Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION authorising Germany to apply a reduced rate of taxation to electricity directly supplied to vessels berthed in ports, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2026/…

of …

authorising Germany to apply a reduced rate of taxation to electricity directly supplied to vessels berthed in ports, 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(1) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 283, 31.10.2003, p. 51, ELI: http://data.europa.eu/eli/dir/2003/96/oj.

Whereas:

(1) Council Implementing Decision (EU) 2020/1436[2] authorised Germany to apply a reduced rate of taxation until 31 December 2025 to electricity directly supplied to vessels, other than private pleasure craft, berthed in ports ('shore-side electricity'), in accordance with Article 19 of Directive 2003/96/EC.

(2) By letter of 26 August 2025, 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. On 23 January 2026, the German authorities sent a letter providing additional information related to the request.

(3) With the reduced rate of taxation it intends to apply, Germany aims to continue promoting the use of shore-side electricity. The use of such electricity is considered to be a less environmentally harmful way of satisfying the electricity needs of vessels at berth in a port than the burning of bunker fuels by those vessels.

[2] 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 (OJ L 331, 12.10.2020, p. 30, ELI: http://data.europa.eu/eli/dec_impl/2020/1436/oj).

(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 also expected to reduce CO_2 emissions, other air pollutants and noise. The continued application of the reduced rate of taxation to shore-side electricity 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 period of application 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 for a four-year period. However, that authorisation should cease to apply from the date of application of any general provisions on tax advantages for shore-side electricity that would be 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 during the period of authorisation.

(7) In order to provide legal certainty for port and ship operators and to avoid any disruption and a potential increase in the administrative burden for distributors and redistributors of electricity resulting from changes to the taxation rate levied on shore-side electricity, Germany should be able to continue to apply a reduced rate of taxation to shore-side electricity. The authorisation requested should therefore be granted with effect from 1 January 2026, in order to ensure continuity with the prior arrangements under Implementing Decision (EU) 2020/1436.

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

HAS ADOPTED THIS DECISION:

Article 1

Germany is authorised to apply a reduced rate of taxation to electricity directly supplied to vessels, other than private pleasure craft, berthed in ports, provided that the minimum levels of taxation referred to in Article 10(1) of Directive 2003/96/EC are respected.

Article 2

This Decision shall apply from 1 January 2026 to 31 December 2029.

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 with which the authorisation granted in Article 1 of this Decision would not be compatible, this Decision shall cease to apply on the day on which that modified general system becomes applicable.

Article 3

The Decision shall take effect on the date of its notification.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at …, …

For the Council

The President