European Economic and Social Committee

ECO/138
Reductions in the levels of taxation/energy products
ECO/140
Reductions in the levels of taxation/energy products - CYPRUS

Brussels, 31 March 2004

OPINION

of the European Economic and Social Committee

on a

Proposal for a Council Directive amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation
(COM(2004) 42 final -2004/0016 (CNS)

and on a

Proposal for a Council Directive amending Directive 2003/96/EC as regards the possibility for Cyprus to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation
(COM(2004) 185 final - 2004/0067 (CNS)

Rapporteur-general: **Mr Allen**

---

2 Rue Ravenstein, B-1000 Brussels Tel. +32 (0)2 546 90 11 Fax +32 (0)2 513 48 93 Internet http://www.esc.eu.int

EN

On 18 February 2004 the Council decided to consult the European Parliament and the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Proposal for a Council Directive amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation
COM(2004) 42 final - 2004/0016 (CNS)

and on 31 March 2004, the Council decided to consult the European Parliament and the European Economic and Social Committee on the

Proposal for a Council Directive amending Directive 2003/96/EC as regards the possibility for Cyprus to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation
(COM(2004) 185 final - 2004/0067 (CNS).

In view of the urgent nature of the work, the Committee decided at its 407th plenary session (meeting of 31 March 2004) to appoint **Mr Allen** as rapporteur-general and adopted the following opinion by 33 votes in favour, one vote against with one abstention.

1. Introduction

1.1 Council Directive 2003/96/EC (adopted on the 27 October 2003) on the restructuring of the Community framework for the taxation of energy products came into force on 1 January 2004. Directives 92/81/EEC and 92/82/EEC were repealed as from 31 December 2003.

1.1.1 Directive 92/81/EEC and 92/82/EEC applied minimum rates of excise duty to mineral oils. The new Energy Tax Directive 2003/96/EC applies minimum rates of excise duty to nearly all energy products including coal, gas and electricity. It also updates the minimum rates of excise duty for mineral oils which remained unchanged since 1992.

1.1.2 The Energy Tax Directive was intended to reduce the distortions of competition between Member States as a result of divergent rates of tax: reduce distortions of competition between mineral oils and other energy products that were not previously subject to EU tax legislation: increase the incentive to use energy more efficiently (so as to reduce dependency on imported energy and cut carbon dioxide emissions); and allow Member States to offer companies tax incentives in return for specific undertakings to reduce emissions.

1.2 The level of excise duties applied by many of the Accession countries is, in some cases, significantly lower than in the EU. Some Accession countries already comply with the minimum rate set by Directive 92/82/EEC, others are preparing to comply with their commitment to apply the minimum rates contained in 92/82/EEC by 1 May 2004. Poland and Cyprus negotiated some derogations from this in the Treaty of Accession. The minimum excise duty for unleaded petrol under 92/82/EEC is €287 per 1,000 litres but under the new energy tax Directive the minimum rate becomes €359 per 1,000 litres.

1.3 Unless the energy tax Directive is amended the Accession member states will have to adopt its provisions from 1 May 2004. The effect of this on their economies (i.e. taxation of energy products and electricity) could have serious social and economic consequences given the much lower duties on energy products that they apply at present. The massive cost increases that would result could cripple their SMEs as well as putting a huge burden on industry and consumers. Poorer households would be particularly badly affected. Therefore, they have sought temporary exemptions or reductions on the levels of taxation on energy products and electricity which they must charge.

2. **Gist of the proposals**

2.1 In November 2003 the Accession member states, except Cyprus, submitted requests to the Commission for certain exemptions from the requirements of the Energy Tax Directive. The Accession Treaty of the 16/04/03 provides that with respect to EU legislation adopted after 16/05/03 that the Accession countries must have the opportunity to submit requests for any exemptions with respect to such legislation that they regard as necessary. The Commission must examine such requests and if found to be justified make a proposal to the Council. The Commission require a detailed justification for every demand submitted.

2.1.1.1 Cyprus did not submit at that time any request for transitional arrangements. However, the situation in Cyprus has evolved, and the Cyprus authorities introduced in early February 2004 specific demands for transitional periods. The Commission, therefore, has to propose a directive[1], based on Article 93 of the EC Treaty, to amend the Energy Tax Directive.

