

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 526 final

Brussels, 19 December 1989

Amended proposal for a  
COUNCIL DIRECTIVE

on the approximation of the rates of excise duty on mineral oils

---

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. INTRODUCTION

1. This proposal sets out to amend the terms of the Commission's initiative of August 1987 in respect of the rates of excise duty on mineral oils. In June of this year, the Communication from the Commission to the Council and to the European Parliament on the completion of the internal market and the approximation of indirect taxes (COM(89) 260) set down the general tenor of changes in this field. A minimum rate or a band of rates is set out for each category of product for implementation in each Member State by 31 December 1992. Corresponding target rates are laid down for these products. The target rates represent the long term objectives towards which Member States must converge.

II. BACKGROUND

2. The initial approach of the Commission, as outlined in COM(87) 327 was set against a background where all Member States levy excises on mineral oils. Without exception these taxes are specific - i.e., rates are set in fixed monetary values for a given physical quantity of the product. Individual rates are prescribed for each of the major product categories: petrol (leaded or unleaded), road diesel, heating gas oil, heavy fuel oil, kerosene and liquid petroleum gas. In general, these various rates of taxation as set within each Member State, do not conform to any overall approach but rather tend to be determined by diverse historical patterns of development. In addition a high level of diversity is found in the rates charged across the Community on individual categories of mineral oils - although this is less pronounced in the case of mineral oils than for other categories of exciseable products.

3. Given this scenario, the path taken was essentially a pragmatic one. Based on the accepted product categories and on the rates of taxation then in force (in practice those of 1 April 1987) in the Member States the Commission put forward a set of average rates for adoption as Community target rates by 31 December 1992.

This proposal was discussed (together with the rest of the fiscal package) both within the Council and Parliament. It emerged that for many Member States a rapid transition from their existing rates of taxation to the target rates advocated presented considerable practical difficulties - not least of which was a potentially serious drop in revenue for certain Member States. In response to this situation, the Commission indicated in June of this year that it was considering a more flexible approach to the approximation of tax rates.

### III. FLEXIBILITY AND THE ABOLITION OF FISCAL FRONTIERS IN 1992

4. Any fresh proposal aimed at easing these difficulties must be formulated within the terms of the Single European Act. For mineral oils in practice this means that the rates and regime to be adopted must be in conformity with the abolition of fiscal controls at intracommunity frontiers. In addition the approach taken has to reflect the particular realities of trade in these products and the pattern of their consumption within the Community. The competitive implications of varying tax rates on those mineral oils which constitute an important industrial and commercial cost input form another vital constraint on the limits of such flexibility.
5. The approach of the Commission is therefore to distinguish between those products which are essentially destined for final private consumption (and where the risk of distortion is limited) and those whose consumption is mainly commercial (and with obvious implications for competitive distortion). The result is that petrol (leaded and unleaded) can be treated in an approach which differs from that accorded to diesel and heavy fuel oil - heating gas oil being somewhat of an exception since although its consumption is mainly private, the pattern of supply dictates a particular approach.
6. Account must also be taken of the various other policy considerations which impinge on the question of setting tax levels. For mineral oils the impact of national policies in the field of energy and transport as well as environment, is reflected in the diversity of existing rates. The Commission has taken particular account of the environmental impact of its proposed rates, whilst always taking into account the policies in the field of energy and environment.

#### IV. NATURE OF FLEXIBILITY

7. From the above (essential requirements in the energy, transport and environment fields) and from the considerations set out in the communication to Parliament and Council (COM(89)260), it is clear that flexibility in the form of minimum rates or ranges according to product is justified.

8. In practice, this flexibility will be applied as follows:

8.1. On 1st January 1993, an initial move towards approximation of rates will take place: each Member State must apply rates equal to or above the minimum rates fixed for petrol (leaded or unleaded), LPG, methane and kerosine used as engine fuels, and rate within a range fixed for diesel, heating oil and heavy fuel.

8.2. After this date this initial flexibility will entail a gradual alignment of rates on benchmark values that will be known as target rates, with a view to attaining the objectives of the internal market.

At Community level, these rates will also have to be set at a level compatible with the requirements of transport, energy and environment policy.

It is important not to anticipate the results of the studies in process nor to prejudge the orientations which the Commission will propose in this field. This is why the level of the target-rates is not set up in this directive. The Commission will make a proposal to the Council before the 31 december 1990.

8.3. In order to make it easier for Member States to adapt their rates and with a view to reducing the distortions of competition associated with the continued existence of different rates, only those adjustments conducive to convergence on the target rates will be authorised.

8.4. Every two years, the level of the different rates (minimum rates, ranges and target rates) will be subject to examination by the Council, on the basis of a report by the Commission. The Council will decide on the basis of a proposal by the Commission on eventual amendments to these rates taking account in particular of the evolution of Community policy in different fields (transport, energy, environment).

Independently of this adaptation, every two years the Council on the basis of a proposal by the Commission, shall adjust the different rates in order to maintain their real value.

