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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 244 final
Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION 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

Delegations will find attached document COM(2026) 244 final.

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Brussels, 22.5.2026
COM(2026) 244 final

2026/0121 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Taxation of energy products and electricity in the Union is governed by Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity [1] (the 'Energy Taxation Directive' or the 'Directive').

Pursuant to Article 19(1) of the Directive, in addition to the provisions laid down in particular in Articles 5, 15 and 17 of that Directive, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions in the level of taxation for specific policy considerations.

By virtue of Council Implementing Decision (EU) 2020/1436 of 7 October 2020[2] (preceded by Council Implementing Decision 2014/722/EU of 14 October 2014[3] and Council Implementing Decision 2011/445/EU of 12 July 2011[4]), Germany has already been authorised to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft[5], berthed in ports ('shore-side electricity').

The objective of this proposal is to extend that authorisation as requested by Germany, given that the current derogation expired on 31 December 2025.

By letter of 26 August 2025, the German authorities informed the Commission of their intention to prolong the current measure until 31 December 2029. Additional information was provided by letter of 23 January 2026.

Germany is seeking for a renewal of the authorisation to apply a reduced tax rate of EUR 0.50/MWh to shore-side supply of electricity to vessels[6] operating exclusively for commercial purposes in Union sea and inland waters (including fishing)[7]. This amount is equal to the minimum rate of taxation for electricity for business use as laid down in the Directive.

The period of validity requested is from 1 January 2026 until 31 December 2029. This continues the current derogation and is within the maximum period allowed by Article 19 of the Energy Taxation Directive.

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

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) in connection to Corrigendum to Council Implementing Decision (EU) 2020/1436 of 12 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 342, 16.10.2020 p. 31 ELI: http://data.europa.eu/eli/dec_impl/2020/1436/corrigendum/2020-10-16/oj)

3 OJ L 300, 18.10.2014, p. 55

4 OJ L 191, 22.07.2011, p. 22

5 The term 'private pleasure craft' is defined in Article 14(1)(c), second subparagraph of Directive 2003/96/EC

6 Identified in the request as all motor-powered ships, boats and floating structures covered by Chapter 89 of the Combined Nomenclature.

7 As specified in the national law, the measure does not apply to shore-side electricity supplied to water-borne vessels during their stay in a shipyard.

This reduction aims to continue to provide an economic incentive for the deployment and use of shore-side electricity in order to reduce air pollution in port cities, improve local air quality and reduce noise for the health benefit of inhabitants.

The measure to be applied by Germany also has the objective of reducing the environmental impact of water-borne transport.

With the requested measure Germany wants to continue offering an incentive for using shore-side electricity which is considered a less polluting alternative to the generating electricity on board vessels at berth in a port. As indicated in the request, the standard rate of electricity tax in Germany is EUR 20.50/MWh. The tax reduction currently stands at EUR 20.00/MWh. This means that beneficiaries are charged EUR 0.50/MWh, the EU minimum tax rate for electricity applicable under the Energy Taxation Directive (as specified in Article 10(1) and Table C of Annex I, for business use). Germany allows the tax advantage to be provided as a reduced tax rate charged at supply (requiring permission), or as a tax refund.

On the other hand, according to Article 14(1)(c) of the Energy Taxation Directive Member States must exempt energy products used to produce electricity on board ships at berth in ports. They may also do so if electricity is produced on board ships for navigation on inland waterways according to Article 15(1)(f) of the Directive. Germany has confirmed that it transposed this latter optional exemption.

The German authorities have indicated that the tax reduction applies to all ships other than private pleasure craft, meaning that all ships involved in commercial navigation, regardless of size or flag, can benefit from the tax reduction. There is however no obligation for vessels to use shore-side electricity.

As indicated in the request, in 2024 a total of 28 companies claimed the tax relief. In addition, the German Federal Navy is supplied with shore-side electricity at eight sites. More than 400 fixed or mobile shore-side electricity facilities exist in Germany at berths in sea and inland ports. In 50 sea and inland ports (additional) shore-side facilities are either planned or under construction.

To estimate the tax expenditures from the measure, the German authorities calculated the loss of tax revenue based on the amount of electricity consumed for the benefit and the amount of the advantage. The tax relief currently amounts to EUR 20.00/MWh (the standard tax rate, as mentioned before, is EUR 20.50/MWh).

