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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Spain to apply a reduced rate of excise duty to electricity directly supplied to vessels at berth in a port, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2018/...

of ...

**authorising Spain to apply a reduced rate of excise duty to electricity
directly supplied 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 electricity¹, and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 283, 31.10.2003, p. 51.

Whereas:

- (1) By letter of 12 April 2018, Spain sought authorisation to apply a reduced rate of excise duty to electricity directly supplied to vessels at berth in a port ('shore-side electricity') pursuant to paragraph 1 of Article 19 of Directive 2003/96/EC.
- (2) With the reduction in the excise duty that it intends to apply, Spain aims to promote 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 lying at berth in ports when compared with the burning of bunker fuels by those vessels.
- (3) Insofar as the use of shore-side electricity avoids emissions of air pollutants originating from the burning of bunker fuels by vessels at berth, it contributes to an improvement in local air quality in port cities. Under the specific conditions of the electricity generation structure in Spain, the use of electricity from the onshore grid instead of electricity generated by burning bunker fuels on board is furthermore expected to reduce CO₂ emissions. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.

- (4) Allowing Spain to apply a reduced rate of excise duty to shore-side electricity does not go beyond what is necessary to increase the use of shore-side electricity, since on-board generation of electricity will remain the more competitive alternative in most cases. For the same reason, and because the technology is currently not available in Spain, the measure is unlikely to lead to significant distortions in competition during its lifetime and will thus not negatively affect the proper functioning of the internal market.
- (5) In accordance with paragraph 2 of Article 19 of Directive 2003/96/EC each authorisation granted under that provision is to be strictly limited in time. In order to ensure that the authorisation period is sufficiently long so as not to discourage port operators from making the necessary investments, it is appropriate to grant the authorisation requested for a period of six years, subject however to general provisions on the matter that may be adopted under Article 113 of the Treaty on the Functioning of the European Union (TFEU) and that become applicable prior to the anticipated expiration of the authorisation period.
- (6) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Spain is authorised to apply a reduced rate of excise duty to electricity directly supplied to vessels berthed in ports, other than private pleasure craft, provided that the minimum levels of taxation referred to in Article 10 of Directive 2003/96/EC are respected.

Article 2

This Decision shall take effect from 1 January 2019. It shall expire six years thereafter.

However, should the Council, acting on the basis of Article 113 TFEU, provide for general rules on tax advantages for shore-side electricity, this Decision shall expire on the day on which those general rules become applicable.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels,

For the Council

The President
