



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.12.1998  
COM(1998) 793 final

Proposal for a

COUNCIL DECISION

**authorising, in accordance with Directive 92/81/EEC,  
certain Member States to apply and to continue to apply  
to certain mineral oils, reduced rates of excise duty or  
exemptions from excise duty, and amending Decision  
97/425/EC**

(presented by the Commission)



## EXPLANATORY MEMORANDUM

### BACKGROUND

The taxation of mineral oils in the Community is currently governed by Council Directive 92/81/EEC,<sup>1</sup> which specifies products which should be treated as mineral oils and the uses which make them liable to tax. It also lays down a number of compulsory exemptions from the normal rules on taxation, as well as some optional exemptions and reduced rates. In addition, Article 8(4) of the Directive allows the Council, acting unanimously on a proposal from the Commission, to authorise a Member State to introduce further exemptions or reductions for specific policy considerations. At present, ninety such derogations exist.

According to Article 8(6), the Council, at the latest before 31 December 1996, had to review the derogations granted under Article 8(4) on the basis of a report by the Commission. This report was duly produced<sup>2</sup> and submitted to the Council for consideration. The Council Decision that was adopted following this review<sup>3</sup> provides that the derogations provided for in Article 3 should be the subject of another Council decision providing for the future, to be adopted before 31 December 1998. The proposal for a Council Decision set out here provides a further 12 month extension for those derogations. This will give further time to consider the position from a State Aid point of view.

In addition, the French authorities have informed the Commission that they wish to apply, as from 1 January 1999, a differentiated diesel rate for commercial vehicles.

In accordance with the Directive, 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.

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<sup>1</sup> Council Directive 92/81/EEC of 19 October 1992, OJ L-316, 31.10.1992.

<sup>2</sup> COM (96) 549.

<sup>3</sup> Council Decision 97/425/EC of 30 June 1997, OJ L 182, 10.7.1997, p. 22.

## COUNCIL DECISION

of

**authorising, in accordance with Directive 92/81/EEC,  
certain Member States to apply and to continue to apply  
to certain mineral oils, reduced rates of excise duty or  
exemptions from excise duty, and amending Decision  
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 harmonisation of the structures of excise duties on mineral oils<sup>4</sup>, and in particular Article 8 (4) and (5) thereof,

Having regard to the proposal from the Commission<sup>5</sup>,

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

Whereas, pursuant to Article 3 of Council Decision 97/425/EC, the Council is required to decide before 31 December 1998 on the basis of a Proposal from the Commission whether those derogations which expire on 31 December 1998 should be extended for a further specific period;

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 reductions;

Whereas, for specific policy considerations, certain exemptions and reductions should continue to have effect until 31 December 1999; whereas there should be provisions

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<sup>4</sup> OJ L316, 31.10.92, p 12, Directive as last amended by Directive 94/74/EC (OJ L365, 31.12.94, p 46).

<sup>5</sup> OJ .....

for an extension beyond the above mentioned dates and whereas the reductions or exemptions are regularly reviewed by the Commission to ensure that they are compatible with the operation of the internal market and other objectives of the Treaty.

HAS ADOPTED THIS DECISION:

*Article 1*

By way of derogation from the obligations imposed by Directive 92/82/EEC<sup>6</sup>, the following Member States are authorised 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. France:**

- 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 a differentiated diesel rate for commercial vehicles provided that the rate of duty respects the minimum rate 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. Italy:**

- 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 reduced rates at all times respect the minimum rates of duty on mineral oils as provided for under Community law,
- 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,

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<sup>6</sup> OJ L316, 31.10.92 p19, Directive as last amended by Directive 94/74/EC (OJ L365, 31.12.94, p46).

provided that the rate of duty respects the minimum rate provided for under Community law.

**3. The Netherlands:**

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

*Article 2*

This Decision is addressed to the Member States.

Done at

*For the Council  
The President*



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# DOCUMENTS

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