

COUNCIL IMPLEMENTING DECISION**of 14 October 2014****authorising Germany to apply a reduced rate of taxation on electricity directly provided to vessels at berth in a port in accordance with Article 19 of Directive 2003/96/EC**

(2014/722/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (¹), and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Implementing Decision 2011/445/EU (²) Germany was authorised to apply a reduced rate of taxation to electricity directly provided to vessels at berth in a port ('shore-side electricity') in accordance with Article 19 of Directive 2003/96/EC until 16 July 2014.
- (2) By letter dated 26 February 2014, Germany sought the authorisation to continue to apply a reduced rate of electricity tax to shore-side electricity pursuant to Article 19 of Directive 2003/96/EC.
- (3) With the tax reduction it intends to apply, Germany aims at continuing the promotion of a more widespread use of shore-side electricity as an environmentally less harmful way for ships to satisfy their electricity needs while lying at berth in ports as compared to the burning of bunker fuels on board the vessels.
- (4) In so far as the use of shore-side electricity avoids emissions of air pollutants associated with the burning of bunker fuels on board the vessels at berth, it contributes to an improvement of local air quality in port cities. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.
- (5) Allowing Germany to apply a reduced rate of electricity taxation to shore-side electricity does not go beyond what is necessary to increase the use of shore-side electricity, since on-board generation will remain the more competitive alternative in most cases. For the same reason, and because of the current relatively low degree of market penetration of the technology, the measure is unlikely to lead to significant distortions in competition during the time it is applied and will thus not negatively affect the proper functioning of the internal market.
- (6) It follows from Article 19(2) of Directive 2003/96/EC that each authorisation granted under that provision must be strictly limited in time. Given the need for a period long enough to allow for the proper evaluation of the measure, but also the need not to undermine future developments of the existing legal framework, it is appropriate to grant the authorisation requested for a period of six years.
- (7) In order to provide legal certainty to port and ship operators and to avoid a potential increase in the administrative burden for the distributors and redistributors of electricity which could result from changes to the rate of excise duty levied on shore-side electricity, it should be ensured that Germany can apply the existing specific tax reduction to which this Decision relates without interruption. The authorisation requested should therefore be granted with effect from 17 July 2014, in order to follow seamlessly on from the prior arrangements under Council Implementing Decision 2011/445/EU.
- (8) This Decision should cease to apply on the date on which general rules on tax advantages for shore-side electricity become applicable by way of a future legislative act of the Union.

(¹) OJ L 283, 31.10.2003, p. 51.

(²) Council Implementing Decision 2011/445/EU of 12 July 2011 authorising Germany to apply a reduced rate of electricity tax to electricity directly provided to vessels at berth in a port ('shore-side electricity') in accordance with Article 19 of Directive 2003/96/EC (OJ L 191, 22.7.2011, p. 22).

(9) This decision is without prejudice to the application of the Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Germany is hereby authorised to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft, berthed in ports ('shore-side electricity'), provided that the minimum levels of taxation pursuant to Article 10 of Directive 2003/96/EC are respected.

Article 2

This Decision shall apply from 17 July 2014 until 16 July 2020.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Luxembourg, 14 October 2014.

For the Council

The President

P. C. PADOAN