V. PARTICULAR CONSIDERATION FOR EACH PRODUCTA. PREMIUM (LEADED) PETROL

9. Taxes on petrol account for almost 40% of revenue from excises within the Community - making it the single most important such tax. Accordingly, for the higher taxing Member States (who face material revenue losses as a consequence of rate approximation) any flexibility which might ease the burden of adjustment becomes critical.
10. Petrol is essentially an item of end consumption being purchased excise and VAT paid by final consumers in relatively small quantities (i.e., the standard tank of a private car). Existing safety regulations effectively limit movements in commercial quantities to recognized operators. At this level of trade, controls on cross-border purchases are virtually non-existent and it can be assumed that Member States find whatever trade diversion results to be within acceptable limits.
11. However, the removal of all border controls could serve to encourage movement of the product on a fraudulent scale if substantial price differences persist after 1992. Pre-tax prices for petrol currently vary somewhat between Member States, even those adjacent to one another. An examination of the overall structure of prices shows that the factors which give rise to differences in final prices are not all tax-induced. If it is accepted that market forces will tend to drive out those elements of the price difference which do not reflect real cost differences, it is essential that tax rates eventually move closer together.
12. The 1987 proposal advocated a rate of 340 ECU per 1000 litres based on the simple arithmetic average of existing rates. (The rate weighted for consumption was 337 ECU).
13. In the meantime, it is proposed to introduce a minimum rate of 337 ECU.
14. This will involve no immediate change in rates for the majority of Member States whilst those where the rates are below the minimum laid down will be obliged to move upwards by 31 December 1992.

B. UNLEADED PETROL

15. Any historical data on the market-share of lead free petrol rapidly becomes out-of-date but in those Member States where its promotion has been strongest, this is now approaching 50% of total consumption. It is however clear that the rate of conversion from leaded petrol is heavily dependent on favourable tax treatment to offset the additional refining, distributional and promotional costs which might otherwise be reflected in the retail selling price.

16. The production and distribution of relatively small quantities of unleaded petrol certainly imposed additional fixed and marginal costs on commercial operators. The initial motivation for a preferential tax rate was to compensate for such extra costs and thus to obviate the

need for higher prices. In addition, some positive incentive was required to make the conversion attractive to consumers.

17. Rather than proposing a rate for lead free petrol per-se, the approach taken by the Commission in 1987 was to put forward a differential (then set at 30 ECU) in favour of the environment-friendly product. This figure was based on the average differential in the 4 (currently 7) Member States who had adopted such an approach.

18. It is now proposed to increase this differential to 50 ECU - not on the basis of the current average but rather to reflect the level of incentive found to be needed in those Member States where the introduction of unleaded petrol has been most successful and to accelerate the environmental argument in its favour.

19. There are good grounds for asserting that as market-share (and sales volume) of unleaded petrol increase, the impact of these extra costs on unit prices decrease. This decrease should become particularly significant as unleaded becomes the dominant product type. It would follow that the provisions laid down for the periodic review of rates should take account of the matter of reconsidering the tax differential as the incremental costs diminish.

20. The effect of this proposal will be to oblige those Member States whose excise rates do not currently encourage the introduction of unleaded petrol to amend their policy in this area. In addition, most of those Member States who at present give a tax break to unleaded petrol would face some increase in the differential.

C. DIESEL

21. Consumption of diesel fuel is mainly by industrial and commercial users. Individual purchases - at "retail" level by the end-consumer - can be relatively substantial. In the absence of border controls and given the relatively large fuel tank capacity of commercial vehicles, it is difficult to envisage any effective way to restrain operators from purchasing where prices are most attractive.
22. Although fuel is by no means the most substantial component in road transport costs, price sensitivity is sufficiently important to ensure that where convenient these vehicles will transit through a Member State where diesel prices are unattractive and tank-up at a cheaper location. This must certainly be considered unless existing tax rates are brought closer together. The resultant disruption and distortion in commercial road transport would be highly inimical to the realisation of the internal market.
23. A harmonized rate of 177 ECU per 1000 litres was proposed in 1987 (based on the weighted arithmetic average). For the reasons outlined above it is essential that the ultimate objective of a single rate be retained. To ease the burden of adjustment somewhat, it is now proposed to set a rate-band ranging from 195 to 205 ECU per 1000 litres. This will serve to reduce substantially the importance of varying tax rates in price differences and an important first step in the direction of a target rate.
24. Apart from the matter of changes in the excise rate for diesel per se, most Member States will have to consider the impact of approximation on the relative tax burden between petrol and diesel. For the private motorist, diesel has a definite role in substituting for petrol as a motor fuel. In the Member States where the differential between the excises on petrol and diesel most favours the latter, there are generally compensatory measures to offset the attractiveness of lower diesel costs - usually taking the form of an increased annual road tax on diesel cars. There is no reason why this approach should not continue and be used by other Member States who fear the effect on revenue of a decrease in the price of diesel.

8

D. HEATING GAS OIL

25. The tax incidence in the selling price plays a critical role in the competitive equilibrium between heating gas oil and other fuels - particularly natural gas. Although the proposed rate will upset the current position in certain Member States, there are already differences in pre-tax prices which are in some instances greater than the differences in tax rates.
26. 50 ECU per 1000 litres was proposed in 1987 (based on the weighted arithmetic average). The nature of the product and its supply pattern militate in favour of a single rate. As for other mineral oils, there is some measure of general acceptance for the principle of seeking closely aligned rates for heating gas oil. A rate band from 47 to 53 ECU per 1000 litres will provide a measure of flexibility which would still be compatible with this objective.