2.1.2 The Commission viewed as acceptable most of the requests received in the case of the Energy Tax Directive to allow exemptions from the EU minimum rates. The Commission proposed that a few exemptions requested for either unlimited or for excessively long periods of time should be subject to proportionate time limits. The Commission rejected a request for a tax exemption for waste oils as it would have contradicted EU environmental policy.

2.2 The proposed Council Directive would ensure that the principles which governed the granting of transitional periods for existing Member States would apply equally to the Accession member states. The measures proposed would therefore be:

– strictly limited in time and generally last no longer than 2012;
– proportionate to the effective problem they address;
– include, where relevant, a progressive alignment towards the EU applicable minimum rates.

---

1 Directive COM(2004) 185 final.

2.3 Given that existing EU Member States have been granted temporary exemptions from the Directive's obligations the European Commission has accepted that the candidate countries may need a longer time-frame in which to apply the Directive's provisions. The purpose of this proposal is therefore to set out the exact time-frame and scope on temporary exemption or reductions in the levels of taxation on energy products and electricity in each of the ten candidate countries. Each individual country is assessed separately based on their unique needs.

2.4 To conclude, the Commission argues that the proposed revision is both reasoned and proportionate and in favour of the acceding Member States. It therefore calls for a speedy application of the proposal in order to avoid any legal vacuum at the time of enlargement.

3. **Comments**

3.1 The EESC in its earlier opinion on the Proposal for a Council Directive on restructuring the Community framework for the taxation of energy products (CESE 1194/1997) strongly agrees with the idea that eco-taxes must not be allowed to lead to a higher overall tax burden. To ensure tax neutrality taxation of the labour factor must be reduced proportionally. Eco-taxes must not lead to European firms becoming less competitive and jobs being lost. Low income groups must not have to face greater hardship. These views are also relevant to the Accession states.

3.2 The EESC is satisfied that the Commission sought a detailed justification for every demand made by the Accession states and that the Commission did a proper and consistent evaluation of the requests.

3.3 In the majority of the Accession states electricity and energy products used for heating are not subject to excise duties. It is clear that the sudden imposition of the EU minimum rates of excise duties could cause significant inflation and also a sudden increase in household costs. This would lead to a very negative reaction among the majority of citizens in the Accession states towards the EU project.

3.4 The economies of the Accession states require major financial assistance to get them on the road to development and integration with the existing EU15. A sudden imposition of EU minimum rates of excise duties would hinder social and economic development especially in the poorer areas. This would lead to a widening of the gap between the well developed and the less developed areas; consequently we could see widespread social unrest.

3.4.1 From figures recently published for 2001, regional GDP per capita in 90% of the regions in the Accession countries is below 75% of the EU15 average. There are ten regions where the regional GDP per capita is less than 35% of the EU15 average. In Poland there are five regions where regional GDP per capita is less than 32% of the EU15 average.

3.4.2 Five of the Accession states have been allowed transition periods to reach the minimum tax rate under the Energy Tax Directive for motor fuels. This will cause serious distortion of the motor fuels market especially in border areas where motor fuel is far cheaper in the Accession state side of the border. Many Motor fuel retailers on the side of the border where higher tax rates apply will go out of business while those at the other side will experience windfall profits.

4. **Conclusions**

4.1 The EESC recommends that the Commission monitor the motor fuel situation carefully and if necessary review the motor fuel concessions if the distortion in competition becomes excessive.

4.2 The EESC recommends to the Commission that in the case of the long-term concessions a periodic review should take place to establish that these concessions continue to ensure the efficient use of energy, the need to cut carbon dioxide emissions and the need for incentives to cut emissions.

4.3 Given that existing EU members have been granted temporary exemptions in this area, it is only fair and reasonable both in terms of principle and precedent that Accession states should be able to avail of temporary exemptions over a slightly longer time-frame where this can be justified.

4.4 The approval of this Directive before 1 May will give an essential political signal to the Accession states that we are fully committed to their development.

4.5 The EESC recommends the approval of these directives.

Brussels, 31 March 2004

The President
of the
European Economic and Social Committee

Roger Briesch

The Secretary-General
of the
European Economic and Social Committee

Patrick Venturini

____