

## COUNCIL DECISION

of 12 March 2001

**authorising the Federal Republic of Germany to apply a differentiated rate of excise duty to certain mineral oils, when used for specific purposes, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC**

(2001/225/EC)

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>(1)</sup>, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to 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 special policy considerations.
- (2) The German authorities informed the Commission that a new law on the continuation of environmental tax reforms, brought into force on 1 January 2000, provided for differentiating levels of mineral oil duty on fuels according to their sulphur content.
- (3) The new law provided for mineral oil duty on petrol and diesel fuel with a sulphur content exceeding 50 ppm (parts per million) to be increased by 3 pfennigs per litre from 1 November 2001 and for this higher tax to be applied to fuels with a sulphur content exceeding 10 ppm from 1 January 2003.
- (4) The German authorities requested Council authorisation to apply the differentiated rate of excise duties and the Council authorised the German authorities to introduce a differentiated rate of excise duty for fuels with a sulphur content not exceeding 50 ppm from 1 November 2001 to 31 December 2002.
- (5) The Commission and Member States consider that, on the basis of the currently available information, there are no indications that extending the application of a differentiated rate of excise duty to fuels with a maximum sulphur content of 10 ppm is likely to give rise to distortions of competition or hinder the operation of the internal market.
- (6) 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 <sup>(2)</sup>.

(7) 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 policy on protection of the environment.

(8) The Federal Republic of Germany has requested authorisation from 1 January 2003 to apply to fuels with a maximum sulphur content of 10 ppm a mineral oil tax of 3 pfennigs per litre less than that on fuels with a higher sulphur content.

(9) The Council will review this Decision on the basis of a proposal from the Commission no later than 31 December 2005 when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

*Article 1*

In accordance with Article 8(4) of Directive 92/81/EEC, the Federal Republic of Germany is authorised from 1 January 2003 until 31 December 2005 to apply a differentiated rate of excise duty to fuels with a maximum sulphur content of 10 ppm (parts per million) provided that the differentiated rates are in accordance with the obligations laid down in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils <sup>(3)</sup>, and in particular the minimum rates of excise duty provided for in Articles 4 and 5 thereof.

*Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 12 March 2001.

*For the Council*

*The President*

B. RINGHOLM

<sup>(1)</sup> OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

<sup>(2)</sup> Commission Decision of 15.2.2000. State aid case N/575/99 — Germany, 'Ökosteuern'.

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