Council Implementing Decision (EU) 2020/1436 of 7 October 2020 authorising Germany 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) 2020/1436

of [X1 7 October 2020]

authorising Germany 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

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 2014/722/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') until 16 July 2020, in accordance with Article 19 of Directive 2003/96/EC.

(2) By letter of 29 January 2020, Germany sought authorisation to continue to apply a reduced rate of taxation to shore-side electricity pursuant to Article 19 of Directive 2003/96/EC.

(3) With the reduced tax rate it intends to apply, Germany aims to continue promoting 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.

(4) Insofar 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 Germany, 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.

(5) Allowing Germany 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.

(6) 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 until 31 December 2025. 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 2025.

(7) In order to provide legal certainty to port and ship operators, and to avoid a potential increase in the administrative burden for distributors and redistributors of electricity resulting from changes to the tax rate levied on shore-side electricity, it should be ensured that Germany is able to apply the reduced rate of taxation to shore-side electricity without interruption. The authorisation requested should therefore be granted with effect from 17 July 2020, in order to follow seamlessly on from the prior arrangements under Council Implementing Decision 2014/722/EU.

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

HAS ADOPTED THIS DECISION:

Editorial Information

X1 Substituted by Corrigendum to Council Implementing Decision (EU) 2020/1436 of 12 October 2020 authorising Germany 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 (Official Journal of the European Union L 331 of 12 October 2020).

Article 1

Germany 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 17 July 2020 until 31 December 2025.

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 Federal Republic of Germany.