Council Implementing Decision (EU) 2020/1629 of 29 October 2020 authorising France to apply a reduced rate of taxation to electricity directly provided to vessels at berth in a port, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2020/1629

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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 letter of 7 August 2019, France sought authorisation to apply a reduced rate of taxation to electricity directly provided to maritime and inland waterway vessels at berth in a port ('shore-side electricity') pursuant to Article 19 of Directive 2003/96/EC. The French authorities provided additional information and clarifications on 4 March 2020 and 30 April 2020.

(2) With the reduced rate of taxation it intends to apply, France aims to further promote the deployment and the use of shore-side electricity. The use of such electricity is considered to be an environmentally less harmful way of satisfying the electricity needs of vessels at berth in a port than the burning of bunker fuels by those vessels.

(3) In so far as the use of shore-side electricity avoids emissions of air pollutants originating from the burning of bunker fuels by vessels at berth in a port, it improves local air quality in port cities. Under the specific conditions of the electricity generation structure in France, the use of shore-side electricity instead of electricity generated by burning bunker fuels is furthermore expected to reduce CO_2 emissions, other air pollutants and noise. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.

(4) Allowing France to apply a reduced rate of taxation to shore-side electricity does not go beyond what is necessary to increase the use of such electricity, since on-board generation of electricity 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 relevant technology, the application of that reduced rate of taxation is unlikely to lead to significant distortions in competition during its lifetime and will therefore not negatively affect the proper functioning of the internal market.

(5) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under Article 19(1) of that Directive is to be strictly limited in time. In order to ensure that the authorisation period is sufficiently long so as not to discourage relevant economic operators from making the necessary investments, it is appropriate to grant the authorisation requested from 1 January 2021 until 31 December 2026. However, that authorisation should cease to apply from the date of application of any general provisions on tax advantages for shore-side electricity adopted by the Council under Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, should such provisions become applicable prior to 31 December 2026.

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

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This Decision shall apply from 1 January 2021 until 31 December 2026.

However, should the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, adopt any general provisions on tax advantages for shore-side electricity, this Decision shall cease to apply on the day on which those general provisions become applicable.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 29 October 2020.

For the Council

The President

M. ROTH