E. HEAVY FUEL OIL

27. The pattern of supply of heavy fuel oil is quite close to heating gas oil except that consumption is almost entirely industrial or commercial. It would follow therefore that both on grounds of practicality and competitive balance rates should be as closely aligned as is possible.
28. In 1987 a harmonized rate of 17 ECU per tonne was proposed (based on the weighted arithmetic average). The principle of a target rate has since then found some measure of acceptance. It should however be noted that when compared with other categories of mineral oils the tax incidence in the final price is relatively low.
29. It is now proposed to establish a narrow band of rates from 16 to 18 ECU per tonne



F. GASES - LIQUID PETROLEUM GAS AND METHANE

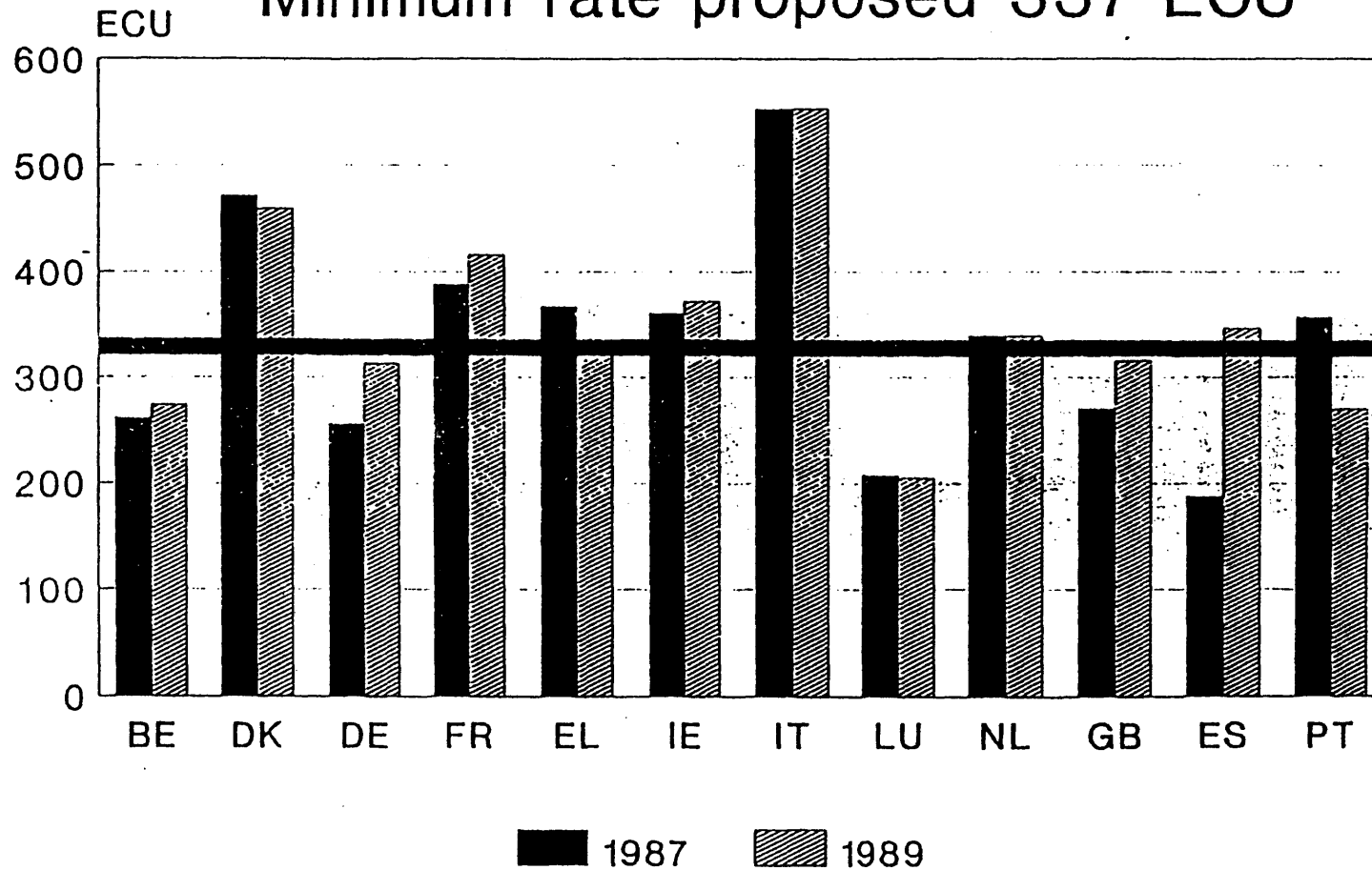
30. For LPG used for automotive purposes a harmonized rate of 85 ECU per 1000 litres (based on the weighted arithmetic average) was proposed in 1987. It was also proposed that the (limited) use of methane for similar purposes be taxed at the same rate.
31. When used as a motor fuel, the relationship between the tax charged on LPG and that on petrol is critical. Accordingly it is appropriate that the approach taken be similar. It is therefore proposed to fix a minimum rate of 84.5 ECU per 1000 litres. Those Member States taxing LPG at a higher rate may continue for the moment to retain their rates.

G. KEROSENE

32. The effect of the 1987 proposal was to treat kerosene according to its use. When used as a propellant, the charge was as for petrol and when consumed as fuel for other purposes the appropriate rate was that for heating gas oil.
33. A similar approach is adopted in this revised proposal.

