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Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising Belgium to apply a reduced rate of taxation to electricity directly supplied 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 electricity¹ (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.

The objective of this proposal is to allow Belgium to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft², berthed in ports (‘shore-side electricity’) for six years. By letter of 8 January 2026, the Belgian authorities informed the Commission of their request for this authorisation.

Belgium is seeking 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 operating exclusively for commercial purposes in Union sea and inland waters (including fishing).

The requested period of validity is for six years from first day of the month following the month in which the Council Implementing Decision authorising Belgium to introduce a reduced rate for shore-side electricity will be published in the Official Journal of the European Union. This is within the maximum period allowed by Article 19 of the Energy Taxation Directive.

This reduction aims to promote the use of shore-side power as a sustainable alternative to on-board electricity generation using fossil fuel-powered generators. Promoting the use of shore-side power is an essential step in making shipping and Belgian ports greener. Furthermore, greater use of shore-side power in future will have a positive impact on air quality in Belgian port areas, as required by the Ambient Air Quality Directive³. Belgium also expects that this measure will reduce CO₂ emissions, noise pollution and nitrogen emissions in line with the Habitats Directive⁴ and the Water Framework Directive⁵.

With the requested measure Belgium seeks to create a proper level playing field for the transition from bunker fuel (on-board generators) to shore-side power, as well as to create sustainable incentives. The measure will be crucial in enabling Belgium to meet the EU’s

¹ OJ L 283, 31.10.2003, p. 51.

² The term ‘private pleasure craft’ is defined in Article 14(1)(c), second subparagraph of Directive 2003/96/EC.

³ 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.

⁴ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

⁵ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

targets on the availability and use of shore-side power, as laid down in the FuelEU Maritime Regulation⁶ and the Alternative Fuels Infrastructure Regulation⁷.

Belgium intends for this scheme to boost fair competition, as well as environmental and energy opportunities, without disrupting the proper functioning of the internal market. Belgium wants to incentivise 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, the Belgian standard rate of electricity tax is calculated through the use of the following consumption bands.

Consumption band	Excise duty (EUR/MWh)
0 to 20 MWh	14.21
20 to 50 MWh	12.09
50 to 1 000 MWh	11.39
1 000 to 25 000 MWh	10.69
25 000 to 100 000 MWh	2.73
100 000 MWh and above	0.50

The tax advantage depends on the amounts to the difference between the current excise duty rates applicable to electricity for business use and the reduced rate applicable to shore-side power of EUR 0.5 per 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 per MWh (as specified in Article 10(1) and Table C of Annex I to the Directive, for business use). Belgium exclusively allows the tax advantage to be provided as a reduced excise duty applicable to electricity supplied to shore-side power installations. Operators of shore-side power installations who would like the reduced rate to be applied to the electricity supplied to their shore-side power installations must submit a declaration to their electricity supplier indicating which of their grid connections are intended exclusively for supplying electricity to shore-side power installations providing electricity to vessels other than private pleasure craft. The electricity supplier will then only apply the reduced rate of energy tax to the electricity supplied to those connections.

The Belgian authorities have indicated that the measure will thus apply to operators of shore-side power installations in Belgian ports. It is expected that those operators will pass on the financial advantage to users of shore-side power, i.e. owners of inland navigation and maritime vessels.

Currently no shore-side power installations are available for maritime shipping. 40 such installations are expected by 2030 and around 70 by 2035. Furthermore, vessels are expected to call at the available installations 4 600 times by 2030 and approximately 7 400 times by 2035. For inland navigation there are currently around 200 installations supplying some 400 vessels.

⁶ Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC.

⁷ Regulation (EU) 2023/1804 of the European Parliament and of the Council of 13 September 2023 on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU.

As an estimation of the tax expenditures from the measure, the Belgian authorities calculated the estimated budgetary impact from 2027 to 2032:

2027	EUR 0.14 million
2028	EUR 0.41 million
2029	EUR 0.62 million
2030	EUR 1.00 million
2031	EUR 1.09 million
2032	EUR 1.12 million

With the tax reduction, Belgium wants to promote the use of shore-side power as a sustainable alternative to on-board electricity generation using fossil fuel-powered generators. Encouraging this form of alternative energy is in line with efforts to promote and further support the sustainable transition, as also set out in the Clean Industrial Deal.

- **Consistency with existing policy provisions in the policy area**

Taxation of electricity is governed by the Energy Taxation Directive, 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.

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 Belgian authorities pursue the objective 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 advantages⁸.

Beneficiaries are charged at the EU minimum tax rate for electricity under the Energy Tax Directive of EUR 0.50/MWh instead of the higher standard rate of the Belgian electricity excise duty and this can therefore contribute to the stated policy objective.

⁸ 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).