In 2024, some 74 100 MWh of electricity was either supplied at the preferential rate or benefited from tax relief. This resulted in a loss of tax revenue for 2024 amounting to approximately EUR 1.48 million.

Germany has requested that the authorisation be granted until 31 December 2029, starting from 1 January 2026, without interrupting the current derogation and without exceeding the maximum period indicated in Article 19(2) of the Directive.

With the tax reduction, Germany wants to provide an incentive for vessel operators to use shore-side electricity in order to reduce airborne emissions and noise from the combustion of fuels by vessels at berth, as well as CO_2 emissions. Applying a reduced tax rate strengthens the competitiveness of shore-side electricity compared to burning bunker fuels on board, which is exempt from energy excise taxation.

The German authorities consider that the scheme meets the conditions of Article 44 of Commission Regulation 651/2014/EU declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty[8]. The German authorities therefore did not formally notify the scheme to the Commission but instead transmitted an information summery of the scheme via the Commissions' electronic notification system as part of their reporting obligation required under Article 11 of Commission Regulation 651/2014/EU on 1 July 2024[9].

- **Consistency with existing policy provisions in the policy area**

Taxation of electricity is governed by Directive 2003/96/EC, in particular Article 10. Article 14(1)(c) provides for an obligatory tax exemption for electricity produced on board a craft. Articles 5, 15 and 17 provide for the possibility for Member States to apply tax differentiations, including exemptions and reductions, to certain uses of electricity. However, as such, these provisions do not provide for reduced taxation of shore-side electricity.

Provisions under the Energy Taxation Directive

Article 19(1), first subparagraph, of the Directive reads as follows:

> *In addition to the provisions set out in the previous Articles, in particular in Articles 5, 15 and 17, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.*

By means of the tax reduction in question, the German authorities are pursuing the objective of continuing to promote an environmentally less harmful way for ships to satisfy their electricity needs while at berth in ports, and thus of improving local air quality and reducing noise.

The Commission has already recommended using shore-side electricity as an alternative to generating electricity on board vessels at berth and has thus recognised its environmental advantages[10].

Currently the standard rate for electricity is EUR 20.50/MWh, while the tax concession stands at EUR 20.00/MWh. Beneficiaries are thus charged at the EU minimum tax rate for electricity of EUR 0.50/MWh under the Energy Tax Directive. This can therefore continue to contribute to the stated policy objective.

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8 OJ L 187, 26.6.2014, p. 1

9 Stromsteuerermäßigung auf direkt am Liegeplatz im Hafen an Schiffe gelieferten elektrischen Strom (landseitige Elektrizität) [BMF, Zoll], information summary transmitted to the Commission via the Commissions' electronic notification system on 01.07.24, https://competition-cases.ec.europa.eu/cases/SA.114829.

10 Commission Recommendation 2006/339/EC of 8 May 2006 on the promotion of shore-side electricity for use by ships at berth in Community ports (OJ L 125, 12.5.2006).

The possibility of allowing favourable tax treatment for shore-side electricity can be provided for under Article 19 of the Directive since its purpose is to allow Member States to introduce further exemptions or reductions for specific policy considerations.

Germany has requested that the measure apply for a duration within the maximum period allowed by Article 19(2), i.e. four years. In principle, the measure must remain in force for a sufficiently long period to have a positive impact on investment decisions for investments in shore-side electricity facilities by port operators, and in on-board equipment by ship operators.

However, the derogation should not undermine future developments of the existing legal framework and should take into account the ongoing revision of the Energy Taxation Directive and the possible adoption by the Council of a legal act based on the Commission proposal for recast of the Energy Taxation Directive[11].

In particular, as part of the proposed recast of the Directive on the taxation of energy products and electricity, the Commission has, among others, made provision for all Member States to apply exemptions, partial exemptions or reductions in the level of taxation to electricity supplied directly to vessels berthed in ports, in order to encourage its development and use.

Under these circumstances, it appears appropriate to grant the authorisation for the period in question.

State aid rules

The reduced tax rate of EUR 0.50 per MWh envisaged by the German authorities is equal to the EU minimum level of taxation for electricity for business use pursuant to Article 10 of Directive 2003/96/EC.