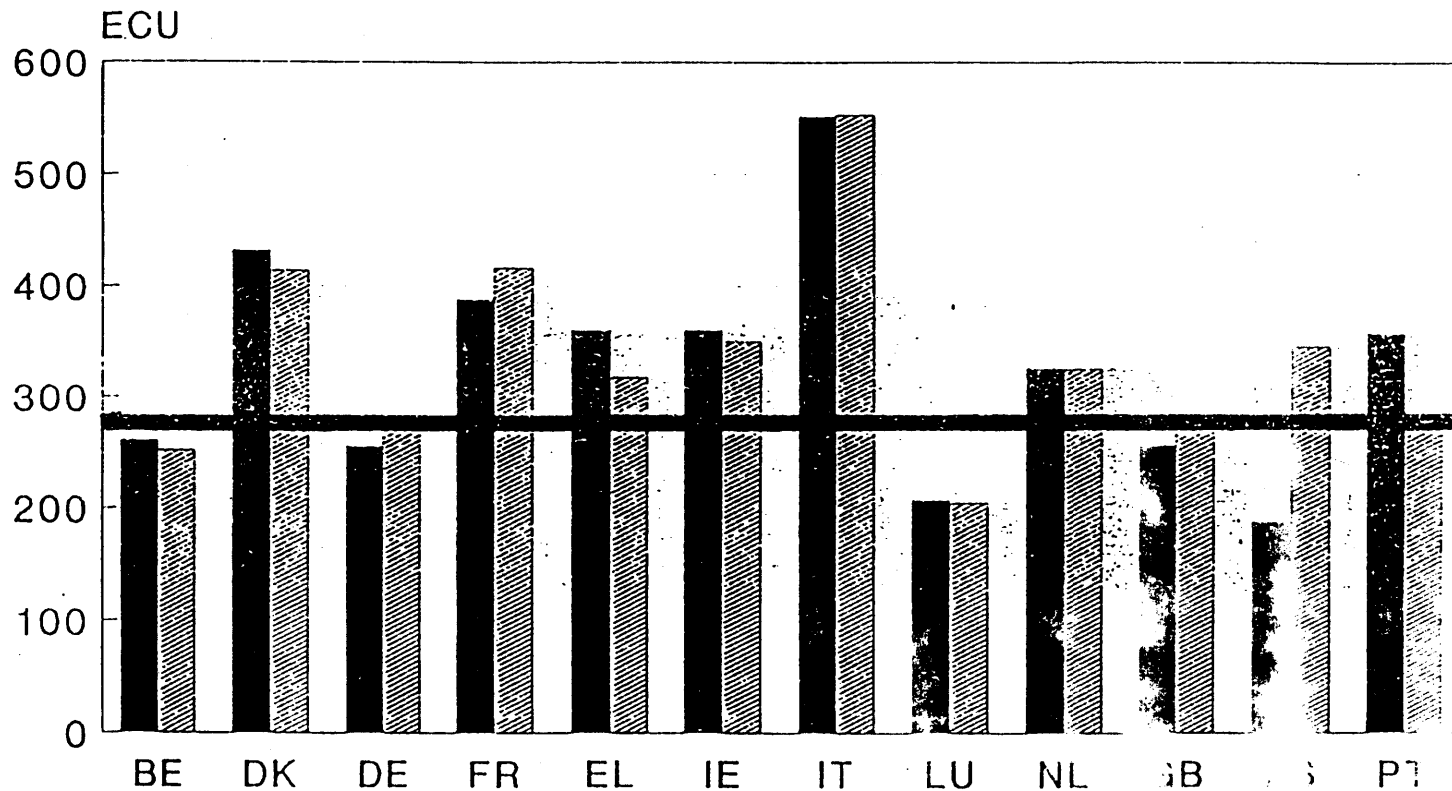
# COMPARISON OF EXCISE RATES/1000 Lt LEADED PETROL

Minimum rate proposed 337 ECU



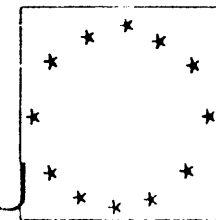
1. Part of the change in rates arises from ecu movements.
2. Certain rates are average or representative.

