



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.04.2000  
COM(2000) 244 final

Proposal for a

**COUNCIL DECISION**

**authorising Germany to apply a reduced 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**

(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 oils<sup>1</sup>, 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 part of their continuing environmental tax reform, the duty on mineral oil used as fuels will be increased by 6 Pfennigs per litre on 1 January 2000, 2001, 2002, and 2003.

However, because public transport is more environmentally friendly than transport in private vehicles, the German authorities have also informed the Commission that they wish to introduce a differentiated rate of duty on mineral oils used as fuel in local public passenger transport vehicles. The differentiated rate of duty will be implemented by refunding 50% of the duty increases that will be applied to mineral oils in the years 2000 to 2003.

Germany therefore requests authorisation to apply a reduced rate of excise duty to mineral oils used as fuel in local public passenger transport vehicles. The reduced rate will respect the minimum levels set out in Directive 92/82/EEC<sup>2</sup>.

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

Directive 92/81/EEC 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, on the basis of a proposal from the Commission, this derogation must be reviewed no later than 31 December 2003 when the authorisation granted by this Decision expires. The Council will review the situation on the basis of a Commission Proposal and decide whether the authorisation granted under Article 1 of this Decision should be withdrawn, modified or confirmed.

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<sup>1</sup> OJ L 316, 31.10.92, p 12, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p 46).

<sup>2</sup> OJ L 316, 31.10.92, p. 19, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p 46).

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## COUNCIL DECISION

**authorising Germany to apply a reduced 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**

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>3</sup>, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission<sup>4</sup>,

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 specific policy considerations.
- (2) The German authorities have informed the Commission that as part of their continuing environmental tax reform, the duty on mineral oils used as fuels will be increased by 6 Pfennig per litre on 1 January 2000, 2001, 2002 and 2003.
- (3) Because public transport is more environmentally friendly than transport in private vehicles, the German authorities have further informed the Commission that they wish to introduce a differentiated rate of duty on mineral oils used as fuel in local public passenger transport vehicles by refunding 50% of these duty increases.
- (4) The other Member States have been informed thereof.
- (5) The Commission and all the Member States accept that the application of differentiated rate of excise duty on mineral oils used as fuel in local public passenger transport vehicles will not 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>5</sup>.

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<sup>3</sup> OJ L 316, 31.10.92, p 12, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p 46).

<sup>4</sup> OJ L

<sup>5</sup> Commission Decision of 15.02.2000. State aid case N/575/99 – Germany, “Ökosteuer”.

- (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) Germany has requested authorisation to introduce a differentiated rate of duty on mineral oils used as fuel in local public passenger transport vehicles by refunding 50% of the duty increases that will be applied to mineral oils in the years 2000 to 2003.
- (9) The Council will review this decision on the basis of a proposal from the Commission no later than 31 December 2003 when the authorisation granted by this decision expires.

HAS ADOPTED THIS DECISION:

*Article 1*

In accordance with Article 8(4) of Council Directive 92/81/EEC, Germany is authorised to apply a differentiated rate of duty on mineral oils used as fuel in local public passenger transport vehicles from 1 January 2000 until 31 December 2003 provided that this reduction is 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>6</sup>.

*Article 2*

This Decision is addressed to Germany.

Done at Brussels,

*For the Council  
The President*

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<sup>6</sup> OJ L 316, 31.10.92, p. 19, Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p 46).