

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 30 June 1997

**authorizing Member States to apply and to continue to apply to certain mineral oils, when used for specific purposes, existing reduced rates of excise duty or exemptions from excise duty, in accordance with the procedure provided for in Directive 92/81/EEC**

(97/425/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 harmonization of the structures of excise duties on mineral oils<sup>(1)</sup> and in particular Article 8 (4) and (6) thereof,

Having regard to the proposal from the Commission<sup>(2)</sup>,

Having regard to the opinion of the European Parliament<sup>(3)</sup>,

Whereas, pursuant to Article 8 (4) of Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission, authorized Member States to introduce exemptions or reductions in the excise duty charged on mineral oils for special policy considerations;

Whereas, pursuant to Article 8 (6) of Directive 92/81/EEC, the Council is required to review the situation at the latest before 31 December 1996 on the basis of the report submitted by the Commission;

Whereas, the Commission has been informed by Member States of their intention to continue to apply certain such exemptions or reductions which are already provided for in their taxation law or to introduce exemptions or reduc-

tions to which the procedure provided for under the said Article 8 (4) should be applied;

Whereas the other Member States have been informed thereof;

Whereas, for specific policy considerations, certain exemptions and reductions should continue to have effect until 31 December 1999 and others until 31 December 1998; whereas there should be provisions for an extension beyond the abovementioned dates; whereas the reductions or exemptions will be regularly reviewed by the Commission to ensure that they are compatible with the operation of the internal market and other objectives of the Treaty;

Whereas certain exemptions and reductions should be abolished with effect from 1 January 1998,

HAS ADOPTED THIS DECISION:

*Article 1*

In accordance with Article 8 (4) and (6) of Directive 92/81/EEC and notwithstanding the obligations imposed by Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils<sup>(4)</sup>, the following Member States are authorized to continue to apply the reductions in rates of excise duties or exemptions from excise duty herein specified until

<sup>(1)</sup> OJ No L 316, 31. 10. 1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ No L 365, 31. 12. 1994, p. 46).

<sup>(2)</sup> OJ No C 382, 18. 12. 1996, p. 5.

<sup>(3)</sup> OJ No C 200, 30. 6. 1997.

<sup>(4)</sup> OJ No L 316, 31. 10. 1992, p. 19. Directive as amended by Directive 94/74/EC (OJ No L 365, 31. 12. 1994, p. 46).

31 December 1999 and to continue to apply them automatically for subsequent periods of two years, unless the Council decides unanimously before the end of such periods, on a proposal from the Commission, whether any or all of these derogations shall be abolished or modified:

1. in the Kingdom of Belgium:
  - for local public passenger transport vehicles,
  - for liquid petroleum gas (LPG), natural gas and methane,
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for navigation in private pleasure craft;
2. in the Kingdom of Denmark:
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for partial reimbursement to the commercial sector, provided that the taxes concerned are in conformity with Community provisions and provided that the amount of the tax paid and not reimbursed at all times respects the minimum rates of duty or monitoring charge on mineral oils as provided for in Community law,
  - for local public passenger transport vehicles,
  - for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels, provided that such incentives are linked to established technical characteristics including specific gravity, sulphur content, distillation point, cetane number and index and provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law;
3. in the Federal Republic of Germany:
  - for the use of waste hydrocarbon gases as heating fuel,
  - on samples of mineral oils intended for analysis, tests on production or for other scientific purposes,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
4. in the Hellenic Republic:
  - for local public transport vehicles,
  - for LPG and methane used for industrial purposes,
  - for use by the national armed forces,
  - to grant relief from the excise duties on mineral oils for fuels intended to be used to power the official vehicles of the Ministry of the Presidency and the national police force;
5. in the Kingdom of Spain:
  - for LPG used as motor fuel in local public transport vehicles,
  - for LPG used as motor fuel in taxis,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
6. in the French Republic:
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty,
  - for fuel used in taxis within the limits of an annual quota,
  - in the framework of certain policies aimed at assisting areas suffering from depopulation;
7. in Ireland:
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for navigation in private pleasure craft,
  - for local public passenger transport vehicles,
  - for LPG, natural gas and methane used as motor fuel,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty,
  - for the production of alumina in the Shannon region,
  - in motor vehicles used by the disabled;
8. in the Italian Republic:
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - in local public passenger transport vehicles,
  - for fuel used in taxis,

