

**Proposal for a Council Decision authorising Sweden to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC**

(2002/C 262 E/29)

COM(2002) 365 final

(Submitted by the Commission on 9 July 2002)

**EXPLANATORY MEMORANDUM**

**1. Submission of request**

- 1.1. By letter of 22 April 2002, the Swedish authorities applied to the Commission for a derogation allowing them to apply an energy tax differentiation on alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC <sup>(1)</sup>.

In order to obtain the information it required to evaluate the request, the Commission sent an additional question on 14 May 2002 to which the Swedish authorities replied on 16 May 2002. The reply of the Swedish authorities enabled the Commission to finalise its evaluation of the application for a derogation.

- 1.2. Sweden proposes to amend the law (1994:1776) on energy taxation to introduce a lower rate of energy tax for alkylate based petrol for two-stroke engines with effect from 1 July 2002 or a later date determined by the Government when approval has been obtained from the EU. This measure is designed to improve the environment and public health by increasing the use of the cleaner alkylate based petrol for two-stroke engines through reducing the energy tax rate on this fuel relative to normal petrol for two-stroke engines to compensate for the higher production costs of alkylate based petrol.

In Sweden the total excise duty on mineral oil products is composed of two elements, the energy tax and the CO<sub>2</sub> tax.

Sweden already applies excise duty differentiation according to environmental classes (miljöklasser) of fuel. The differentiated rates were introduced to promote the production and use of cleaner fuels, and so improve air quality and public health. The system has been very successful.

Sweden now wishes to encourage the production and use of alkylate based petrol for two-stroke engines by introducing a further lower duty rate. Sweden plans to set the rate of energy tax for alkylate based petrol for two-stroke engines at 1,50 Swedish crowns per litre below that of motor petrol (motor bensin) of environmental class 1. This equates to an energy tax duty of 1,66 Swedish crowns (18 eurocent <sup>(2)</sup>) per litre at current rates. The total excise duty rate (including CO<sub>2</sub> tax) is then 3,12 Swedish crowns (33,9 eurocent) per litre.

The Swedish authorities are intending to introduce the reduced rate of duty with effect from July 2002 until further notice. The duty forgone as a result of the duty reduction is estimated to some 100 million Swedish crowns (11 million euro) per annum.

- 1.3. Production costs of alkylate based petrol for two-stroke engines exceed those of conventional two-stroke petrol, and its retail price would therefore be uncompetitive without the duty reduction. The duty reduction is simply intended to offset the additional production costs. By removing this disparity, it will enable alkylate based petrol for two-stroke engines to be sold at a similar pump price to conventional two-stroke petrol.

The Swedish government will keep control over prices so that the price of alkylate petrol will not fall below the price of conventional petrol.

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

<sup>(2)</sup> The exchange rate is rounded off to 9,20 SKR for one euro.

- 1.4. The requested energy tax reduction is foreseen for alkylate based petrol for two-stroke engines (Motorbränslen — Specialbensin för motordrivna arbetsredskap, Tvåtaktsbränsle) that fulfils the criteria of Swedish Standard (SS) 15 54 61 (2nd issue) <sup>(1)</sup>.

Some of the most important limits of the abovementioned standard are:

- Lead: maximum 0,002 g/l
- Sulphur: maximum 50 mg/kg
- Olefins: maximum 0,5 volume %
- Aromatic hydrocarbons: maximum 0,5 volume %
- Benzene: maximum 0,1 volume %.

These limits are far below the limits given in Annexes I and III to Directive 98/70/EC <sup>(2)</sup>, the distillation requirements for fuels established in this Directive are also observed.

- 1.5. Provided that the fuel concerned meets the abovementioned standard for alkylate based petrol for two-stroke engines the duty reduction will be granted to any producer of alkylate based petrol in the Member States (or third countries) whose product is put on the market in Sweden. The Swedish authorities estimate the annual volume as some 40 000 m<sup>3</sup> in 2005.
- 1.6. The promotion of alkylate based petrol for two-stroke engines is a measure to improve environment and health, as the unburnt fuel part of exhaust fumes of two-stroke engines contains considerable lower amounts of aromatic hydrocarbons and olefins, including benzene in comparison to conventional fuel.

## 2. Evaluation by the Commission

- 2.1. Under Article 8(4) of Council 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 of excise duties for specific policy considerations.

The Swedish authorities have applied to the Commission for derogations allowing them to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC <sup>(3)</sup>.

As required by Directive 92/81/EEC, the other Member States have been informed of Sweden's request.

- 2.2. Exemptions requested under Article 8(4) of Directive 92/81/EEC must be examined in terms of their compliance with Community policies.

Since the 1970s the EU has adopted more and more ambitious limits for emissions of vehicles and specifications of fuels to improve the air quality as one of the measures to protect the environment and health. The Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee on Tax policy in the European Union — Priorities for the years ahead <sup>(4)</sup>, as well as the 6th Environmental Action Programme <sup>(5)</sup>, and the White Paper on Transport <sup>(6)</sup> stipulate fiscal measures as one of the instruments for better incorporation of environmental and health aspects into all policy areas.

<sup>(1)</sup> Could be obtained from: SIS Förlag AB, Box 6455, S-113 82 Stockholm.

