



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.01.2000
COM(2000) 16 final

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

Request by the German Government for authorisation to introduce a measure derogating from Council Directive 92/81/EEC, based on Article 8(4) of that Directive, in respect of a lower rate of excise duty on automotive fuels with a sulphur content under 10 parts per million (ppm)

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

Request by the German Government for authorisation to introduce a measure derogating from Council Directive 92/81/EEC, based on Article 8(4) of that Directive, in respect of a lower rate of excise duty on automotive fuels with a sulphur content under 10 parts per million (ppm)

1. Introduction

In accordance with Council Directive 92/81/EEC, Member States are required to apply the harmonised system for the structures of excise duties on mineral oils. Under Article 8(4) of that Directive, the Council may authorise any Member State to introduce further duty exemptions or reductions for specific policy reasons.

In a letter from the Office of the German Permanent Representation, dated 24 September 1999, the Commission was informed of a measure aimed at introducing different rates of excise duty on automotive fuels with a sulphur content under specific limits.

In a letter from the Commission's Secretariat General dated 25 November 1999, all Member States were informed of the intended measure in accordance with Article 8(4) of the above mentioned Directive. Under the same Article, the Commission, or any Member States may request that the Council consider the matter.

2. Description of the measure

The German authorities have informed the Commission that they wish to bring a new law on the continuation of environmental tax reforms into force on 1 January 2000, differentiating levels of mineral oil duty on fuels according to their sulphur content. The draft law includes rules on differentiating levels of excise duty according to the sulphur content of the fuel.

The new law will provide for a two-stage implementation of different mineral oil duty on petrol and diesel fuel depending upon its sulphur content. The proposal is for fuel with a sulphur content of over 50 ppm (parts per million) to be increased by 3 pfennigs per litre from 1 November 2001 until 31 December 2002. It provides further that, from 1 January 2003, this higher tax is to be applied to fuels with a sulphur content of over 10 ppm.

The German authorities have explained that the purpose of the measure is to speed up the introduction of sulphur free fuels. They go on to explain that, as vehicles can run on low-sulphur and sulphur-free fuels without having to undergo retro-fitting, use of such fuels will bring about a major drop in toxic emissions from all vehicles. Furthermore, low-sulphur, and particularly sulphur-free, fuels also allow the use of new types of engines and exhaust scrubbing technology. The combination of low-sulphur fuels and this new technology will result in a significant decrease in the volumes of suspended particulates, nitrogen oxides and hydrocarbons emitted, in spite of forecasts that traffic levels will increase. If this is followed by the introduction of sulphur-free fuels the emissions can be reduced even further. The aim

is to promote the use of sulphur-free fuels so as to be able to take up the full potential for reducing CO2 emissions.

Germany therefore requests authorisation under Article 8(4) of Council Directive 92/81/EEC of 19 October 1992:

- from 1 November 2001 to 31 December 2002, to apply to fuels with a maximum sulphur content of 50 ppm a mineral oil tax of 3 pfennigs per litre less than that on fuels with a higher sulphur content;
- from 1 January 2003, to apply to fuels with a maximum sulphur content of 10 ppm a mineral oil tax of 3 pfennigs per litre less than that on fuels with a higher sulphur content.

3. Commission's opinion

The Commission notes that the request is in two distinct parts. On the first part, relating to 50 ppm low sulphur fuel for the period 1 November 2001 until 31 December 2002, the Commission has no concerns because a standard of 50 ppm has already been agreed and decided by Directive 98/70/EC of the European Parliament and of the Council regarding agreed standards for the quality of petrol and diesel fuels in the Community. The 50 ppm standard is to be applied within the Community from 1 January 2005. The tax incentive that the German authorities propose will therefore encourage the use of this fuel standard in advance of the final implementation date in the Directive. The Commission has therefore prepared and submitted a draft proposal for Council Decision to authorise this part of the derogation request.

However, on the second part of the request the Commission considers that more time is needed to examine carefully certain aspects of the request for a different rate of excise duty for fuels with a maximum sulphur content of 10 ppm. In particular, further examination of technological issues and environmental benefits is required together with a more detailed examination of how fuel standards issues can effect competition and trade within the single market.

The Commission stresses that this communication does not signify that this second part of the derogation request has been rejected in principle. The Communication is simply to state that more time is needed to examine the issue, and to point out that the required time is not available under the conditions set out in Article 8(4) of Directive 92/81/EEC for processing derogation requests, unless such a communication is submitted to Council.

The Commission assures the German authorities and the Council that this matter will be given urgent consideration and a draft proposal for Council Decision, or a further communication, will be issued to the Council as soon as possible.

In view of these objections of substance, the Commission requests that the Council considers the matter according to the third sub-paragraph of Article 8(4) of Directive 92/81/EEC.