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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 its 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 in the level of taxation for specific policy considerations.

By virtue of Council Implementing Decision 2014/722/EU of 14 October 2014[2] (preceded by Council Implementing Decision 2011/445/EU of 12 July 2011[3]), Germany has already been authorised to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft[4], 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 expires on 16 July 2020.

By letter dated 29 January 2020, the German authorities informed the Commission of their intention to prolong the current measure until 31 December 2025. Additional information was provided by letter dated 30 April 2020.

Germany is seeking for a renewal of the authorisation to apply a reduced tax rate of EUR 0.50/MWh, equal to the minimum rate of taxation for electricity for business use as laid down in the Directive, to shore-side supply of electricity to vessels[5] operating exclusively for commercial purposes in Union sea and inland waters (including fishing)[6].

The requested period of validity is from 17 July 2020 until 31 December 2025, which is in continuity with the current derogation and within the maximum period allowed by Article 19 of the Energy Taxation Directive.

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 objective of the measure to be applied by Germany is also to reduce the environmental impact of water-borne transport.

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1 OJ L 283, 31.10.2003, p. 51–70.
2 OJ L 300, 18.10.2014, p. 55–56.
3 OJ L 191, 22.07.2011, p. 22.
4 The term 'private pleasure craft' is defined in Article 14(1)(c), second subparagraph of Directive 2003/96/EC.
5 Identified in the request as all motor-powered ships, boats and floating structures covered by Chapter 89 of the Combined Nomenclature.
6 As specified in the national law, the measure shall not apply to shore-side electricity supplied to water-borne vessels during their stay in a shipyard.

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

On the other hand, according to Article 14(1)(c) of the Energy Taxation Directive Member States have to exempt energy products used to produce electricity on board ships at berth in ports. They may also do so in the case of electricity produced on board ships for navigation on inland waterways according to Article 15(1)(f) of the Directive. Germany confirmed the transposition of 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, since the entry into force of the scheme in 2011, the number of beneficiaries has substantially increased; in the inland waterway sector, almost all vessels are able to purchase shore-side electricity; there are currently very few installations in the maritime sector, which are not intended for island ferries. Furthermore, according to the available data, in inland waters, there are 454 operational facilities, 385 planned facilities and the potential for a further 115 facilities. In maritime ports, there are 240 operational facilities (of which 237 are for island ferry services), 30 planned facilities (mainly for cruise ships and container ships) and the potential for a further 32 facilities.

As an estimation of 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 2019, 79 302 MWh of electricity were taken from shore-side electricity in ports. Taking into account the tax relief, this results in a loss of tax revenue for 2019 amounting to EUR 1.586 million. Assuming that increased use of shore-side electricity will occur in the future because of the support measures, a loss of EUR 2 million per year is estimated for the coming years.

Germany requested the authorisation to be granted until 31 December 2025, starting from 17 July 2020, without interruption with the current derogation and within 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. The application of a reduced tax rate would strengthen the competitiveness of shore-side electricity relative to the burning of bunker fuels on board, which is tax exempt.

- **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.

According to the German authorities, the measure constitutes State aid and falls within the ambit of the EU legislation on this subject matter; in particular, the scheme was deemed appropriate and notified under Article 25 of Commission Regulation (EC) 800/2008[7], which is currently replaced by the Commission Regulation 651/2014/EU[8], as better specified below.

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 pursue the objective to continue to promote an environmentally less harmful way for ships to satisfy their electricity needs while lying at berth in ports and thereby to improve local air quality and reduce noise. The Commission has already recommended the use of shore-side electricity as an alternative to the generation of electricity on board the vessels at berth and thereby recognised its environmental advantages[9]. Currently the standard rate for electricity is EUR 20.50/MWh; the tax concession currently stands at EUR 20.00/MWh. Beneficiaries are then charged at the EU minimum tax rate for electricity under the Energy Tax Directive of EUR 0.50/MWh and this can therefore continue to contribute to the stated policy objective.

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

Germany has requested that the measure applies for almost the maximum period allowed by Article 19(2), i.e. 6 years. In principle, the period of application of the derogation should be long enough in order not to discourage port operators and electricity suppliers from continuing or starting to make the necessary investments in shore-side electricity facilities. This period will provide the maximum possible legal certainty also to ship operators, which have to plan their investments in on-board equipment.

[7] Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3–47.

[8] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1–78).

[9] 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).

However, the derogation should not undermine future developments of the existing legal framework and should take into account the upcoming revision of the Energy Taxation Directive and a possible adoption by the Council of a legal act based on a Commission proposal for amendment of the Energy Taxation Directive. This review follows the evaluation of the Energy Taxation Directive[10] and the Council Conclusions on the EU energy taxation framework from 28 November 2019[11]. In its Conclusions, the Council invited the Commission to analyse and evaluate possible options with a view to publishing in due course a proposal for the revision of the Energy Taxation Directive; and called on the Commission to give particular consideration to the scope of the Directive, minimum rates and specific tax reductions and exemptions.