- for waste hydrocarbon gases used as fuel,
  - for methane used as fuel in motor vehicles,
  - for consumption in the regions of Val d'Aosta and Gorizia,
  - in respect of the national armed forces,
  - in respect of ambulances;
9. in the Grand Duchy of Luxembourg:
- in local public passenger transport vehicles,
  - for LPG, natural gas and methane;
10. in the Kingdom of the Netherlands:
- for LPG, natural gas and methane,
  - on samples of mineral oils intended for analysis, tests on production or for other scientific purposes,
  - in respect of the national armed forces;
11. in the Republic of Austria:
- for LPG used as motor fuel in local public passenger transport vehicles;
12. in the Portuguese Republic:
- in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - to grant relief from excise duty for LPG, natural gas and methane when used as fuel for local public passenger transport,
  - for a reduction in excise duty on fuel oil consumed in the autonomous region of Madeira; this reduction may not be greater than the additional costs incurred in transporting the fuel oil to that region,
  - for excise duty for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
13. in the Republic of Finland:
- in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for navigation in private pleasure craft,
  - for an exemption from excise duty for methane and LPG for all purposes,
  - for reduced excise duty rates on diesel fuel and heating gas oil, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law,
- for reduced excise duty rates on reformulated unleaded and leaded petrol, provided that such rates at all times respect the minimum rates laid of duty on mineral oils provided for in Community law;
14. in the Kingdom of Sweden:
- for reduced excise duty rate for mineral oils used for industrial purposes, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law,
  - for an exemption from excise duty for biologically produced methane and other waste gases,
  - for reduced tax rates for diesel in accordance with environmental classifications;
15. in the United Kingdom of Great Britain and Northern Ireland:
- in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC,
  - for local public passenger transport vehicles,
  - for LPG, natural gas and methane used as motor fuel,
  - for navigation in private pleasure craft,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

#### *Article 2*

In accordance with Article 8 (4) and (6) of Directive 92/81/EEC and notwithstanding the obligations imposed by Directive 92/82/EEC, the following Member States are authorized to apply or to continue to apply the reductions in rates of excise duties or exemptions from excise duty herein specified until 31 December 1999 unless the Council unanimously determines before that date on a proposal from the Commission whether any or all of these derogations shall be modified or extended for a further specific period:

#### 1. in the Kingdom of Belgium:

- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty,
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below ECU 6,5 per tonne;

2. in the Kingdom of Denmark:
- for the application of differential rates of excise duty between petrol distributed from petrol stations equipped with a return system for petrol fumes and petrol distributed from other petrol stations, provided that such rates at all times respect the minimum rates of excise duty on mineral oils as provided for under Community law;
3. in the Hellenic Republic:
- for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law;
4. in the Kingdom of Spain:
- for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law;
5. in the French Republic:
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. This reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law,
  - for exemption from duty on gases used as motor fuel for public transport subject to an annual quota;
6. in Ireland:
- for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law;
7. in the Italian Republic:
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
8. in the Grand Duchy of Luxembourg:
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty,
  - for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below ECU 6,5 per tonne;
9. in the Republic of Austria:
- for natural gas and methane,
  - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
10. in the Portuguese Republic:
- for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law,
  - for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. This reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;
11. in the Republic of Finland:
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;
12. in the Kingdom of Sweden:
- for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law,
  - for a reduced rate of excise duty on mineral oils used for industrial purposes by introducing both a rate which is lower than the standard rate and a reduced rate for energy-intensive enterprises, provided that such rates at all times respect the minimum rates of excise duty on mineral oils laid down by Community law and do not give rise to distortions of competition,
  - in respect of air navigation other than that covered by Article 8 (1) (b) of Directive 92/81/EEC;
13. in the United Kingdom:
- for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels,
  - for differential rates of tax on unleaded petrol to reflect different environmental categories, provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law.

*Article 3*

In accordance with Articles 8 (4) and 8 (6) of Directive 92/81/EEC and notwithstanding the obligations imposed by Directive 92/82/EEC, the following Member States are authorized to apply or to continue to apply the reductions in rates of excise duties or exemptions from excise duty herein specified until 31 December 1998 unless the Council unanimously determines before that date on a proposal from the Commission whether any or all of these derogations shall be modified or extended for a further specific period:

## 1. in the French Republic:

- for consumption on the island of Corsica, provided that the reduced rates at all times respect the minimum rates of duty on mineral oils as provided for under Community law,
- for an exemption for heavy fuel oil used as fuel for the production of alumina in the region of Gardanne;