Article 44 of Commission Regulation 651/2014/EU sets out the conditions under which aid in the form of reductions in environmental taxes fulfilling the conditions of Directive 2003/96/EC can be exempted from the State aid notification requirement.

The German authorities indicate that the current scheme and its predecessor schemes meet the conditions of Article 44 of Commission Regulation 651/2014/EU. The scheme was therefore not notified to the Commission. Germany did however on 1 July 2024 transmitted the information summary via the Commissions' electronic notification system as required under Article 11 of Commission Regulation 651/2014/EU.

The proposal for a Council implementing decision does not prejudge the Member State's obligation to ensure compliance with State aid rules. The proposal for a Council implementing decision is also without prejudice to the Member State's obligation to notify the aid to the Commission before putting it into effect, pursuant to Article 108(3) of TFEU, should the new aid not be covered by Commission Regulation 651/2014/EU.

- **Consistency with other Union policies**

Environment and climate change policy

11 COM/2021/563 final: Proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast).

The requested measure concerns mainly the EU's environment and climate change policy. As the measure will help reduce the burning of bunker fuels on board vessels in ports, it will contribute to the objective of improving local air quality and reducing noise. Directive 2008/50/EC on Ambient Air Quality[12] requires Member States to ensure that the levels of several air pollutants are kept below the limit values, target values and other air quality standards laid down in that Directive. This means that Member States are required to find solutions to problems such as emissions of ships at berth in ports where this is relevant. It is conceivable that in ports where these problems exist, the use of shore-side electricity will be further encouraged as one aspect of the overall air quality strategy. The use of shore-side electricity is also encouraged under Directive (EU) 2016/802[13] regulating the sulphur content in marine fuels.

By prolonging the requested measure, Germany intends to continue to incentivise the use of shore-side electricity as an environmentally friendlier alternative to generating electricity on board ships while at berth in a port.

As the German authorities stress, the use of shore-side electricity instead of on-board generators can result in lower emissions of air pollutants, such as nitrogen and sulphur dioxides, fine particulate matter and heavy metals, as well as significant reductions in noise pollution in some cases. Given that more stringent air quality limit values will apply from 2030 onwards[14], shore-side electricity can be expected to take on more importance as a measure for reducing emissions.

The use of shore-side electricity connections will not only reduce airborne pollutants, particulate matter and soot but is also likely to lead to a reduction in CO2 emissions. This is because the electricity mix from the onshore grid in Germany is less carbon intensive than electricity produced on board by burning bunker fuels, due to higher energy system efficiency and the difference in input fuels used.

Specific data provided by the port of Hamburg for 2024 suggests that the following emission savings could be achieved by purchasing shore-side electricity exclusively from alternative energy sources:

– 4 327 g CO_2 t/a,

– 78.9 g SO_x t/a,

– 2.6 g NO_x t/a, and

– 1.2 PM t/a.

Energy policy

[12] Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p 1).

[13] Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

[14] Directive (EU) 2024/2881 of the European Parliament and of the Council of 23 October 2024 on ambient air quality and cleaner air for Europe (recast) (OJ L 2024/2881, 20.11.2024)

The measure is in line with Regulation (EU) 2023/1804 of 13 September 2023[15] on the deployment of alternative fuels infrastructure and repealing Directive 2014/94/EU[16]. That Regulation addresses the issue of installing shore-side electricity supply facilities in ports where there is demand for such facilities and the costs are not disproportionate to the benefits, including environmental benefits. A similar measure has also been assessed as helping to achieve the objectives of Union policies and legislation aiming to reduce the environmental footprint of maritime transport and helping to develop certain economic activities under Article 107(3)(c) TFEU[17].

