COUNCIL

COUNCIL DECISION

of 5 June 2001

authorising the Kingdom of Belgium, in accordance with Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to low-sulphur diesel and unleaded petrol

(2001/439/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 [1], and in particular Article 8(4) thereof,

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.

(2) The Kingdom of Belgium has requested authorisation to apply a differentiated rate of excise duty to low-sulphur (50 ppm) and low-aromatic (35 %) unleaded petrol and low-sulphur (50 ppm) diesel from 1 May 2001 and 1 October 2001 respectively. This differentiation of BEF 0,65 per litre is available to all users of these types of fuel.

(3) Low-sulphur fuels comply 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 [2]. Under Articles 3 and 4 of that Directive, the use of 50 ppm fuels will, in principle, be compulsory from 1 January 2005.

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

(5) The measure envisaged by the Kingdom of Belgium complies with the minimum rates of excise duty referred to in Articles 4 and 5 of Council Directive 92/82/EEC of 19 October on the approximation of the rates of excise duties on mineral oils [3].

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

(7) Taking into account 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.

(8) 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.

(9) 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 environmental policy.

(10) The Council will 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, the Kingdom of Belgium is authorised to apply a differentiated rate of excise duty on low-sulphur (50 ppm) and low-aromatic (35 %) unleaded petrol from 1 May 2001.

[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 350, 28.12.1998, p. 58. Directive amending Council Directive 93/12/EEC (OJ L 74, 27.3.1993, p. 81).

[3] OJ L 316, 31.10.1992, p. 19. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.94, p. 46).

2. In accordance with Article 8(4) of Directive 92/81/EEC, the Kingdom of Belgium is authorised to apply a differentiated rate of excise duty on low-sulphur (50 ppm) diesel fuel from 1 October 2001.

3. These differentiated rates, not exceeding BEF 0.65 per litre of fuel, must comply with the terms of Directive 92/82/EEC and in particular the minimum rates laid down in Articles 4 and 5 thereof.

Article 2

The differentiated rates must be accorded to all users of 50 ppm fuel purchased in Belgium, without discrimination.

Article 3

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

Article 4

This Decision is addressed to the Kingdom of Belgium.

Done at Luxembourg, 5 June 2001.

For the Council

The President

B. RINGHOLM