

COUNCIL DECISION

of 24 October 2005

authorising France to apply differentiated levels of taxation to motor fuels in accordance with Article 19 of Directive 2003/96/EC

(2005/767/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity⁽¹⁾, and in particular Article 19 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By letter dated 16 June 2004 France requested authorisation to apply differentiated levels of taxation to gas oil and unleaded petrol for the purposes of an administrative reform involving the decentralisation of certain specific powers currently exercised by central government.
- (2) The decentralisation planned by France is part of an approach designed to increase administrative effectiveness by improving the quality and reducing the cost of public services. It is also part of a policy of subsidiarity, allowing for decisions to be adopted on many domains at the appropriate level. The possibility of regional differentiation offers regions an additional incentive to improve the quality of their administration in a transparent fashion. The reductions should be linked to the socio-economic conditions of the regions in which they are applied.
- (3) Derogations cannot be authorised for indefinite periods. Article 19(2) of Directive 2003/96/EC restricts the duration of further exemptions or reductions of taxation applicable to energy and electricity products to six years with the possibility of renewal.
- (4) The low level of differentiation of the excise rates between regions and the differences in retail prices among distribution networks imply that the risk of traffic detours and, consequently, the risk of an increase in environmentally damaging emissions will be very low. This will also meet the needs of the energy policy.
- (5) The intra-Community commercial movement of diesel and unleaded petrol takes place almost completely under duty suspension arrangements. This form of intra-Community movement is not affected by the devo-

lution of excise duties contemplated by France. For the very limited number of cases where commercial movement takes place under duty-paid arrangements, the planned procedures of control are of a non-discriminatory nature and, subject to a regular review of their practicalities, without real impact on the intra-Community movement of duty-paid products. Under these conditions, the decentralisation of excise duties does not seem to hinder the proper functioning of the internal market.

- (6) The very tight limits set for the differentiation of duty rates between regions should ensure that the decentralisation of excise duties will not distort competition on the oil products market. Moreover, the differentiation should be compensated by the large price differences among distribution networks. As the requested measure does not apply to commercial diesel, any distortion of competition on the freight and passenger transport markets should be excluded.
- (7) The increase in national rates which will precede the possibility of regional reductions in rates leads to the conclusion that the application of the French measure should not in principle result in any hindrance to Community policy on environmental protection.
- (8) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or hinder the operation of the internal market and are not incompatible with Community policy on protection of the environment, energy and transport,

HAS ADOPTED THIS DECISION:

Article 1

1. France is hereby authorised to apply reduced levels of taxation to unleaded petrol and gas oil used as fuel. Gas oil for commercial use within the meaning of Article 7(2) of Directive 2003/96/EC shall not be eligible for any such reductions.

2. Administrative regions may be permitted to apply differentiated reductions provided the following conditions are fulfilled:

- (a) the reductions are no greater than EUR 35,4 per 1 000 litres of unleaded petrol or EUR 23,0 per 1 000 litres of gas oil;

⁽¹⁾ OJ L 283, 31.10.2003, p. 51. Directive as last amended by Directive 2004/74/EC (OJ L 157, 30.4.2004, p. 87).

- (b) the reductions are no greater than the difference between the levels of taxation of gas oil for non-commercial use and gas oil for commercial use;
- (c) the reductions are linked to the objective socioeconomic conditions of the regions in which they are applied;
- (d) the application of regional reductions does not have the effect of granting a region a competitive advantage in intra-Community trade.

3. The reduced levels must comply with the requirements of Directive 2003/96/EC, and in particular the minimum levels laid down in Article 7.

Article 2

This Decision shall expire three years after the date of implementation of the provisions of Article 1(2).

Article 3

This Decision is addressed to the French Republic.

Done at Luxembourg, 24 October 2005.

For the Council

The President

B. BRADSHAW