Under these circumstances, while it appears appropriate to grant the authorisation for the requested period, the validity of the derogation should be made subject to the entry into application of general provisions in the matter at a point in time earlier than the end of 2025.

Moreover, the German authorities highlighted that additional measures (such as cut of other electricity components, daily service price, investments in shore-side electricity facilities and regulatory measures) are needed in order to improve the framework conditions for the use of shore-side electricity in ports.

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. The German authorities argue that the scheme was deemed appropriate under Article 25 of Commission Regulation (EC) 800/2008[12] (old version of the General Block Exemption Regulation, or GBER). As indicated in the request, the existing scheme was notified to the Commission on 11 November 2014 under the mentioned Article 25 GBER (old version). That provision is currently replaced by Article 44 of Commission Regulation 651/2014/EU[13], stipulating the conditions under which aid in the form of reductions in environmental taxes under Directive 2003/96/EC can be exempted from the State aid notification requirements. This proposal is without prejudice to any assessment of the measure by the Commission under State aid rules. Moreover, the proposal for a Council implementing decision does not prejudge the Member State’s obligation to ensure compliance with State aid rules, including Commission Regulation 651/2014/EU.

- **Consistency with other Union policies**

Environment and climate change policy

The requested measure concerns mainly the EU's environment and climate change policy. To the extent that it will help to reduce the burning of bunker fuels on board the vessels in ports, the measure will in fact contribute to the objective of improving local air quality and reducing

[10] SWD(2019) 329 final.
[11] Council conclusions of 28 November 2019, 14608/19, FISC 458.
[12] Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3–47.
[13] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1–78).

noise. Directive 2008/50/EC on Ambient Air Quality[14] 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 established in the Directive. This obligation requires Member States to find solutions to problems such as ship emissions at berth in ports where this is relevant and it is conceivable that in ports where these problems exist the use of shore-side electricity will be further encouraged as one element of the overall air quality strategy. The use of shore-side electricity is also encouraged under Directive (EU) 2016/802[15] regulating the sulphur content in marine fuels.

The measure is also likely to lead to a reduction of CO2 emissions to the extent that the electricity mix from the onshore grid, due to higher system efficiency and the difference in input fuels used, is less carbon intensive than the electricity produced on board by burning bunker fuels. In this regard, the German authorities underlined that, while the actual saving of CO2 emissions depends on the quality of the electricity used, in the German electricity mix, the estimated savings would be about 30%, with this proportion set to rise in future. Moreover, German authorities expect that local emissions of air pollutants (NOx, SOx, PM10, PM2.5) from on-board electricity generation could be fully reduced by the use of shore-side electricity; noise emissions could also be significantly reduced.

According to the German authorities, ship engines generate approximately the following emissions for electricity generation per kWh, which could therefore be reduced with each kWh of shore-side electricity:

Type of vessel	**g CO2/kWh**	**g NOx/kWh**	**g SOx/kWh**	**g PM/kWh**
Container vessel	640	12,0	0,39	0,19
Gas/oil/chemical tanker	704	12,5	0,43	0,18
Dry bulk cargo vessel	699	13,0	0,43	0,18
Conventional multipurpose vessel	692	14,1	0,42	0,18
Cruise ship	679	12,0	0,41	0,18
Other maritime vessel	737	—	0,45	0,18
Inland waterway vessel	721	8,1	0,04	0,15
Port-internal vehicle	726	—	0,04	0,15

Energy policy

The measure is in line with Directive 2014/94/EU on the deployment of alternative fuels infrastructure[16], which 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

[14] 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).

[15] 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. 58–78).

[16] Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, pp. 1–20).

benefits, including environmental benefits. It has also been recognised as an objective of common interest for the granting of State aid under Article 107(1) of TFEU[17].

It has to be recalled at this point that one important reason for the unfavourable competitive position of shore-side electricity lies in the fact that the alternative, i.e. electricity produced on board the vessels while in maritime ports, currently enjoys a full net tax exemption: not only is the bunker fuel burnt for generating 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 (cf. Article 14(1)(c) of Directive 2003/96/EC). Although the latter exemption could as such be considered difficult to reconcile with the environmental objectives of the Union, it mirrors considerations of practicability. In fact, taxation of the electricity produced on board would require a declaration by the ship owner – often established in a third country – or operator of the amount of electricity consumed. The declaration 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 ship-owners to have to make such declarations for every Member States whose territorial waters are concerned. Analogous considerations apply to inland navigation and the optional tax treatment in accordance with Article 15(1)(f) of the Directive (implemented by Germany). Under these circumstances, it can be justified not to penalize 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[18] and with the Commission Communication Strategic goals and recommendations for the EU's maritime transport policy[19].

Internal market and fair competition

From the point of view of 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, caused by the tax exemption for bunker fuels.

As regards competition between vessel operators, it first has to be mentioned that there are currently very few vessels that use shore-side electricity on a commercial basis. Significant distortions in competition could therefore only arise between vessels benefitting from the measure requested by changing to shore-side electricity and others that would continue to use on-board generation. Although precise cost projections depend crucially on the development of the oil price and are therefore very difficult, the latest available assessments indicate (in line with the data provided by Germany) that overall even a full tax exemption would in most cases not reduce operational costs of shore-side electricity below the costs of on-board

[17] C(2014) 2231 final of 9 April 2014 (State aid SA.37322 (2013/N) – Germany Alternative power supply for cruise ships in the Hamburg City Port (Altona – HafenCity).

