



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL**

**on a request from France made in accordance with the procedure laid down in Article 8(4) of Directive 92/81/EEC in order to apply a differentiated excise rate on diesel for vehicles used for public road passenger transport services**

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### **on a request from France made in accordance with the procedure laid down in Article 8(4) of Directive 92/81/EEC in order to apply a differentiated excise rate on diesel for vehicles used for public road passenger transport services**

#### **1. PRESENTATION OF THE REQUEST**

On 17 October 2000, the Commission adopted a proposal for a Council decision, based on Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils,<sup>1</sup> as last amended by Directive 94/74/EC,<sup>2</sup> authorising France to apply a differentiated rate of duty to diesel fuel used in local public passenger transport from 1 January 2001.

In its letter of 13 October 2000, in accordance with Article 8(4) of the above Directive, the French authorities informed the Commission of their wish to extend the scope of the differentiated excise rate for diesel for vehicles used in public road passenger transport services to occasional passenger transport services (passenger transport services not carried out under scheduled transport services).

The measure would enter into force from the second half of 2000 and would concern only vehicles with a minimum seating capacity of 10. The differentiation in excise duty would take the form of a reimbursement, using the same system as for road hauliers, within an annual quota of 30 000 litres per vehicle.

The purpose of this differential rate on diesel is to promote public passenger transport in order to reduce the use of private vehicles, particularly in built-up areas, and thus reduce air pollution.

France is therefore requesting authorisation to apply a differentiated rate of excise duty to diesel for public road passenger transport services from the second half of 2000.

#### **2. EVALUATION BY THE COMMISSION**

Under Article 8(4) of Directive 92/81/EEC, 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.

On 20 June 2000, France requested the authorisation referred to in Article 8(4) of Directive 92/81/EEC to apply a differentiated rate of excise duties to diesel for vehicles used in local public passenger transport. The differentiation was to help passenger transport for which the routes, timetables and fares have been set in advance. It would not lead to a net reduction in the amount of excise duty on diesel but would partially offset the annual rise then due in the rate of the domestic tax on petroleum products (TIPP), which is applied to diesel.

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<sup>1</sup> OJ L 316, 31.10.1992, p. 12.

<sup>2</sup> OJ L 365, 31.12.1994, p. 46.

On 17 October, the Commission adopted a proposal for a Council decision authorising the French Government “to apply a differentiated rate of excise duty to diesel fuel used in local public passenger transport vehicles from 1 January 2001 to 31 December 2002, provided that the differentiated rates are in accordance with the obligations laid down in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils, and in particular the minimum rates laid down in Article 5”.<sup>3</sup> The proposal was sent to the Council<sup>4</sup> but the Council has not yet taken a decision.

By letter of 13 October 2000, in accordance with Article 8(4) of the above Directive, the French authorities informed the Commission that they wished to supplement the above request by extending the derogation to occasional passenger transport services (passenger transport services not carried out under scheduled transport services).

In accordance with Directive 92/81/EEC, the other Member States were informed of this request by letter dated 24 November 2000.

The French Government is asking for three changes to its request of 20 June 2000.

Firstly, the scope of the measure would be extended to public passenger transport over and above local and scheduled transport.

Secondly, the system would be altered to allow an effective reduction of the TIPP in 2000 and 2001 then full compensation for future increases from 2002. The differentiated excise rate on diesel for vehicles used for public road passenger transport services would be FRF 2 201.8 (EUR 335.7) for 1 000 litres in 2000, FRF 2 301.8 (EUR 350.9) in 2001 and FRF 2 411.8 (EUR 367.7) in 2002. These figures are still higher than the Community minimum.<sup>5</sup>

Thirdly, the proposal for a Council decision adopted by the Commission on 17 October 2000 concerning local public transport and the request of 13 October 2000 cover different periods, since the first measure would start on 1 January 2001 while the second would be retroactive from 1 July 2000.

The Commission considers that an examination should still be made in the light of Articles 87 and 88 of the EC Treaty in order to give a ruling on the state aid status of the measure in question and on whether it is compatible with the common market.

The Commission therefore considers that it needs more time to complete its examination and to give a ruling on the compatibility of the measure with Community policies, particularly as regards the effects of the planned derogation on competition and the workings of the single market.

The Commission stresses that this communication does not prejudge the nature of its future proposal for a Council decision, but is intended simply to state that more time is needed to examine the request for a derogation in detail; under Article 8(4) of Directive 92/81/EEC a communication of this kind must be adopted by the Commission in order to provide the necessary time.

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<sup>3</sup> COM(2000)647 final.

<sup>4</sup> Cover note 12484/00 FISC 159, 19.10.2000.

<sup>5</sup> The minimum Community rate for diesel is EUR 245 for 1000 l, i.e. FRF 1 607.

The Commission assures the French authorities and the Council that the derogation will be examined as a priority and that a proposal for a Council decision, or an additional communication, will be drawn up as soon as possible.

### **3. CONCLUSION**

In the light of the above, the Commission requests that the Council examine, in accordance with the third subparagraph of Article 8(4) of Directive 92/81/EEC, the response to be given to the request from the French Government for authorisation to apply a differentiated excise rate to diesel for vehicles used in public road passenger transport services.