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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.10.1999
COM(1999)469 final

Proposal for a

COUNCIL DECISION

**authorising Germany to apply or to continue to apply reductions in, or
exemptions from, excise duties on certain mineral oils used for specific purposes,
in accordance with the procedure provided for in Article 8(4) of Directive
92/81/EEC**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils¹, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce exemptions from, or reductions in, excise duties on grounds of specific policy considerations.

The German authorities have informed the Commission that as a result of environmental tax reforms, they wish to apply a differentiated rate of excise duty from 1 April 1999 to heating oils used by manufacturing industries. Mineral oil duty on heating gas oil, natural gas, and liquid petroleum gas was increased under the environmental tax reform law on 1 April 1999. The high rates of duty introduced under the environmental reform package will change the tax environment in Germany and manufacturing industries are unlikely to be able to immediately absorb the additional financial costs. The differentiated duty rate, applied by means of a refund system, will help manufacturers adapt to the new tax environment and enable new energy saving production processes to be developed.

The amount of duty that individual companies will still have to pay even after receiving a refund is in no circumstances less than the minimum rates of mineral oil duty provided by Community legislation.

In accordance with Directive 92/81/EEC, the other Member States have been informed of this request.

The Directive provides for the Commission to review such exemptions and reductions periodically. If the Commission considers that they may no longer be applied because they distort competition or the operation of the internal market or are incompatible with Community policy on protection of the environment, it is to present appropriate proposals to the Council. In any event, this derogation must be reviewed no later than 31 December 1999, when the authorisation granted by the Decision expires. The Council will review the situation on the basis of a Commission proposal and decide whether the authorisation should be withdrawn, amended or extended.

¹ 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).

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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 oils², and in particular Article 8(4),

Having regard to the proposal from the Commission,

- (1) Whereas, under 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 from, or reductions in, excise duties on mineral oils on grounds of specific policy considerations;
- (2) Whereas the German authorities have notified the Commission that they wish to apply a differentiated rate of excise duty from 1 April 1999 to heating oils used by manufacturing industries;
- (3) Whereas the other Member States have been informed thereof;
- (4) Whereas the Commission and all the Member States accept that the application of differentiated rate of excise duty to heating oils used by manufacturing industries is justified on environmental policy grounds as a result of environmental tax reforms and that it will not give rise to distortions of competition or hinder the operation of the internal market;
- (5) Whereas the Commission regularly reviews reductions and exemptions to check that they are compatible with the operation of the internal market or with Community policy on protection of the environment;

² 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).

- (6) Whereas Germany has requested authorisation to apply differentiated rate of excise duty to heating oils used by manufacturing industries from 1 April 1999; whereas the Council is to review its application on the basis of a report from the Commission no later than 31 December 1999, 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 and notwithstanding the obligations laid down in Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils³, and in particular the minimum rates laid down in Articles 3 and 4 thereof, Germany is hereby authorised to apply a differentiated rate of excise duty from 1 April 1999 until 31 December 1999 to heating oils used by manufacturing industries.

Article 2

This Decision is addressed to Germany.

Done at Brussels,

For the Council
The President

³ OJ L 316, 31.10.1992, p. 19.