



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.06.1995
COM(95) 248 final

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

concerning a request from the French Government for authorization
to continue applying reductions in, or exemptions from,
excise duty on certain mineral oils used for specific purposes,
in accordance with the procedure provided for in
Article 8(4) of Council Directive 92/81/EEC

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1. Introduction

(a) In accordance with Article 8(4) of Council Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils, the French authorities have informed the Commission - by registered letter dated 15 February 1995 - that they wish to continue applying an exemption from excise duties on biofuels.

(b) By letter dated 6 March 1995, ref. 003922, the Commission asked the French authorities to provide further "relevant or necessary" information to enable it to assess whether this measure was justified.

In the case in point, the French authorities merely enclosed copies of national legislation with their letter dated 23 March 1995, without giving any grounds to justify the derogation requested.

2. Description of the measure in question

The French authorities have launched a major investment programme for biofuels production (*pilot project*) on the basis of the Community rules established by Directive 92/81/EEC of 19 October 1992 on the harmonization of the structures of excise duties on mineral oils.

With its request for a derogation, the French Government is seeking to provide a legal basis for the exemption that it grants from the domestic tax on petroleum products in respect of biofuels, pending an agreement on the proposal for a Council Directive on excise duties on motor fuels from agricultural sources.¹

¹ COM(92) 36 final of 28.2.1992, as amended by COM(94) 147 final of 1.7.1994 (OJ No C 73, 24.3.1992 and OJ No C 209, 29.7.1994).

3. Opinion of the Commission

(a) In the case in point, the French authorities merely enclosed copies of national legislation with their letter dated 23 March 1995, without giving any grounds to justify the derogation requested.

(b) The Commission has initiated proceedings against France under Article 93 since the tax exemption in question might constitute state aid incompatible with the common market *inter alia* by violating both the agricultural regulations governing the common organization of the market for the products in question and the prohibition of discriminatory taxation laid down in Article 95 of the Treaty.

(c) Accordingly, the Commission takes the view that it cannot submit a proposal for a decision under Article 8(4) of Directive 92/81/EEC to the Council until the proceedings it has initiated against France under Article 93 have been terminated and until France has indicated how it intends to bring its legislation into line with the common market and with Article 95 of the Treaty.

4. Conclusion

Since the measure in question raises fundamental objections, the Commission requests that the matter be referred to the Council pursuant to the third subparagraph of Article 8(4) of Directive 92/81/EEC.

ISSN 0254-1475

COM(95) 248 final

DOCUMENTS

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09 12

Catalogue number : CB-CO-95-275-EN-C

ISBN 92-77-89865-8

Office for Official Publications of the European Communities

L-2985 Luxembourg