



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.12.2000
COM(2000) 852 final

Proposal for a

COUNCIL DECISION

**authorising the Netherlands, in accordance with Article 8(4) of Directive 92/81/EEC, to
apply a differentiated rate of excise duty to diesel consumed by taxis in 2000**

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(presented by the Commission)

EXPLANATORY MEMORANDUM

1. PRESENTATION OF THE REQUEST

In a letter dated 2 October, subsequently amended on 6 October, the Netherlands told the Commission it wanted, in accordance with Article 8(4) of Directive 92/81/EEC, to introduce a differentiated rate of excise duty on diesel consumed by taxis in 2000¹.

The measure is intended to grant a reduction in excise duties for diesel consumed by taxis in 2000. The proposed reduction is degressive, with refunds being granted as follows: NLG 0.14 (€0.06) per litre consumed in the period 01.01.2000-31.03.2000, NLG 0.105 in the period 01.04-30.06, NLG 0.07 in the period 01.07-30.09 and NLG 0.035 in the period 01.10-31.12.2000. The minimum rate set by Article 5 of Directive 92/82/EEC², namely €245 (or NLG 539.9) per 1000 l of diesel, will be respected.

22 500 taxis will be eligible for the measure, with an average gain of €160 per taxi.

The Dutch authorities argue that the reduction will not be discriminatory because it is open to all taxis. Nor will there be any distortion of the internal market.

Accordingly, the Netherlands is seeking permission to apply a differentiated rate of excise duty to diesel consumed by taxis in the period 1 January 2000-31 December 2000.

2. THE COMMISSION'S ASSESSMENT

Under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.

By letters dated 2 and 6 October 2000 the Netherlands sought the Commission's permission to grant tax exemption for diesel consumed by taxis in 2000. After an initial examination, the Commission sought clarification from the authorities about various aspects of the scheme, receiving additional information on 31 October 2000

Following a thorough study of the measure, the Commission finds that the derogation is of limited duration, since it will apply in 2000 only. With the normal rate of excise duty on diesel fuel in the Netherlands at NLG 735.5³ per thousand litres and the minimum Community rate at NLG 539.9 per thousand litres, the excise charged on diesel consumed by taxis in 2000 will be as follows:

¹ OJ L 316, 31.10.1992, p. 12, 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, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

³ Rate in force at 1.1.2000.

(in NLG per 1000 l)	1 January- 31 March	1 April- 30 June	1 July- 30 September	1 October- 31 December
Excise duty on diesel paid by taxis	595.5	630.5	665.5	700.5

The reduction proposed by the Netherlands authorities is therefore degressive and complies with the minimum rate referred to in Article 5 of Directive 92/82/EEC⁴.

The refund falls short of the increase in retail fuel prices. The measure is therefore proportionate.

Moreover, being confined to taxis, whose activity is by definition local, the derogation does not affect intra-Community trade. Nor is it discriminatory, since the refund is open to all taxis.

Lastly, in the proposal for a Council decision it adopted on 15 November 2000 the Commission proposed a five-year extension of the derogations in force at 31 December 2000 that allow reductions in excise duty on fuel consumed by taxis in Spain, France and Italy⁵.

As required by Directive 92/81/EEC, the other Member States have been informed by letter dated 24 November of the Netherlands' request.

3. DECISION

The Commission proposes that the Council authorise the Netherlands to apply a differentiated rate of excise duty on diesel fuel consumed by taxis in 2000.

⁴ OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).
⁵ COM(2000) 678 final.

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authorising the Netherlands, in accordance with Article 8(4) of Directive 92/81/EEC, to apply a differentiated rate of excise duty to diesel consumed by taxis in 2000

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union,

Having regard to Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils and in particular Article 8(4) thereof⁶,

Having regard to the proposal from the Commission,

Whereas:

- (1) Under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.
- (2) The Netherlands has asked to be authorised to apply a differentiated rate of excise duty to diesel consumed by taxis in the course of 2000. A degressive refund, not exceeding NLG 0.14 per litre of diesel, is planned for all taxis operating in the Netherlands.
- (3) The measure complies with the minimum rate of excise duty referred to in Article of Directive 92/82/EEC⁷.
- (4) The refund falls short of the increase in retail fuel prices. The measure is therefore proportionate.
- (5) Neither the Commission nor the Member States consider that the application of a differentiated rate of excise duty to diesel consumed by taxis in 2000 will cause distortions of competition or hinder the operation of the single market. Being confined to taxis, whose activity is by definition local, the derogation does not affect intra-Community trade.
- (6) The above information has been communicated to the other Member States.
- (7) In the proposal for a Council decision it adopted on 15 November 2000 the Commission sought a five-year extension of the derogations in force at 31 December

⁶ OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁷ OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

2000 that allow reductions in excise duty on fuel consumed by taxis in Spain, France and Italy⁸,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 8(4) of Council Directive 92/81/EEC, the Netherlands is authorised to apply a degressive differentiated rate of excise duty, not exceeding NLG 0.14 per litre, on diesel fuel consumed by taxis in the period 1 January-31 December 2000.
2. The differentiated rate must comply with the terms of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils, and in particular the minimum rates laid down in Article 5 thereof⁹.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels,

For the Council
The President

⁸ COM(2000) 678 final.

⁹ OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).