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.

Belgium has requested that the measure applies for within the maximum period allowed by Article 19(2), i.e. 6 years. In principle, the measure must remain in force for a sufficiently long period to have a positive impact on the investment decisions for investments in shore-side electricity facilities by port operators and in on-board equipment by ship operators.

However, the derogation should not undermine future developments of the existing legal framework and should take into account the ongoing revision of the Energy Taxation Directive and a possible adoption by the Council of a legal act based on a Commission proposal for recast of the Energy Taxation Directive⁹.

In particular, as part of the proposal recast of the Directive on the taxation of energy products and electricity, the Commission has, among others, made provision for all Member States to apply exemption, partial exemption or reduction in the level of taxation to electricity directly supplied to vessels berthed in ports, in order to set an incentive for its development and use.

Under these circumstances, it appears appropriate to grant the authorisation for the period in question.

State aid rules

The reduced tax rate of EUR 0.50 per MWh envisaged by the Belgian authorities is equal to the EU minimum level of taxation for electricity for business use pursuant to Article 10 of Directive 2003/96/EC.

Article 44 of Commission Regulation 651/2014/EU stipulates 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.

The proposal for a Council implementing decision does not prejudice the Member State's obligation to ensure compliance with State aid rules, and in particular, with Commission Regulation (EU) 651/2014 in case of categories of block exempted aid, within the scope of that Regulation. The proposal for a Council implementing decision is also without prejudice to the Member State's obligation to notify the aid to the Commission before putting it into effect, should the new aid be not exempted from the notification requirement of Article 108(3) of the Treaty.

- **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 contribute to the objective of improving local air quality and reducing noise.

⁹ COM/2021/563 final: Proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast).

The Ambient Air Quality Directive¹⁰ 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) 2016/802¹¹ regulating the sulphur content in marine fuels.

By applying the requested measure, Belgium intends to incentivise the use of shore-side electricity as an environmentally friendlier alternative to the generation of electricity on board ships while at berth in a port.

As the Belgian authorities stress, the use of shore-side electricity instead of on-board generators can result in beneficial effects for the environment. Promoting the use of shore-side power is an essential step in making shipping and Belgian ports greener. Furthermore, greater use of shore-side power in future will have a positive impact on air quality in Belgian port areas, through the reduction of airborne pollutants, particulate matter and soot. Belgium also expects that this measure will reduce noise pollution and nitrogen emissions. The measure is also likely to lead to a reduction of CO₂ emissions. This is due to the electricity mix from the onshore grid in Belgium being less carbon intensive than the electricity produced on board by burning bunker fuels, due to higher energy system efficiency and the difference in input fuels used.

This measure is compatible with Commission Recommendation on the promotion of shore-side electricity for use by ships at berth in Community ports¹², specifying that lowering taxation on electricity supplied to ships at berth increases the attractiveness of shore-side electricity.

Energy policy

The measure is in line with the Alternative Fuel Infrastructure Regulation¹³, 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 benefits, including environmental benefits. A similar measure has also been assessed as contributing to the achievement of the objectives of Union policies and legislation aiming to reduce the environmental footprint of maritime transport and to the development of certain economic activities under Article 107(3)(c) of TFEU¹⁴.

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 electricity produced on board the vessels

¹⁰ 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).

¹¹ 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).

¹² Commission Recommendation of 8 May 2006 on the promotion of shore-side electricity for use by ships at berth in Community ports.

¹³ Regulation (EU) 2023/1804 of the European Parliament and of the Council of 13 September 2023 on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU.

¹⁴ Commission decision C(2024) 3934 final of 17.06.2024 in State aid case SA.105117 (OJ C/2024/5376, 03.09.2024).

while in maritime ports currently enjoys a full 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 the Energy Taxation Directive, but also the electricity produced on board the vessels is itself exempt.¹⁵ Although the latter exemption could as such be considered difficult to reconcile with the environmental objectives of the Union, its origin stems from considerations of practicability. This is due to the fact that taxation of the electricity produced on board would require a declaration by the ship's owner or operator of the amount of electricity produced and consumed. The declaration would furthermore have to determine the share of the electricity consumed in the territorial waters of the specific Member State where the tax is due. It would create an excessive administrative burden for ship-owners to have to make such declarations for every Member State whose territorial waters are passed. Analogous considerations apply to inland navigation and to the optional tax treatment in accordance with Article 15(1)(f) of the Directive. Given the exemption of the fossil route of electricity generation on board ships, it cannot be justified to penalize the less-polluting alternative of shore-side electricity and would merit allowance of Belgium to apply a reduced rate of taxation.

