

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 327 final/2

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PROPOSAL FOR A COUNCIL DIRECTIVE
ON THE APPROXIMATION OF THE RATES OF EXCISE DUTY
ON MINERAL OILS

(presented by the Commission)

COM(87) 327 final/2

Proposal for a Council Directive on the approximation of the rates of excise duty on mineral oils

EXPLANATORY MEMORANDUM

I. INTRODUCTION

The overall approach towards completing the internal market as far as indirect taxation is concerned is described in the Global Communication to the Council⁽¹⁾. That Communication sets out the reasons underlying the proposals which the Commission is making and deploys the arguments in their support. It is particularly important therefore that the present document should be read in conjunction with the Global Communication.

This proposal for a Directive concerns the rates of duty on mineral oils.

(1) COM(87) 320 Final.

II. GENERAL CONSIDERATIONS

1. Mineral oil products are generally divided into the following categories: petrol, road diesel, heating gas oil, heavy fuel oil, kerosene, liquid petroleum gas, lubricants and other products.
2. Most of the mineral oil products mentioned are subject to excise duties in all Member States, but there is a great diversity in the rates, in the treatment of individual products and in the range of exemptions operated.
3. The Commission has already forwarded to the Council a proposal for a Directive⁽¹⁾ harmonizing the basis of assessment of the excise duties on these products. The present proposal sets out to approximate the rates of taxation.
4. The present diversity of taxation within the Community reflects the fact that mineral oil products do not, with the exception of petrol and diesel, compete with one another. The varying forms of taxation applied in the Member States are also influenced by local conditions such as climate and the availability of substitutes. Environment, transport and energy policies also play a part in determining Member States' taxation policies.
5. In seeking to approximate excise duties on mineral oil products these factors must be borne in mind. So too must the fact that these products are used both for final private consumption and as industrial and commercial inputs.

(1) OJ No C 92, 31.10.1973

6. The Commission has not attempted, in view of the diversity of taxation in Member States and the diversity of uses to which mineral oils are put, to formulate a common overall approach to the approximation of rates of duty on mineral oils as a whole. It has instead examined each category of products individually and proposed a rate of taxation which is particularly suited to the product sector concerned and is consistent as far as possible with the general current practice in the Member States.

7. The Commission has taken as a starting point in each category (as in the case of other excise duties) the simplest possible approach - namely the arithmetic average of existing rates - and proposes this rate for adoption unless there is a convincing reason to the contrary, e.g. where the variations in the tax incidence and consumption for a product between Member States are so large as to give rise to unsatisfactory results. In these cases a weighted average is proposed.

III. RATE APPROXIMATION

1. Petrol

Adoption of the arithmetic average of existing rates, i.e. 340 ECU per 1000 litres, would increase very slightly the revenue of the Member States taken together. Whilst this rate involves significant adjustments for virtually all Member States, the Commission found that because of the present diversity in rates the weighted average, i.e. 336 ECU per 1000 litres, gives no better result in this respect. Given that consumption of petrol is largely private and accounts for over two-thirds of existing excise revenue from mineral oils, the Commission considers that a slight increase in overall yield is acceptable. The Commission therefore proposes that the arithmetic average rate be adopted for petrol.

Four Member States maintain a reduced excise rate to encourage the use of unleaded petrol. The average reduction is 8.8%. The Commission proposes that this practice be adopted by all Member States. The budgetary implications of this environmentally desirable policy will of course depend on the future pattern of consumption of unleaded petrol.

2. Diesel

There are wide variations between Member States both in the rates of excise duty applied to diesel and in the relationship between those rates and the rates applied to petrol.

Adoption of the arithmetic average, which is calculated at 153 ECU, would result, on a Community-wide basis, in a reduction of more than 10% of current revenue from excise duty on diesel. At the same time it would be less than half the rate proposed for petrol. Although the use of diesel is currently overwhelmingly commercial, any reduction in its tax burden vis-à-vis petrol would artificially encourage the use of small diesel-engined vehicles by private motorists thus compounding the reduction in revenue by substitution for higher-taxed petrol.