One major reason for the unfavourable competitive position of shore-side electricity is the fact that electricity produced on board vessels while in maritime ports currently enjoys a full tax exemption. Not only is the bunker fuel that is burnt to generate the electricity exempt from taxation, which corresponds to the normal situation under Article 14(1)(a) of Directive 2003/96/EC, but also the electricity produced on board the vessels is itself exempt[18]. Although the latter exemption seems difficult to reconcile with the environmental objectives of the Union, it is a matter of practicability. In fact, taxing the electricity produced on board would require the shipowner – often established in a third country – or the operator to declare the amount of electricity consumed. In the declaration, they would furthermore have to determine the share of the electricity consumed in the territorial waters of the Member State where the tax is due. It would create a huge administrative burden for shipowners to have to make such declarations for every Member State whose territorial waters are concerned. Analogous considerations apply to inland navigation and to the optional tax treatment in accordance with Article 15(1)(f) of the Directive, which is implemented by Germany. Given the exemption of the fossil route of electricity generation on board ships, there is justification for not penalising the less polluting alternative of shore-side electricity by allowing Germany to continue to apply a reduced rate of taxation.

Transport policy

The measure is in line with Commission recommendation 2006/339/EC on the promotion of shore-side electricity for use by ships at berth in Union ports[19] and with the Commission Communication Strategic goals and recommendations for the EU's maritime transport policy[20].

Moreover, in accordance with Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC[21], from 2030 onwards vessels classified as cruise ships, ferries and container ships above 5,000 gross tonnage are required to use

15 OJ L 234, 22.9.2023, p. 1.
16 OJ L 307, 28.10.2014, p. 1
17 Commission Decision C(2024) 3934 final of 17.6.2024 in State aid case SA.105117 (OJ C/2024/5376, 3.9.2024).
18 Article 14(1)(c) of Directive 2003/96/EC.
19 Commission Recommendation 2006/339/EC of 8 May 2006 on the promotion of shore-side electricity for use by ships at berth in Community ports (OJ L 125, 12.5.2006)
20 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Strategic goals and recommendations for the EU's maritime transport policy until 2018, COM(2009) 8 final of 21 January 2009
21 OJ L 234, 22.09.2023, p. 48

Onshore Power Supply systems, except in cases where zero-emission technology is available to them.

Internal market and fair competition

As regards the internal market and fair competition, the measure only reduces the existing tax distortion between two competing sources of electricity for boats at berth, i.e. on-board generation and shore-side electricity, which is caused by the tax exemption for bunker fuels.

The German authorities observe that the tax concession for shore-side electricity does not confer any advantage on the vessel operators benefiting from it, which could disturb the internal market. Substituting shore-side electricity for electricity produced on the vessels themselves does not have any saving effect. The costs of shore-side electricity in Germany are currently higher than the costs of self-generated electricity, even taking into account the tax advantage.

Furthermore, access to shore-side electricity will be available for the ships concerned regardless of their flag. It will not lead to national economic operators receiving more advantageous tax treatment than their competitors from other EU Member States.

Concerning competition between ports, it can be expected that any potential impact on trade between Member States, which could result if vessels alter their routes because of the possibility to consume shore-side electricity at a reduced tax rate, will be negligible. As stated above, the use of shore-side electricity is, at least in the short term, unlikely to become more economical than on-board generation in spite of the tax reduction. Thus, this tax reduction for shore-side electricity is also unlikely to significantly distort competition between ports by inducing vessels to change their itinerary due to the availability of this option.

The German authorities argue that other factors (such as the type of ship and cargo, the hinterland connections available and other economic factors) play a role in selecting ports. The mere availability of shore-side electricity does not seem to be decisive.

The German authorities stress additionally that the use of shore-side electricity is also limited because there are no internationally agreed technical standards for connecting vessels to the electricity grid and, in some cases, there is no shore-side electricity supply capacity.

Unless there are significant changes in the current framework and situation, the timeframe for prolonging the authorisation to apply a reduced tax rate makes it unlikely that the analysis conducted in the preceding paragraphs will change before the measure expires.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 19 of Council Directive 2003/96/EC

- **Subsidiarity (for non-exclusive competence)**

The field of indirect taxation covered by Article 113 TFEU is not in itself within the exclusive competence of the European Union within the meaning of Article 3 TFEU.

However, pursuant to Article 19 of Directive 2003/96/EC, the Council has been granted an exclusive competence, as a matter of secondary law, to authorise a Member State to introduce further exemptions or reductions within the meaning of that provision. Member States cannot therefore substitute themselves for the Council. As a result, the principle of subsidiarity is not applicable to the present implementing decision. In any event, since this act is not a draft legislative act, it should not be transmitted to national Parliaments pursuant to Protocol No 2 to the Treaties for review of compliance with the subsidiarity principle.