[18] 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).

[19] 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.

generation[20] and would therefore not, in any event, represent a significant competitive benefit for vessel operators using shore-side electricity as opposed to those using on-board generation. In the present case, a significant distortion of the above mentioned kind can all the less be expected since Germany will respect the minimum level of taxation prescribed by Directive 2003/96/EC for electricity for business use.

Moreover, as already mentioned, Germany allows the tax advantage to be provided both as a reduced tax rate charged at supply (a permission is needed) or as a tax refund. In case of application of the reduction at supply, the electricity provider might not pass on or pass on only part of the tax advantage to the final consumer, i.e. the ship operator. Still according to the German authorities, the tax advantage is normally passed on. But even in the cases where the tax reduction is fully passed on to the ship operators which receive shore-side electricity taxed at the minimum level provided for in Directive 2003/96/EC, they do not actually gain an economic advantage over operators generating their own electricity on board because this electricity is exempted from taxation. According to the German authorities substitution of own generation on board by shore-side electricity taxed at the applicable minimum level would not lead to an overall cost advantage.

Furthermore, access to shore-side electricity will be available for the ships concerned regardless of their flag without leading to a more advantageous tax treatment of national economic operators over 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. In a situation where, as stated above, the use of shore-side electricity is, at least in the short term, unlikely to become more economic than on-board generation in spite of the tax reduction, this tax reduction for shore-side electricity is also unlikely to significantly distort competition between ports by inducing vessels to change their itinerary according to the availability of this option. The German authorities argue that other factors (such as destination of the goods or passengers or other economic factors) play a role in the selection of ports, so that 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 restricted also because of lack of internationally agreed technical standards for connecting vessels to the electricity grid and, in some cases, the lack of shore-side electricity supply capacity.

The timeframe for which it is proposed to prolong the authorization to apply a reduced tax rate, unless there will be significant changes in the current framework and situation, makes it unlikely that the analysis conducted in the preceding paragraphs will change before the date of expiry of the measure.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 19 of Council Directive 2003/96/EC.

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[20] Cf. European Commission Directorate General Environment, Service Contract Ship Emissions: Assignment, Abatement and Market-based Instruments, Task 2a – Shore-Side Electricity, August 2005, http://ec.europa.eu/environment/air/pdf/task2_shoreside.pdf . The cost analysis is carried out for the three ports of Gothenburg (Sweden), Juneau and Long Beach (USA).

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

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

- **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 before, 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 the achievement of its environmental goals and in particular the improvement of local air quality and reduction of noise in port cities.

In more detail, as an estimation of the tax expenditures from the measure, according to the German authorities, a loss of EUR 2 million per year is expected for the coming years.

At the same time, the environmental benefits can be significant. The German authorities underlined that, while the actual saving of CO2 emissions depends on the quality of the electricity used, in the German electricity mix, the estimated savings would be about 30%, with this proportion set to rise in future. Moreover, German authorities expect that local emissions of air pollutants (NOx, SOx, PM10, PM2.5) from on-board electricity generation could be fully reduced by the use of shore-side electricity; noise emissions could also be significantly reduced.

- **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 2025. 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 stipulates that the authorisation requested is granted with effect from 17 July 2020, in continuity with the current Council Implementing Decision 2014/722/EU, until 31 December 2025, within the maximum period of 6 years allowed by the Directive, as requested by Germany.

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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,

Whereas:

(1) By Council Implementing Decision 2014/722/EU[2] Germany 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 16 July 2020.

(2) By letter of 29 January 2020, 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.

(3) With the reduced tax rate that it intends to apply, Germany aims at continuing the promotion of 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 lying at berth in ports 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, it contributes to an improvement to the local air quality in port cities and to noise reduction. 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 in particular expected to reduce CO2 emissions, other air pollutants and noise. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.

(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 technology, the measure is unlikely to lead to significant distortions

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1 OJ L 283, 31.10.2003, p. 51.

2 Council Implementing Decision 2014/722/EU of 14 October 2014 authorising Germany 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 300, 18.10.2014, p. 55).

in competition during its lifetime and will thus 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 that provision 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 until 31 December 2025. 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 31 December 2025.

(7) In order to provide legal certainty to port and ship operators and to avoid a potential increase in the administrative burden for the distributors and redistributors of electricity, which could result from changes to the tax rate levied on shore-side electricity, it should be ensured that Germany may apply the reduced rate of taxation to shore-side electricity without interruption. The authorisation requested should therefore be granted with effect from 17 July 2020, in order to follow seamlessly on from the prior arrangements under Council Implementing Decision 2014/722/EU.

(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, berthed in ports (‘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 17 July 2020 until 31 December 2025.

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 on the day on which those general rules become applicable.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels,

For the Council
The President