## 2. in the Italian Republic:

- for an exemption from excise duty on mineral oils used as fuel for alumina production in Sardinia,
- for a reduction in the excise duty on fuel oil, for the production of steam, and for gas oil, used in ovens for drying and 'activating' molecular sieves in Reggio Calabria, provided that the rate of duty respects the minimum rates of duty on mineral oils as provided for under Community law,
- for a reduction in excise duty on petrol consumed on the territory of Friuli-Venezia Giulia, provided that the rate of duty respects the minimum rate provided for under Community law,
- for a reduction in the rate of duty for mineral oils consumed in the regions of Udine and Trieste, provided that the rates of duty respect the minimum rates provided for under Community law;

## 3. in the Kingdom of the Netherlands,

- for reduced diesel rates for commercial vehicles, provided that the rate of duty respects the minimum rate provided for under Community law.

*Article 4*

The following derogations shall cease to have effect from 1 January 1998:

## 1. in the Kingdom of Belgium:

- in respect of motors used for the drainage of flooded land;

## 2. in the Hellenic Republic:

- for reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels, provided that such incentives are linked to

established technical characteristics including specific gravity, sulphur content, distillation point, cetane number and index and provided that such rates at all times respect the minimum rates of duty on mineral oils as provided for in Community law,

- in respect of desalination plants,
- to grant relief from the excise duty on mineral oils for fuels intended to be used to power the official vehicles of the metropolitan bishops,
- for navigation in private pleasure craft;

## 3. in Ireland:

- in the operation of lighthouses;

## 4. in the Italian Republic:

- in respect of motors used for the drainage of flooded land;

## 5. in the Kingdom of the Netherlands:

- in respect of motors used for the drainage of flooded land,
- in respect of desalination plants;

## 6. in the Kingdom of Sweden:

- for a reduction in the rate of duty on light heating oil in accordance with environmental classifications;

## 7. in the United Kingdom of Great Britain and Northern Ireland:

- in the operation of lighthouses.

*Article 5*

1. Council Decisions 92/510/EEC<sup>(1)</sup>, 93/697/EC<sup>(2)</sup>, 95/585/EC<sup>(3)</sup>, 96/273/EC<sup>(4)</sup>, 96/418/EC<sup>(5)</sup>, 97/91/EC<sup>(6)</sup>, 97/92/EC<sup>(7)</sup>, 97/93/EC<sup>(8)</sup> and 97/136/EC<sup>(9)</sup> shall be repealed with effect from 1 July 1997.

2. The following authorizations which were granted following requests made for specific policy considerations and which are to be deemed to have been tacitly decided upon by the Council after the expiry of the two month deadline provided for in Article 8 (4) of Directive 92/81/EEC shall be repealed with effect from 1 July 1997:

- that granted to Germany following its request of 15 March 1994 which was notified to Member States by the Commission on 7 April 1994,

<sup>(1)</sup> OJ No L 316, 31. 10. 1992, p. 16.

<sup>(2)</sup> OJ No L 321, 23. 12. 1993, p. 29.

<sup>(3)</sup> OJ No L 327, 30. 12. 1995, p. 33.

<sup>(4)</sup> OJ No L 102, 25. 4. 1996, p. 40.

<sup>(5)</sup> OJ No L 172, 11. 7. 1996, p. 22.

<sup>(6)</sup> OJ No L 29, 31. 1. 1997, p. 53.

<sup>(7)</sup> OJ No L 29, 31. 1. 1997, p. 54.

<sup>(8)</sup> OJ No L 29, 31. 1. 1997, p. 55.

<sup>(9)</sup> OJ No L 52, 22. 2. 1997, p. 18.

- that granted to Spain following its request of 17 May 1994 which was notified to Member States by the Commission on 17 June 1994,
- that granted to France following its request of 13 December 1993 which was notified to Member States by the Commission on 7 April 1994,
- that granted to France following its request of 23 November 1994 which was notified to Member States by the Commission on 19 December 1994,
- that granted to Italy following its request of 15 March 1994 which was notified to Member States by the Commission on 5 April 1994,
- that granted to Ireland following its request of 30 July 1993 which was notified to Member States by the Commission on 15 September 1993,
- that granted to Portugal following its request of 11 March 1994 which was notified to Member States by the Commission on 7 April 1994,
- that granted to the United Kingdom following its request of 20 January 1994 which was notified to Member States by the Commission on 24 February 1994.

*Article 6*

This Decision is addressed to the Member States.

Done at Luxembourg, 30 June 1997.

*For the Council*

*The President*

A. NUIS

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