination, including persons not living in Belgium.

### **2. THE COMMISSION'S ASSESSMENT**

Under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce exemptions from, or reductions in, excise duties on grounds of specific policy considerations.

By letters dated 2 February 2001 and 14 February 2001, Belgium requested authorisation to introduce a differentiated rate of excise duty on low-sulphur (50 ppm) unleaded petrol and diesel from 1 May 2001 and 1 October 2001 respectively.

In accordance with Directive 92/81/EEC, the other Member States have been informed of this request.

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<sup>1</sup> OJ L 316, 31.10.1992, p. 12, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p. 46).

<sup>2</sup> OJ L 350, 28.12.1998, p. 58, Directive amending Council Directive 93/12/EEC (OJ L 74, 27.3.1993, p. 81).

Following the implementation of the planned measure, the differentiated excise duties charged on fuels in Belgium will be as follows:

(in € per 1000 l)	Unleaded petrol	Diesel
Minimum Community rates	287	245
Excise duty on conventional fuels	494	290
<b>Excise duty on 50 ppm fuels</b>	<b>477</b>	<b>274</b>

The differentiated rates of excise duties will thus comply with the minimum Community rates laid down in Articles 4 and 5 of Directive 92/82/EEC.<sup>3</sup>

Following a thorough study of the measure and acknowledging the importance of tax incentives to promote cleaner fuels, the Commission notes that the reduction of excise will be of general application, in other words the reduced rate will be available to anyone filling up with low-sulphur fuels in Belgium.

The derogation is sought on environmental grounds - the benefits in terms of air quality are known.

The availability of sufficient quantities of these fuels, of a satisfactory quality, has been verified.

The Commission intends to limit the period of application of the measure to 31 December 2004, the day before use of this type of fuel becomes mandatory under Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels.

The Commission notes that on 12 March 2001 the Council allowed the Netherlands to apply a reduced rate of excise duty on 50 ppm diesel fuel. The Council has also authorised a derogation under Directive 92/81/EEC for 50 ppm fuels in Germany.<sup>4</sup>

### 3. DECISION

In accordance with Article 8(4) of Council Directive 92/81/EEC, the Commission proposes that the Council authorise Belgium to apply a differentiated rate of excise duty of a maximum of BEF 0.65 per litre on low-sulphur (50 ppm) unleaded petrol and diesel fuel until 31 December 2004.

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<sup>3</sup> OJ L 316, 31.10.1992, p. 19, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p. 46).

<sup>4</sup> Decision 2000/283/EC of 10 April 2000 authorises Germany to apply, from 1 November 2001 to 31 December 2002, a differentiated rate of excise duty to fuels with a sulphur content not exceeding 50 ppm provided that the obligations of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils are complied with, in particular the minimum rate of excise duty laid down in Articles 4 and 5 thereof.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils,<sup>5</sup> and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Under Article 8(4) of Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.
- (2) Belgium has requested authorisation to apply a differentiated rate of excise duty to low-sulphur (50 ppm) unleaded petrol and diesel from 1 May 2001 and 1 October 2001 respectively. This differentiation of BEF 0.65 per litre is available to all users of these types of fuel.
- (3) Low-sulphur fuels comply with the environmental criterion (50 ppm) laid down in Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels.<sup>6</sup> Under Articles 3 and 4 of that Directive, the use of 50 ppm fuels will be compulsory from 1 January 2005.
- (4) The other Member States have been informed of this request by the Belgian authorities.
- (5) The measure envisaged by Belgium complies with the minimum rates of excise duty referred to in Articles 4 and 5 of Directive 92/82/EEC.<sup>7</sup>

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<sup>5</sup> OJ L 316, 31.10.1992, p. 12, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

<sup>6</sup> OJ L 350, 28.12.1998, p. 58, Directive amending Council Directive 93/12/EEC (OJ L 74, 27.3.1993, p. 81).

<sup>7</sup> OJ L 316, 31.10.1992, p. 19, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p. 46).

- (6) The measure is sought on environmental grounds - the benefits in terms of air quality are known.
- (7) On the information available at present, neither the Commission nor the Member States consider that the application of a differentiated rate of excise duty on low-sulphur fuel will cause distortions of competition affecting the common interest or hinder the operation of the single market.
- (8) This Decision does not prejudice the outcome of any future state aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty, nor does it override the requirement for Member States to notify instances of potential state aid to the Commission under Article 88 of the Treaty.
- (9) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market or are incompatible with Community environmental policy.
- (10) The Council will review this decision on the basis of a proposal from the Commission no later than 31 December 2004, when the authorisation granted by this decision expires,

HAS ADOPTED THIS DECISION:

*Article 1*

- 1. In accordance with Article 8(4) of Council Directive 92/81/EEC, Belgium is authorised to apply a differentiated rate of excise duty on low-sulphur (50 ppm) unleaded petrol from 1 May 2001.
- 2. In accordance with Article 8(4) of Council Directive 92/81/EEC, Belgium is authorised to apply a differentiated rate of excise duty on low-sulphur (50 ppm) diesel fuel from 1 October 2001.
- 3. These differentiated rates, not exceeding BEF 0.65 per litre of fuel, must comply with the terms of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils,<sup>8</sup> and in particular the minimum rates laid down in Articles 4 and 5 thereof.

*Article 2*

The differentiated rates must be accorded to all users of 50 ppm fuel purchased in Belgium, without discrimination.

*Article 3*

Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2004.

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<sup>8</sup> OJ L 316, 31.10.1992, p. 19, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p. 46).

*Article 4*

This decision is addressed to the Kingdom of Belgium.

Done at Brussels,

*For the Council  
The President*