II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 27 September 2001

authorising Denmark, in accordance with the procedure provided for in Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to petrol distributed by petrol stations meeting certain standards of equipment and operation

(2001/710/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 further exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.

(2) Denmark has requested authorisation to apply, until 31 December 2004, a reduction in the rate of excise duty of a maximum of DKK 0,03 per litre on petrol distributed by petrol stations meeting the more stringent standards of equipment and operation.

(3) The purpose of these standards, which will be compulsory from 1 January 2005, is to speed up investment aimed at protecting soil and groundwater from leaks of methyl tertiary butyl ether (MTBE) from underground tanks.

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

(5) The proposed reduction in excise duty is a tax incentive consistent with the objective.

(6) The Commission has adopted a decision that the State aids set up by the measure in question are compatible.

(7) While leakage of MTBE into groundwater does not represent a real health problem as this substance is harmful only when highly concentrated, even minute quantities of MTBE in groundwater impart an unpleasant taste and smell to water, and water containing negligible quantities of MTBE would be undrinkable. The measure is sought on environmental grounds — the benefits in terms of protection of groundwater are known.

(8) This Decision does not prejudice any future conclusions of the evaluation of MTBE-related risks carried out under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances [2].

(9) The measure envisaged by Denmark complies with the minimum rates of excise duty referred to in Articles 3 and 4 of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils [3].

(10) It is appropriate that the Council should have the opportunity to review this Council Decision, on the basis of a proposal from the Commission, no later than 31 December 2004, when the authorisation granted by this Decision expires,

[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 84, 5.4.1993, p. 1.

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

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 8(4) of Directive 92/81/EEC, Denmark is hereby authorised to apply a reduction in the rate of excise duty of a maximum of DKK 0,03 per litre on petrol distributed by petrol stations meeting more stringent standards of equipment and operation designed to reduce leakage of MTBE into groundwater.

Article 2

The reduced rates of excise duty referred to in Article 1 must comply with the requirements of Directive 92/82/EEC, and in particular the minimum rates laid down in Articles 3 and 4 thereof.

Article 3

This Decision shall expire on 31 December 2004.

Before that date, the Council may review this Decision on the basis of a proposal from the Commission.

Article 4

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 27 September 2001.

For the Council

The President

M. VERWILGHEN