For these reasons, the arithmetic average is not considered to be a satisfactory basis for approximation. The weighted average, at 177 ECU per 1000 litres, is approximately half the rate proposed for petrol. This is consistent with the current average relationship within the Community between diesel and petrol. Its effect is revenue neutral for the Community as a whole although its adoption would necessitate appreciable adjustments for individual Member States. As no other approach considered is any more satisfactory in this respect, the Commission is proposing the adoption of the weighted average rate for diesel.

3. Heating gas oil

There are considerable variations in the rate of taxation and the level of consumption of heating gas oil within the Community. The arithmetic average of existing rates of duty (62 ECU per 1000 litres) would raise the level of revenue from duty on heating gas oil by about a quarter within the Community as a whole. Demand for this product is particularly dependent on its competitiveness in the face of other heating fuels and this must

militate against an increase in the incidence of taxation of the size which the arithmetic average would produce.

The weighted average of 50 ECU per 1000 litres would, on the other hand, produce no overall change in revenue, taking the Community as a whole, although it would of course entail adjustments for individual Member States.

The Commission, having examined these two approaches and being particularly mindful of the competitive implications involved (in the face of alternative fuels) proposes the adoption of the weighted average rate of 50 ECU per 1000 litres for heating gas oil.

4. Heavy fuel oil

Similar considerations to those affecting heating gas oil also apply to heavy fuel oil. As use of this product is predominantly commercial any increase in the overall incidence of taxation would be an addition to industrial costs and open to objections on these grounds.

Since the arithmetic average of 26 ECU per 1000 kg would produce a very large increase in revenue across the Community as a whole, the Commission proposes instead that the weighted average of 17 ECU per 1000 kg be adopted for heavy fuel oil.

5. Gases - L.P.G. and Methane

(a) As heating fuels

In its proposal for a Directive harmonizing the structure of excise duties on mineral oils⁽¹⁾ which is already before the Council, the Commission proposes that the use of these fuels for heating should be exempted from excise duty and treated on an equal basis with coal, coke gas and electricity; such use should therefore be subject only to VAT.

(1) OJ No C 92, 31.10.1973

(b) As motor propellants

Since most L.P.G. used as a motor fuel is consumed by private motorists, the Commission proposes that, as with petrol, the arithmetic average of existing rates, namely 85 ECU/1000 l, should be adopted as the common rate of excise duty on this product, rather than the weighted average of 61 ECU/1000 l.

It follows logically that the very minor use of methane as a motor fuel should be taxed on the same basis as L.P.G.

6. Kerosene (Medium oils)

This product is largely used as aviation fuel (for turbo-prop and turbo-jet aircraft) and is generally exempt from excise duty for commercial users. The Commission's proposal on structural harmonization⁽¹⁾ proposes that this exemption be adopted on a Community-wide basis. When used for non-exempt private flying, however, the Commission proposes that kerosene should be taxed at the same rate as petrol, viz. 340 ECU per 1000 litres.

A relatively small quantity of kerosene is used for the same purposes as heating gas oil and the Commission considers it logical that, when used for this purpose, kerosene should be subject to tax at the same rate as heating gas oil, i.e. 50 ECU per 1000 litres.

7. Lubricants

Most Member States do not tax mineral oils when used as lubricants and the Commission has already proposed, in its proposal to harmonize excise duty structures,⁽¹⁾ that lubricants be exempted from excise duty within the Community, in line with common practice.

⁽¹⁾ OJ No C 92, 31.10.1973.

8. Summary

The respective average rates (in ECU per 1000 litres) for each product and the Commission's choice of rate are shown in the following table:

<u>Product</u>	<u>Arithmetic Average</u>	<u>Weighted Average</u>	<u>Proposed Rate</u>
Petrol - leaded	340	336	340
- unleaded	-	-	310
Diesel	153	177	177
Heating gas oil	62	50	50
Heavy fuel oil (per 1000 kg)	26	17	17
Gases:			
- LPG and Methane	85	61	85
Kerosene:			
- as propellant	340	336	340
- other uses	62	50	50

9. Effect

In the Commission's view the rates proposed are a fair and reasonable solution given the diversity of the existing tax treatment for these products in the Member States.

It is expected that, on the basis of these rates and assuming unchanged demand, five Member States (DK, F, GR, IRL, I) will lose revenue, six (B, D, L, NL, UK, SP) will gain revenue and one (P) will be virtually unaffected. The overall revenue effect for the Community as a whole will be negligible.

