

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 4 December 2001

authorising Ireland to apply a differentiated rate of excise duty to low-sulphur diesel in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC

(2002/23/EC)

THE COUNCIL OF THE EUROPEAN UNION,

92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils⁽²⁾.

Having regard to the Treaty establishing the European Community,

(4) This differentiation would be accorded to all consumers of 50 ppm diesel in Ireland.

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils⁽¹⁾, and in particular Article 8(4) thereof,

(5) Low-sulphur diesel complies with the environmental criterion (50 ppm) laid down in Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels⁽³⁾. Under Article 4 of that Directive, the use of 50 ppm diesel will be compulsory from 1 January 2005.

Having regard to the proposal from the Commission,

Whereas:

(1) 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 or reductions in the excise duty charged on mineral oils for specific policy considerations.

(6) The measure is sought on environmental grounds. The benefits in terms of air quality are known.

(2) Ireland has requested authorisation to introduce a differentiated rate of excise duty on low-sulphur (50 ppm) diesel. The current excise rate of diesel used as a propellant is EUR 249 (IEP 196,1) per 1 000 litres. The planned differentiation, provided for in Section 155 of the 'Finance Act, 2001', is of EUR 0,076 (IEP 0,06) per litre. This would mean that the value of the differentiated excise duties imposed on diesel in Ireland would be EUR 325,2 (IEP 256,1) on 1 000 litres of conventional diesel and EUR 249,0 (IEP 196,1) on 1 000 litres of 50 ppm diesel.

(7) The other Member States have been informed of this request by the Irish authorities.

(3) The Irish measure would thus comply with the Community minimum rate of excise duty of EUR 245 per 1 000 litres laid down in Article 5 of Directive

(8) On the information available at present, neither the Commission nor the Member States consider that the application of a differentiated rate of excise duty on low-sulphur fuel will cause distortions of competition affecting the common interest or hinder the operation of the single market.

(9) 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, nor does it override the requirement for Member States to notify instances of potential state aid to the Commission under Article 88 of the Treaty.

⁽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).

⁽²⁾ OJ L 316, 31.10.1992, p. 19. Directive as last amended by Directive 94/74/EC.

⁽³⁾ OJ L 350, 28.12.1998, p. 58. Directive as amended by Commission Directive 2000/71/EC (OJ L 287, 14.11.2000, p. 46).

- (10) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market, and that they are not incompatible with Community environmental policy.
- (11) The Council should review this Decision on the basis of a proposal from the Commission no later than 31 December 2004, when the authorisation granted by this Decision expires,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 8(4) of Directive 92/81/EEC, Ireland shall be authorised to apply a differentiated rate of excise duty on low-sulphur (50 ppm) diesel fuel from 1 October 2001.
2. This differentiation in excise duty, not exceeding EUR 0,076 (IEP 0,06) per litre of fuel, must comply with the

terms of Directive 92/82/EEC, and in particular the minimum rate laid down in Article 5 thereof.

Article 2

The differentiated rate shall be accorded to all users of 50 ppm diesel purchased in Ireland, without discrimination.

Article 3

Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2004.

Article 4

This Decision is addressed to Ireland.

Done at Brussels, 4 December 2001.

For the Council
The President
D. REYNDERS