COUNCIL IMPLEMENTING DECISION (EU) 2016/358

of 8 March 2016

authorising the French Republic to apply reduced levels of taxation to petrol and gas oil used as motor fuels in accordance with Article 19 of Directive 2003/96/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

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 European Commission,

Whereas:

(1) Council Implementing Decision 2013/193/EU ([2]) authorises the French Republic (hereinafter 'France') to apply, for a period of three years, reduced levels of taxation to gas oil and unleaded petrol used as motor fuels for the purposes of an administrative reform involving the decentralisation of certain specific powers previously exercised by central government. Decision 2013/193/EU expired on 31 December 2015.

(2) By letter dated 20 October 2015, France requested authorisation to allow the French regions to continue to apply reductions to the rates of taxation no greater than 17,7 EUR per 1 000 litres of unleaded petrol and 11,5 EUR per 1 000 litres of gas oil for a further period of two years after 31 December 2015.

(3) Implementing Decision 2013/193/EU was adopted on the basis that the measure requested by France met the requirements set out in Article 19 of Directive 2003/96/EC, allowing tax exemptions or reductions exclusively for specific policy reasons. In particular, it was considered that the measure would not hinder the proper functioning of the internal market. It was also considered to be in conformity with the relevant Union policies.

(4) The national measure is part of a policy designed to increase administrative effectiveness by improving the quality and reducing the cost of public services, as well as a policy of decentralisation. France intends to offer its regions an additional incentive to improve the quality of their administration in a transparent fashion. In this respect, Implementing Decision 2013/193/EU requires that the reductions be linked to the objective socioeconomic circumstances of the regions in which they are applied. Consequently, a number of regions with either lower than average gross domestic product or higher than average unemployment have applied lower rates. Overall, the national measure is based on specific policy considerations.

(5) The tight limits set for the reduction of rates on a regional basis as well as the exclusion of commercial gas oil used as propellant from the measure imply that the risk of competitive distortions in the internal market is very low.

(6) No obstacles to the proper functioning of the internal market have been reported as regards, in particular, the circulation of the products in question in their capacity as products subject to excise duty.

(7) The measure will be preceded by a tax increase. Against this background and in light of the conditions of the authorisation as well as experience gathered, the national measure does not, at this stage, appear to be in conflict with Union energy and climate change policies.

(8) It follows from Article 19(2) of Directive 2003/96/EC that each authorisation granted thereunder must be strictly limited in time. France requested that the authorisation be granted for a period of two years. It is therefore appropriate to limit the period of application of this Decision to two years.

([1]) OJ L 283, 31.10.2003, p. 51.
([2]) Council Implementing Decision 2013/193/EU of 22 April 2013 authorising the French Republic to apply differentiated levels of taxation to motor fuels in accordance with Article 19 of Directive 2003/96/EC (OJ L 113, 25.4.2013, p. 15).

(9) It should be ensured that France can apply the specific reduction to which this Decision relates seamlessly following on from the situation existing before 1 January 2016, under Implementing Decision 2013/193/EU. The authorisation requested should therefore be granted with effect from 1 January 2016.

(10) This Decision is without prejudice to the application of the Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

1. France is hereby authorised to apply reduced rates of taxation to unleaded petrol and gas oil used as motor fuels. Commercial gas oil used as propellant 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 17,7 EUR per 1 000 litres of unleaded petrol and 11,5 EUR per 1 000 litres of gas oil;

(b) the reductions are no greater than the difference between the levels of taxation of non-commercial gas oil used as propellant and commercial gas oil used as propellant;

(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-Union trade.

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

Article 2

This Decision shall take effect on the date of its notification.

It shall apply from 1 January 2016.

It shall expire on 31 December 2017.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 8 March 2016.

For the Council

The President

J.R.V.A. DIJSSELBLOEM