IV. COMMENTARY ON ARTICLES

The following comments are called for on the individual articles of the proposal for a Directive.

Article 1

This article lays down the principle that common rates of excise duty shall apply to mineral oils by 31 December 1992.

Article 2

This article lays down the scope of the Directive and defines its terms.

Article 3

This article provides for the periodic adjustment of the common rates - this is considered necessary for any duty expressed in specific, as opposed to ad valorem terms - laying down that the system of adjustment shall be established by a subsequent Directive.

Article 4

This article lays down the common rates of excise duty for leaded and unleaded petrol.

Article 5

This article lays down the common rate of excise duty for diesel.

Article 6

This article lays down the common rate of excise duty for heating gas oil.

Article 7

This article lays down the common rate of excise duty for heavy fuel oil.

Article 8

This article lays down the common rate of excise duty for liquid petroleum gas and methane.

Article 9

This article lays down the common rate of excise duty for kerosene.

Article 10

This article lays down the deadline for compliance with the Directive and requires that Member States shall inform the Commission immediately of any changes.

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on the approximation of the rates
of excise duty on mineral oils

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas Council Directive(3) lays down provisions
relating to the structures of excise duty applicable to mineral oils,

Whereas for the purpose of establishing an internal market without frontiers
it is necessary to apply common rates of excise duty to each of these products,

Whereas it is necessary to provide for the periodic adjustment of those
common rates;

Whereas the excise rate on mineral oils should be charged at a specific rate
by reference to a given quantity of the product,

HAS ADOPTED THIS DIRECTIVE:

(1)

(2)

(3)

Article 1

Not later than 31 December 1992 Member States shall apply common rates of excise duty on mineral oils in accordance with this Directive.

Article 2

The mineral oils covered by this Directive are those defined in Directive

Article 3

The common rates of excise duty laid down in this Directive shall be adjusted periodically in accordance with provisions to be established before 1 January 1989 in Directives adopted by the Council acting on proposals from the Commission.

Article 4

The common rate of excise duty on leaded petrol shall be 340 ECU per 1000 litres. The common rate of excise duty on unleaded petrol shall be 310 ECU per 1000 litres..

Article 5

The common rate of excise duty on diesel shall be 177 ECU per 1000 litres.

Article 6

The common rate of excise duty on heating gas oil shall be 50 ECU per 1000 litres.

Article 7

The common rate of excise duty on heavy fuel oil shall be 17 ECU per 1000 kg.

Article 8

The common rate of excise duty on liquid petroleum gas and methane used as road fuel shall be 85 ECU per 1000 litres.

Article 9

1. The common rate of excise duty on kerosene when used as a propellant shall be 340 ECU per 1000 litres.
2. The common rate of excise duty on kerosene when used for other purposes shall be 50 ECU per 1000 litres.

Article 10

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission of any provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive is addressed to the Member States.

Done at Brussels,

For the Council,
The President

Fiche d'impact PME

Proposition de directive du Conseil concernant le rapprochement des taux d'accise sur les huiles minérales.

Le rapprochement des taxes indirectes (accises et TVA) est nécessaire dans le cadre de la suppression des frontières fiscales.

La proposition de directive sur les huiles minérales s'intègre dans l'ensemble des mesures pour l'achèvement du marché intérieur.

1. Contraintes administratives
néant

2. Allègements pour les entreprises.

Le Livre Blanc sur l'achèvement du Marché intérieur prévoit que le rapprochement des taux d'accises constitue un préalable à la suppression des frontières fiscales.

Les entreprises seront donc dispensées des formalités aux frontières,

3. Inconvénients pour les entreprises.

La Commission propose pour les différentes familles des huiles minérales des taux de taxation communautaires.

Ceci aboutit à une diminution des prix dans les pays à taxation élevée, ce qui représente un avantage pour les entreprises mais parallèlement à une augmentation dans les pays à faible taxation dans lesquels les coûts énergétiques pour les entreprises seront augmentés.

Il faut toutefois rappeler que l'essence, consommée pour sa majorité par des consommateurs finals est de loin la source la plus importante de revenus dans ce secteur.

4. Effets sur l'emploi
négligeables

5. Y a-t-il eu concertation préalable avec les partenaires sociaux ?
Non, ils n'ont pas été consultés

6. Il n'y a pas d'approche alternative moins contraignante.