COUNCIL DECISION

of 7 May 2002

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

(2002/375/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) Luxembourg has requested authorisation to apply a differentiated rate of excise duty to low-sulphur (50 ppm) diesel used as fuel.

(2) The other Member States have been informed of Luxembourg's request.

(3) The differentiation of excise duty will take the form of a EUR 15 per 1 000 litre increase in excise duty on diesel fuel with a sulphur content exceeding 50 ppm. The effective rates will remain above the minimum Community rates of excise duty laid down in accordance with Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils [2].

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

(5) Low-sulphur diesel complies with the environmental specifications (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 in principle be compulsory from 1 January 2005. The Luxembourg measure will expire on 31 December 2003.

(6) On the information available at present, the Commission and the Member States as a whole consider that the application of a differentiated rate of excise duty on low-sulphur diesel will not cause distortions of competition affecting the common interest or hinder the operation of the single market.

(7) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market and are not incompatible with Community environmental policy,

HAS ADOPTED THIS DECISION:

Article 1

Luxembourg is authorised to apply a differentiated rate of excise duty to low-sulphur (50 ppm) diesel from 1 June 2002 to 31 December 2003.

Article 2

The differentiation in excise duty referred to in Article 1 may not exceed EUR 15 per 1 000 litres of fuel.

The rate of excise duty on diesel used as fuel must comply with the obligations set out in Council Directive 92/82/EEC, and in particular the minimum rate laid down in Article 5 thereof.

Article 3

This Decision shall expire on 31 December 2003.

Article 4

This Decision is addressed to Luxembourg.

Done at Brussels, 7 May 2002.

For the Council

The President

R. DE RATO Y FIGAREDO

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[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).