# COMPARISON OF EXCISE RATES/1000 Lt UNLEADED PETROL



■ 1987    ▨ 1989

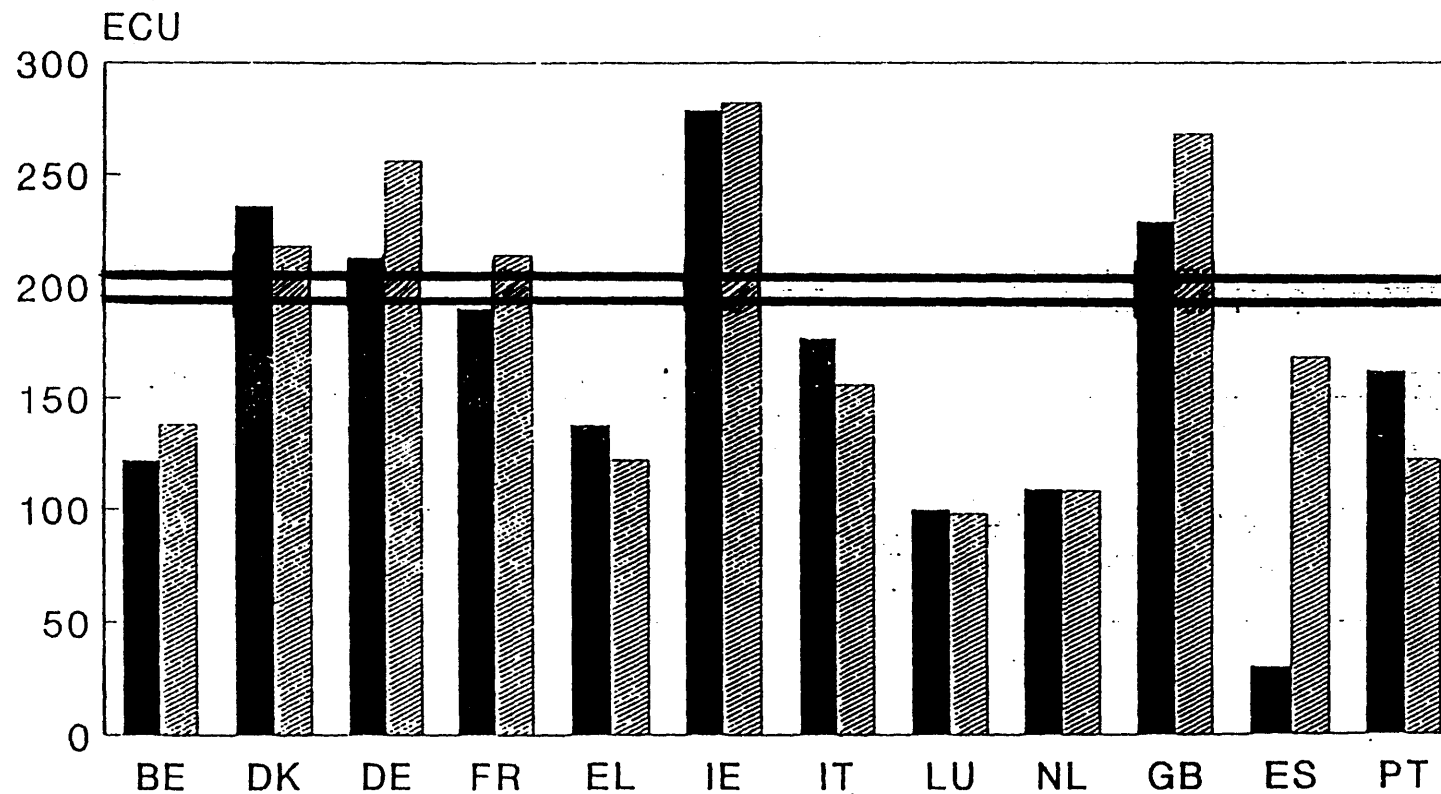
Minimum rate proposed 287 ECU



1. Part of the change in rates arises from ecu movements.
2. Certain rates are average or representative.

- 49 -

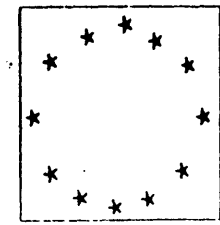
# COMPARISON OF EXCISE RATES/1000 Lt ROAD DIESEL