- **Proportionality**

The proposal respects the principle of proportionality. The tax reduction does not exceed what is necessary to attain the objective in question.

- **Choice of the instrument**

The instrument proposed is a Council implementing decision. Article 19 of Directive 2003/96/EC makes provision for this type of measure only.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The measure does not require the evaluation of existing legislation.

- **Stakeholder consultations**

This proposal is based on a request made by Germany and concerns only this Member State. Therefore, no stakeholder consultation has been conducted.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal concerns an authorisation for an individual Member State upon its own request and does not require an impact assessment.

However, as mentioned above, the information provided by Germany suggests that the measure will have a limited impact on tax revenues, and the tax rate for shore-side electricity will still be above the minimum level of taxation set in Directive 2003/96/EC. Germany expects the measure to have a positive impact on achieving its environmental goals and in particular improving local air quality and reducing noise in port cities.

More specifically, the use of shore-side electricity instead of on-board generators can result in lower emissions of many air pollutants – such as nitrogen and sulphur dioxides, fine particulate matter and heavy metals – as well as significant reductions in noise pollution in some cases (as confirmed by feedback indicating a drop in the number of complaints from inner-city locations). Given that more stringent air quality limit values will apply from 2030 onwards, shore-side electricity can be expected to become more important as a measure for reducing emissions.

In their estimation of the tax expenditures from the measure, the German authorities expect a loss of EUR 1.3 million per year for the coming years.

- **Regulatory fitness and simplification**

The measure does not provide for a simplification. It is the result of the request made by Germany and concerns only this Member State.

- **Fundamental rights**

The measure has no bearing on fundamental rights.

4. BUDGETARY IMPLICATIONS

The measure does not impose any financial or administrative burden on the Union. The proposal therefore has no impact on the budget of the Union.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

An implementation plan is not necessary. This proposal concerns an authorisation for a tax reduction for an individual Member State upon its own request. It is provided for a limited period until 31 December 2029. The tax rate that will apply will be equal to the minimum level of taxation set by the Energy Taxation Directive. The measure can be evaluated in case of a request for a renewal after the validity period has expired.

- **Explanatory documents (for directives)**

The proposal does not require explanatory documents on the transposition.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 stipulates that Germany will be allowed to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft, berthed in German ports ('shore-side electricity'). The tax rate must not be less than EUR 0.50 per MWh, i.e. the minimum level of taxation for electricity for business use set by the Directive. It will not be possible to supply electricity at a reduced rate to private pleasure craft as defined in Article 14(1)(c), second subparagraph of Directive 2003/96/EC.

Article 2 in its first paragraph stipulates that the authorisation requested is granted with effect from 1 January 2026, in continuity with the current Council Implementing Decision 2020/1436/EU, until 31 December 2029, within the maximum period allowed by the Directive, as requested by Germany. Second paragraph specifies that in case of adoption by the Council on the basis of Article 113 or any other relevant provision of the Treaty of any general provisions on tax advantages for shore-side electricity, which become applicable during the period set out in the first paragraph, the Decision ceases to apply when those general provisions become applicable.

2026/0121 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

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

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[22], and in particular Article 19(1), first paragraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By Council Implementing Decision (EU) 2020/1436[23], Germany was 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') until 31 December 2025, 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) Through the reduced tax rate that it intends to apply, Germany 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 areas. 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 furthermore 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.

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

[23] 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) in connection to Corrigendum to Council Implementing Decision (EU) 2020/1436 of 12 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 342, 16.10.2020 p. 31 ELI: http://data.europa.eu/eli/dec_impl/2020/1436/corrigendum/2020-10-16/oj)

(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 upon the 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, should such provisions become applicable during the period of authorisation.

(7) 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 resulting from changes to the tax rate levied on shore-side electricity, Germany should be enabled to continue to apply the reduced rate of taxation to shore-side electricity without interruption. The authorisation requested should therefore be granted with effect from 1 January 2026, in order to follow seamlessly on from 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, 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 1 January 2026 until 31 December 2029.

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, which become applicable during the period set out in the first paragraph of this Article, this Decision shall cease to apply when those general provisions become applicable.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels,

For the Council
The President