<sup>(2)</sup> OJ L 350, 28.12.1998, p. 58.

<sup>(3)</sup> Directive published in OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

<sup>(4)</sup> COM(2001) 260 final.

<sup>(5)</sup> COM(2001) 31 final and amendments in the decision procedure of Council and EP.

<sup>(6)</sup> COM(2001) 370 final.

The tax reduction requested by the Swedish authorities is therefore in line with the Community's policy of promoting cleaner fuels in the interests of protecting the environment and health.

The Commission notes that the effective total excise duty rates for alkylate based petrol are higher than the minimum Community rates applicable:

Community minimum (per 1 000 l) <sup>(1)</sup>	Energy tax (per 1 000 l)	CO <sub>2</sub> -tax (per 1 000 l)	Total excise duty (per 1 000 l)
EUR 287	EUR 181 <sup>(2)</sup> SKR 1 660	EUR 159 SKR 1 460	EUR 339 SKR 3 120

<sup>(1)</sup> In accordance with Directive 92/82/EEC (OJ L 316, 31.10.1992, p. 19), as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

<sup>(2)</sup> The exchange rate is rounded off to SKR 9,20 for one euro.

The Swedish government will keep control over prices so that the price of alkylate petrol will not fall below the price of conventional petrol.

The tax differentiation requested from Sweden is not yet of determined duration until further notice. To keep derogations granted under Article 8(4) of Directive 92/81/EC and their justification under surveillance, the Commission usually grants such derogations with a maximum duration of six years.

### 3. Decision

The Commission proposes that, under Article 8(4) of Council Directive 92/81/EEC, the Council authorises Sweden to apply until 30 June 2008 differentiated rates of energy tax to alkylate based petrol for two-stroke engines.

The reduction in energy tax must be adjusted to avoid over-compensating for the extra costs involved in the manufacture of alkylate based petrol for two-stroke engines.

The rates of total excise duty applicable to the substances referred to above 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 <sup>(1)</sup>, and in particular the minimum rates laid down in Article 4 thereof.

<sup>(1)</sup> Directive published in OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

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 <sup>(1)</sup>, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Sweden has applied for a differentiated rate of energy tax to be authorised on alkylate based petrol for two-stroke engines. In Sweden the total excise duty on mineral oil products is composed of two elements, the energy tax and the CO<sub>2</sub> tax.

- (2) The other Member States have been notified of this request.

- (3) The derogation requested by the Swedish authorities is in line with the Community's tax policy that *inter alia* must reinforce EU policies on innovation, health and consumer protection, sustainable development, environmental and energy.

- (4) The energy tax rate for alkylate based petrol for two-stroke engines would be set at 1,50 Swedish crowns per litre below that for conventional Environmental Class 1 petrol. This equates to an energy tax duty of 1,66 Swedish crowns (18 eurocent <sup>(2)</sup>) litre of alkylate based petrol for two-stroke engines. The total excise duty rate (including CO<sub>2</sub> tax) is then 3,12 Swedish crowns (33,9 eurocent) per litre.

<sup>(1)</sup> 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).

<sup>(2)</sup> The exchange rate is rounded off to SKR 9,20 for one euro.

- (5) The effective total rates of excise duty are higher than the applicable Community minimum rates, in accordance with Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils <sup>(1)</sup>.
- (6) The requested energy tax reduction is foreseen for alkylate based petrol for two-stroke engines (Motorbränslen — Specialbensin för motordrivna arbetsredskap, Tvåtaktsbränsle) that fulfils the criteria of Swedish Standard (SS) 15 54 61 (2nd issue) <sup>(2)</sup> as well as the standards established in Council Directive 98/70/EC <sup>(3)</sup>.
- (7) The differentiated rate would apply to alkylate based petrol for two-stroke engines at the point of production or import.
- (8) Production costs of for alkylate based petrol for two-stroke engines exceed those of conventional petrol, and its retail price would therefore be uncompetitive without the energy tax reduction. The energy tax reduction is intended to offset the additional production costs. It will enable for alkylate based petrol for two-stroke engines to be sold at a pump price similar to conventional petrol.
- (9) The government of Sweden intends to regularly review the production cost of for alkylate based petrol for two-stroke engines and thus monitor that no overcompensation takes place.
- (10) The accorded authorisation should apply for a period of six years.
- (11) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or hinder the operation of the internal market and are not incompatible with Community policy on protection of the environment, health protection, energy and transport,

HAS ADOPTED THIS DECISION:

*Article 1*

1. In accordance with Article 8(4) of Directive 92/81/EEC Sweden is authorised to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines.

2. The rate of total excise duty applicable to the product referred to in paragraph 1 must comply with the terms of Directive 92/82/EEC, and in particular the minimum rate laid down in Article 4 thereof.

*Article 2*

Based on a regular review by the Swedish authorities, the reduction in energy tax shall be adjusted to avoid overcompensating for the extra costs involved in the manufacture of alkylate based petrol.

*Article 3*

This Decision shall expire on 30 June 2008.

*Article 4*

This Decision is addressed to Sweden.

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<sup>(1)</sup> OJ L 316, 31.10.1992, p. 19. Directive as last amended by Directive 94/74/EC.

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<sup>(3)</sup> OJ L 350, 28.12.1998, p. 58.