- 24 -

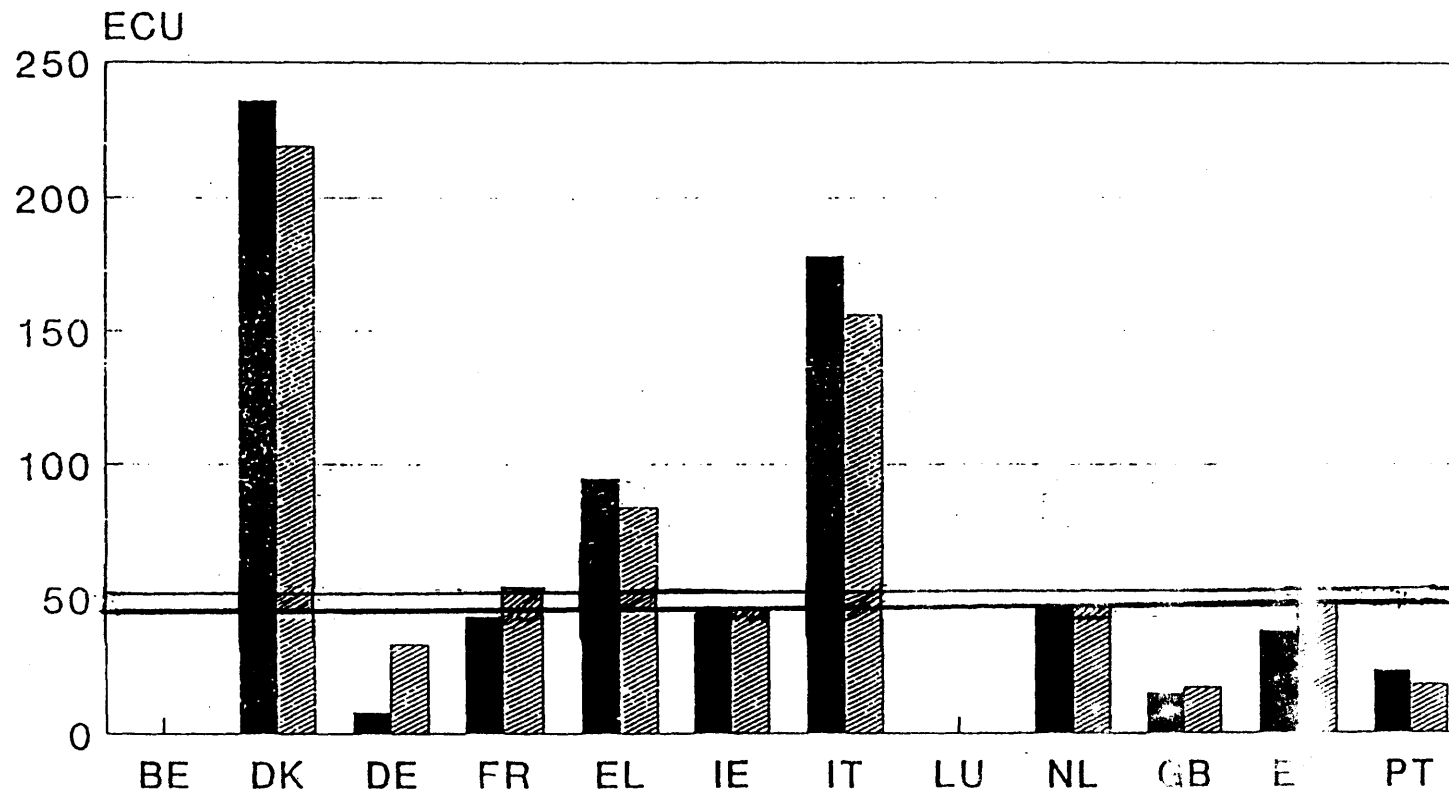
■ 1987    ▨ 1989

Rate band 195-205 ECU



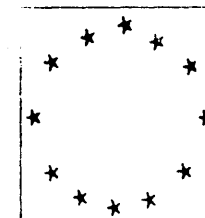
1. Part of the change in rates arises from ecu movements.
2. Certain rates are average or representative.

# COMPARISON OF EXCISE RATES/1000 Lt HEATING GAS OIL



■ 1987    ▨ 1989

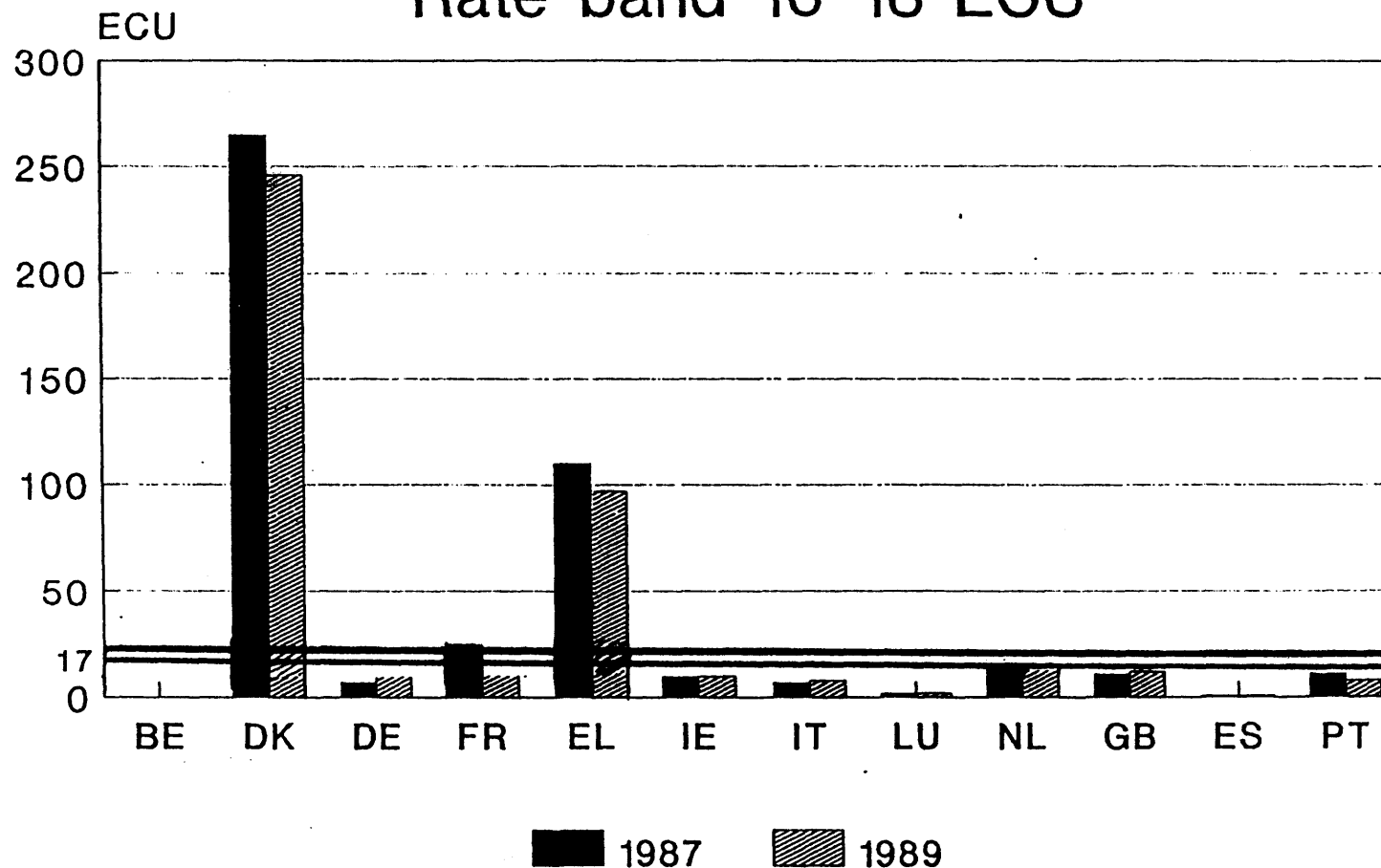
Rate band 47-53 ECU



1. Part of the change in rates arises from ecu movements
2. Certain rates are average or representative
3. In Denmark the tax is repaid to commercial users

