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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION authorising Denmark to apply a reduced rate of taxation to electricity supplied directly to vessels at berth in a port

COUNCIL IMPLEMENTING DECISION (EU) 2021/…

of …

authorising Denmark to apply a reduced rate of taxation to electricity supplied directly to vessels at berth in a port

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 means of Council Implementing Decision (EU) 2015/993[1], Denmark was authorised in accordance with Article 19 of Directive 2003/96/EC to apply a reduced rate of taxation to electricity that is supplied directly to vessels, other than private pleasure craft, at berth in a port ('shore-side electricity') until 18 June 2021.

(2) In its letter of 5 May 2020, Denmark requested authorisation to continue to apply a reduced rate of taxation to shore-side electricity pursuant to Article 19 of Directive 2003/96/EC. The Danish authorities provided additional information in their letter of 16 February 2021.

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

[1] Council Implementing Decision (EU) 2015/993 of 19 June 2015 authorising Denmark 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 159, 25.6.2015, p. 68).

(4) Insofar as the use of shore-side electricity avoids emissions of air pollutants resulting from the burning of bunker fuels, it contributes to improving the local air quality in port cities and to reducing noise. A continued 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 Denmark to apply a continued 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 a more competitive alternative in most cases. For the same reason, and because of the currently relatively low degree of market penetration of the technology, the reduced rate of taxation is unlikely to lead to significant distortions in competition during its period of validity and will thus not negatively affect the proper functioning of the internal market.

(6) Each authorisation granted under Article 19(2) of Directive 2003/96/EC is to be strictly limited in time. In order to ensure that the authorisation period is sufficiently long so as not to discourage the relevant economic operators from making the necessary investments, it is appropriate to grant the authorisation from 18 June 2021 to 17 June 2027. However, the 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 17 June 2027.

(7) In order to provide legal certainty to economic operators and to avoid a potential increase in the administrative burden for the distributors and redistributors of electricity, the authorisation requested should follow seamlessly on from the previous arrangement authorised by Implementing Decision (EU) 2015/993.

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

HAS ADOPTED THIS DECISION:

Article 1

Denmark is authorised to apply a reduced rate of taxation to electricity supplied directly to vessels, other than private pleasure craft, at berth in a port, 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 18 June 2021 until 17 June 2027.

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, provide for general rules on tax advantages for shore-side electricity, this Decision shall cease to apply as of the day on which those general rules become applicable.

Article 3

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels,

For the Council
The President