Council of the European Union

Brussels, 16 October 2020
(OR. en)

11119/20

Interinstitutional File:
2020/0254 (NLE)

FISC 186
ECOFIN 844
ENER 313
TRANS 414

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION authorising Sweden 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/…

of …

authorising Sweden 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,

[1] OJ L 283, 31.10.2003, p. 51.

Whereas:

(1) By Council Implementing Decision 2014/725/EU[1], Sweden was authorised to apply a reduced rate of taxation to electricity directly provided to vessels at berth in a port ('shore-side electricity') in accordance with Article 19 of Directive 2003/96/EC until 25 June 2020.

(2) By letter of 15 August 2019, Sweden sought authorisation to continue to apply a reduced rate of taxation to shore-side electricity pursuant to Article 19 of Directive 2003/96/EC. The Swedish authorities provided additional information by letter dated 1 April 2020.

(3) With the reduced rate of taxation it intends to apply, Sweden 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 and reduces noise. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.

[1] Council Implementing Decision 2014/725/EU of 14 October 2014 authorising Sweden to apply a reduced rate of taxation on electricity directly provided to vessels at berth in a port in accordance with Article 19 of Directive 2003/96/EC (OJ L 301, 21.10.2014, p. 27).

(5) Allowing Sweden 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 2023. 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 2023.

(7) Due to the difficulties caused by the COVID-19 pandemic, the process for the renewal of the derogation took more time than expected and was not finalised before 25 June 2020. 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, it should be ensured that Sweden is able to continue to apply the reduced rate of taxation to shore-side electricity. The authorisation requested should therefore be granted with effect from 26 June 2020, in order to follow seamlessly on from the prior arrangements under Implementing Decision 2014/725/EU.

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

HAS ADOPTED THIS DECISION:

Article 1

Sweden 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 26 June 2020 until 31 December 2023.

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 Kingdom of Sweden.

Done at …,

For the Council
The President