- 13 -

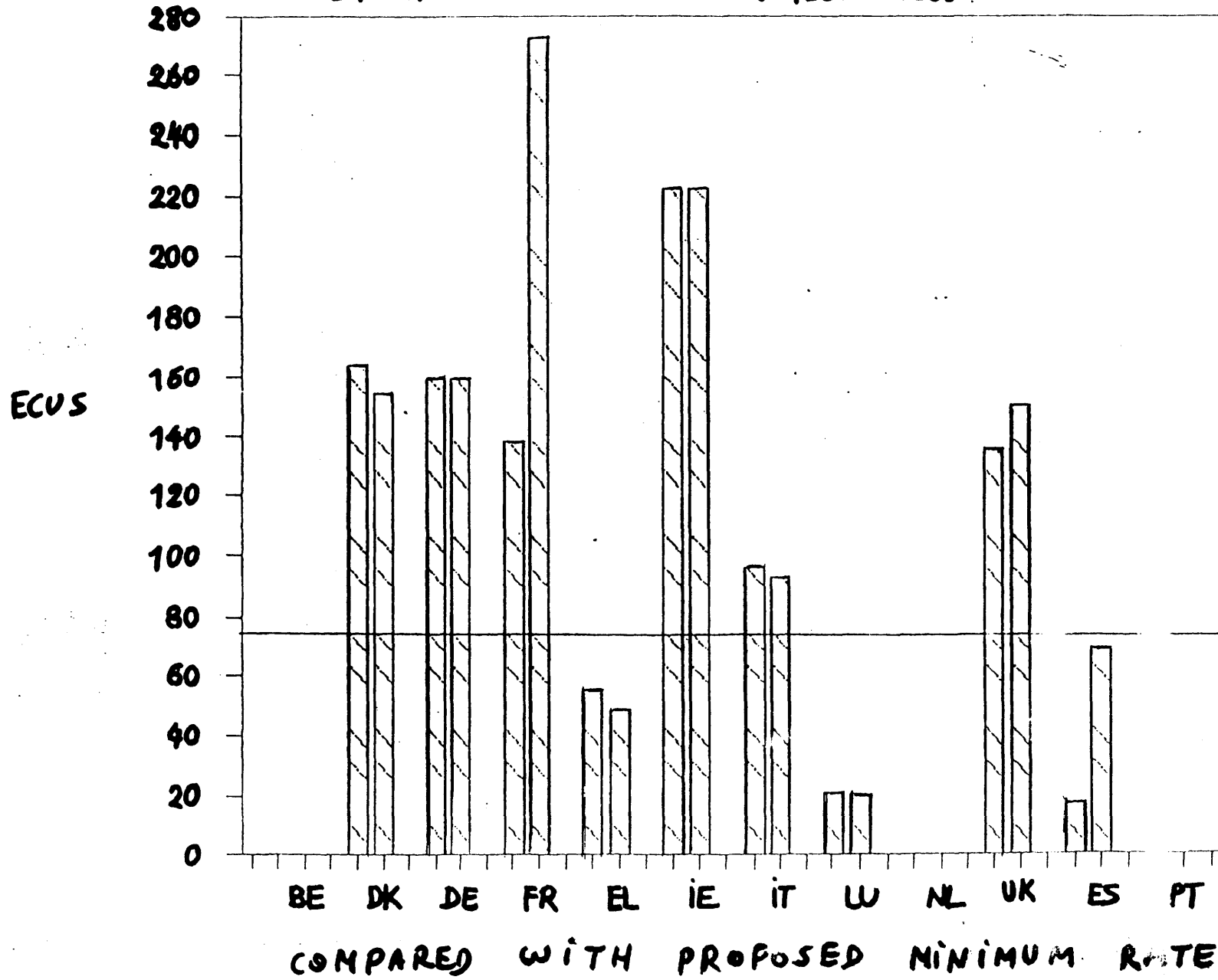
# COMPARISON OF EXCISE RATES/TONNE HEAVY FUEL OIL Rate band 16-18 ECU



- 44 -

1. Part of the change in rates arises from ecu movements
2. Certain rates are average or representative
3. In Denmark the tax is repaid to commercial users

# COMPARISON OF EXCISE RATES PER 1000 L. OF AUTOMOTIVE L.P.G. : 1987 - 1989



Amended proposal for a  
COUNCIL DIRECTIVE  
on the approximation of the rates of excise duty  
on mineral oils

ORIGINAL TEXT

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

unchanged

Having regard to the proposal from the Commission,

unchanged

Having regard to the opinion of the European Parliament,

unchanged

Having regard to the opinion of the Economic and Social Committee,

unchanged

Whereas Council Directive ... lays down provisions relating to the structures of excise duty applicable to mineral oils;

unchanged

Whereas for the purpose of establishing an internal market without frontiers it is necessary to apply common rates of excise duty to each of these products ;

Whereas , in order to set in train a process of convergence, it is necessary to fix target rates of excise duty for each of these products ;

Whereas these target rates take account of the Community policies on energy, the environment and transport ;

Whereas, so as not to prejudge the guidelines which the Commission will propose in those areas, the setting of the levels of the target rates will be the subject of a Commission proposal between now and 31 December 1990

Whereas, it is necessary to provide for the periodic adjustment of those common rates ;

Whereas it is necessary to provide for the periodic adjustment of those target rates ;

unchanged

Whereas the excise rate on mineral oils should be charged at a specific rate by reference to a given quantity of the products,

.../...