Transport policy

The measure is in line with the goals of the Fuel EU Maritime Regulation¹⁶. This Regulation states that from 2030 onwards vessels classified as cruise ships, ferries and container ships above 5,000 gross tonnage are required to use Onshore Power Supply systems, except in cases where zero-emission technology is available to them. The broader application of the reduced rate, namely for inland waterway navigation and lower gross tonnage vessels, would still justify the measure. As the Belgian authorities have stressed, authorisation will be crucial in enabling Belgium to meet the abovementioned EU's targets on the availability and use of shore-side power.

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.

The Belgian authorities observe that at this stage, the possibility of the proposed tax reduction favoring electricity suppliers and, indirectly, owners of vessels used for commercial shipping, cannot be ruled out. However, access to shore-side electricity will be available for the ships concerned regardless of their flag without leading to 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

¹⁵ Article 14(1)(c) of Directive 2003/96/EC.

¹⁶ Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC.

between ports by inducing vessels to change their itinerary according to the availability of this option.

The Belgian authorities argue that other factors (such as the type of ship and cargo, the hinterland connections available 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 timeframe for which it is proposed to grant 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.

- **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 Belgium and concerns only this Member State. Therefore, no stakeholder consultation has been conducted.

- **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 Belgium 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 the Energy Taxation Directive. Belgium expects the measure to have a positive impact on the achievement of its environmental goals. Furthermore, greater use of shore-side power in future will have a positive impact on air quality in Belgian port areas, as required by the Ambient Air Quality Directive¹⁷. Belgium also expects that this measure will reduce CO₂ emissions, noise pollution and nitrogen emissions in line with the Habitats Directive¹⁸ and the Water Framework Directive¹⁹.

In more detail, as an estimation of the tax expenditures from the measure, according to the Belgian authorities, the following expenses are expected during the application of the measure:

2027	EUR 0.14 million
2028	EUR 0.41 million
2029	EUR 0.62 million
2030	EUR 1.00 million
2031	EUR 1.09 million
2032	EUR 1.12 million

- **Regulatory fitness and simplification**

The measure does not provide for a simplification. It is the result of the request made by Belgium and concerns only this Member State.

¹⁷ 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.

¹⁸ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

¹⁹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

- **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 of six years. 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 Belgium will be allowed to apply a reduced rate of electricity taxation to electricity directly supplied to vessels, other than private pleasure craft, berthed in Belgium 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 Energy Taxation Directive.

Article 2 stipulates that the authorisation requested is granted with effect from the first day of the month following the month in which the Council Implementing Decision authorising Belgium to introduce a reduced rate for shore-side electricity is published in the Official Journal of the European Union, within the maximum period allowed by the Directive of six years, as requested by Belgium.

Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising Belgium to apply a reduced rate of taxation to electricity directly supplied to vessels at berth in a port in accordance with Article 19 of Directive 2003/96/EC

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 electricity¹, and in particular Article 19(1), first paragraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letter of 8 January 2026, Belgium sought authorisation to apply a reduced rate of taxation to electricity directly supplied to vessels berthed in a port ('shore-side electricity'), pursuant to Article 19 of Directive 2003/96/EC.
- (2) Through the reduced tax rate that it intends to apply, Belgium aims to promote the use of shore-side electricity. The use of such electricity is considered to be an environmentally less harmful way of satisfying the electricity needs of vessels berthed in a port than the burning of bunker fuels by those vessels.
- (3) Insofar as the use of shore-side electricity avoids emissions of air pollutants originating from the burning of bunker fuels by vessels at berth in a port, it improves local air quality in port areas. Accounting for the carbon intensity of the electricity generation in Belgium, the use of shore-side electricity instead of electricity generated by burning bunker fuels is furthermore expected to reduce CO₂ emissions, other air pollutants and noise. The application of the reduced rate of taxation to shore-side electricity is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.
- (4) Allowing Belgium 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 relevant technology, the application of that reduced rate of taxation is unlikely to lead to significant distortions in competition during its period of application and will therefore not negatively affect the proper functioning of the internal market.
- (5) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under Article 19(1) of that Directive 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

¹ OJ L 283, 31.10.2003, p. 51.

the authorisation requested for a six -year period. However, that authorisation should cease to apply upon the date of application of any general provisions on tax advantages for shore-side electricity that would be adopted by the Council under Article 113 or any other relevant provision of the Treaty, should such provisions become applicable during the period of authorisation.

- (6) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Belgium is authorised to apply a reduced rate of taxation to electricity directly supplied to vessels, other than private pleasure craft, at berth in a port ('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 for a period of six years from the first day of the month following that of its publication in the Official Journal of the European Union.

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, adopt any general provisions on tax advantages for shore-side electricity, which become applicable during the period set out in the first paragraph of this Article, this Decision shall cease to apply on when those general provisions become applicable.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels,

For the Council
The President