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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Poland to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal and coke, used as heating fuels, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2023/...

of ...

**authorising Poland to apply reduced rates of excise duty
to heavy fuel oil, natural gas, coal and coke, used as heating fuels,
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 dated 3 January 2023, Poland requested authorisation to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal and coke, used as heating fuels, pursuant to Article 19 of Directive 2003/96/EC, which fall below the minimum levels of taxation referred to in Article 9 of that Directive. Additional information and clarifications in support of the request were provided by the Polish authorities on 15 February 2023. It was requested that the authorisation apply for a period of six months, from 1 January 2023 until 30 June 2023.
- (2) According to the Polish authorities, the application of a reduced tax rate aims at mitigating the negative impact that would have been caused by an increase in the level of taxation due to an unfavourably high euro-zloty exchange rate, in accordance with Article 13 of Directive 2003/96/EC. This reduction would correspond to the amount resulting from the exchange-rate difference after the annual adjustment carried out in accordance with Article 13 of that Directive.

- (3) The requested authorisation is not likely to distort competition or hinder the proper functioning of the internal market. Given its short duration and the exceptional circumstances linked to the geopolitical situation, the requested authorisation is considered appropriate and proportionate. The authorisation strikes a balance between the specific policy objectives referred to in Article 19(1), third paragraph, of Directive 2003/96/EC, in particular the Union's environmental policy, and the need to ensure energy affordability for businesses and households. The tax reduction would partially offset the increased energy costs and is not cumulative with any other type of tax reductions.
- (4) Poland should therefore be authorised to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal and coke, used as heating fuels, as requested.
- (5) Pursuant to Article 19(2) of Directive 2003/96/EC, each authorisation granted under that provision is to be strictly limited in time. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which this authorisation would not be adapted, this authorisation should cease to apply on the day on which that modified general system becomes applicable.

- (6) In order to ensure a smooth tackling of the adverse effects for consumers of high prices of energy products, at the moment where the impact is the biggest due to high inflation and rising prices, it should be ensured that Poland may apply the tax reduction, as requested, with effect from 1 January 2023.
- (7) This Decision is without prejudice to the application of Union rules on State aid,

HAS ADOPTED THIS DECISION:

Article 1

Poland is authorised to apply reduced rates of excise duty to heavy fuel oil, natural gas, coal and coke, used as heating fuels, below the relevant minimum levels of taxation referred to in Article 9 of Directive 2003/96/EC.

Article 2

This Decision shall apply from 1 January 2023 until 30 June 2023.

However, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall cease to apply on the day on which that modified general system becomes applicable.

Article 3

This Decision is addressed to the Republic of Poland.

Done at ...,

For the Council

The President