Whereas these target rates cannot be applied immediately because of the diverse situations in Member States ; whereas, therefore, flexibility of rates should be introduced in the form of minimum rates or rate bands in order to achieve a frontier-free internal market by 1 January 1993 ;

.../...

16



Whereas this Directive lays down minimum rates, target rates and rate bands ; whereas these should be adjusted in line with price movements and whereas such decisions should be taken by the Council under a less burdensome procedure,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Not later than 31 December 1992 Member States shall apply common rates of excise duty on mineral oils in accordance with this Directive.

Article 2

The mineral oils covered by this Directive are those defined in Directive ...

Article 3

The common rates of excise duty laid down in this Directive shall be adjusted periodically in accordance with provisions to be established before 1 January 1989 in Directives adopted by the Council acting on proposals from the Commission.

.../...

77

HAS ADOPTED THIS DIRECTIVE

Article 1

Member States shall apply target rates of excise duty on mineral oils in accordance with this Directive. The levels of those rates shall be the subject of a Commission proposal for a Directive between now and 31 December 1990.

Article 1a

Not later than 1 January 1993, Member States shall apply rates which, in accordance with this Directive, will not be less than the minimum rates or, where appropriate, will fall within the prescribed bands.

Article 2

unchanged

Article 3

1. Every two years, and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the target rates of duty, the minimum rates and the rate bands laid down herein and shall, acting unanimously, take such measures as are necessary.
2. In any event, every two years, and for the first time not later than 31 December 1994, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall take such measures as are necessary to maintain the real value of the target rates of duty, the minimum rates and the rate bands laid down herein.

.../...

Article 4

The common rate of excise duty on leaded petrol shall be 340 ECU per 1000 litres. The common rate of excise duty on unleaded petrol shall be 310 ECU per 1000 litres.

Article 5

The Common rate of excise duty on diesel shall be 177 ECU per 1000 litres.

Article 6

The common rate of excise duty on heating gas oil shall be 50 ECU per 1000 litres.

Article 7

The common rate of excise duty on heavy fuel oil shall be 17 ECU per 1000 kg.

Article 8

The common rate of excise duty on liquid petroleum gas and methane used as road fuel shall be 85 ECU per 1000 litres.

Article 9

1. The common rate of excise duty on kerosene when used as a propellant shall be 340 ECU per 1000 litres.
2. The common rate of excise duty on kerosene when used for other purposes shall be 50 ECUs per 1000 litres.

.../...

Article 4

As from 1 January 1993, the minimum rate of excise duty on leaded petrol shall be fixed at 337 ECU per 1000 litres.

Article 4a

As from 1 January 1993, the rate of excise duty on unleaded petrol shall be 50 ECUs lower than the rate applicable to leaded petrol.

Article 5

As from 1 January 1993, the rate of excise duty on diesel shall be not less than 195 ECU or more than 205 ECU per 1000 litres.

Article 6

As from 1 January 1993, the rate of excise duty on heating gas oil shall not be less than 47 ECU or more than 53 ECU per 1000 litres.

Article 7

As from 1 January 1993, the rate of excise duty on heavy fuel oil shall not be less than 16 ECU or more than 18 ECUs per 1000 kg.

Article 8

As from 1 January 1993, the minimum rate of excise duty on liquid petroleum gas and methane used as road fuel shall be 84,5 ECU per 1000 litres.

Article 9

1. As from 1 January 1993, the minimum rate of excise duty on kerosene when used as a propellant shall be 337 ECU per 1000 litres.
2. As from 1 January 1993, the rate of excise duty on kerosene when used for other purposes shall not be less than 47 ECU or more than 53 ECU per 1000 litres.

.../...

18

- 4 -

Article 10

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive is addressed to the Member States.

Article 10

As from 1 January 1993, Member States may adjust their rates of excise duty on mineral oils provided that such adjustments bring their rates more closely into line with the target rates as fixed in accordance with Article 1.

Article 11

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels

For the Council,

The President

Done at Brussels

For the Council,

The President

13

FINANCIAL STATEMENT

I. Will application of the present proposal for a Directive result in an increase in Community resources?

The effect of the proposal for a Directive cannot be quantified as regards VAT own resources.

## STATEMENT OF IMPACT ON SMEs AND EMPLOYMENT

### Approximation of taxes on mineral oils

The approximation of indirect taxes (VAT and excise duties) is necessary if tax frontiers are to be abolished and is an integral part of the measures for completing the internal market.

As to the actual impact, reference should be had to the statement contained in the 1987 proposal for a Directive (COM(87)325) in view of the fact that the situation in the mineral oils sector has changed little in the intervening two years.

#### I. Administrative obligations on businesses arising from application of the present Directive

- Same constraints as those spelt out in 1987.

#### II. What are the advantages for businesses?

- The advantages resulting from the approximation of rates could not be determined.

#### III. Are there any drawbacks for businesses in terms of additional costs?

- Application of the present Directive will not impose any additional costs on businesses.

#### IV. Effects on employment

- The possible effect of the approximation of rates on employment in the sector concerned cannot be determined.

#### V. The two sides of industry have not been consulted.

VI. No less binding alternative is available with a view to abolishing tax frontiers.



ISSN 0254-1475

COM(89) 526 final

# DOCUMENTS

**EN**

**06 09**

---

Catalogue number : CB-CO-89-511-EN-C

ISBN 92-77-54551-8

---

Office for Official Publications of the European Communities  
L-2985 Luxembourg