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Proposal for a

COUNCIL IMPLEMENTING DECISION

authorising Spain to apply reduced rates of excise duty to gas oil and unleaded petrol used as motor fuels, pursuant to Article 19 of Directive 2003/96/EC

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Prior to the adoption of this Decision, geopolitical developments in the Middle East, which impacted supply chains of oil and oil products globally, triggered sharp and persistent increases in wholesale and retail prices of energy products. Those increases have had significant adverse effects on households, in particular vulnerable consumers, and on undertakings, including small and medium-sized enterprises, thereby posing a serious risk to social cohesion, economic stability and the proper functioning of the internal market.

In its Conclusions of 19 March 2026[1], the European Council recognised the extraordinary nature of the energy market situation and its macroeconomic implications. The Council invited the Commission to work closely with Member States to design national temporary and targeted measures to mitigate significant impacts of fuel price increases due to the crisis in the Middle East, and underlined in particular the need for a coordinated response as the conflict in the Middle East has an immediate impact on energy prices for Union citizens and businesses.

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[2] (the 'Directive').

Pursuant Article 19(1) of the Directive, in addition to the provisions laid down 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 in the level of taxation for specific policy considerations.

By letter dated 29 June 2026, the Spanish authorities informed the Commission of their intention to apply for an authorisation to apply a temporary reduction to the minimum tax levels of taxation set out in in Article 7 and Table A of Annex I to Directive 2003/96/EC for the following energy products and periods:

Energy product	July 2026	August 2026	September 2026
Unleaded petrol (98 RON or higher) and blends with bioethanol or biomethanol	€5.08	€0	€0
Unleaded petrol (below 98 RON) and blends with bioethanol or biomethanol	€36.31	€0	€0
Diesel fuel used as motor fuel (other than the uses referred to in Article 8(2) of Directive 2003/96/EC) and blends of diesel and biodiesel	€101.00	€51.00	€1.00

However, if **in June 2026** the CPI for the aforementioned products exceeds the CPI for the same month of the previous year by more than 15 per cent according to the information published in July by the National Statistics Institute, the reduction in tax rates for the

[1] https://www.consilium.europa.eu/media/lwhk3itd/en-20260319-european-council-conclusions.pdf

[2] Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51, ELI: http://data.europa.eu/eli/dir/2003/96/oj)..

aforementioned products to below the minimum tax level established in the Directive shall be as follows (rates in EUR/1000L):

Energy product	**August 2026**	**September 2026**
Unleaded petrol (98 RON or higher) and blends with bioethanol or biomethanol	€55.08	€5.08
Unleaded petrol (below 98 RON) and blends with bioethanol or biomethanol	€86.31	€36.31
Diesel fuel used as motor fuel (other than the uses referred to in Article 8(2) of Directive 2003/96/EC) and blends of diesel and biodiesel	€151.00	€101.00

However, if, **in July 2026**, the CPI for the above products exceeds the CPI for the same month of the previous year by more than 15 per cent, according to the information published in August by the National Statistics Institute, the reduction in tax rates to below the minimum tax level laid down in the Directive would be as follows (rates in EUR/1000L):

Energy product	**September 2026**
Unleaded petrol (98 RON or higher) and blends with bioethanol or biomethanol	€55.08
Unleaded petrol (below 98 RON) and blends with bioethanol or biomethanol	€86.31
Diesel fuel used as motor fuel (other than the uses referred to in Article 8(2) of Directive 2003/96/EC) and blends of diesel and biodiesel	€151.00

By email of 15 July 2026 the Spanish authorities replied to additional information requests from the European Commission.

The requested period of validity of the measure is for the period of 3 months: from 1 July 2026 to 30 September 2026, which is within the maximum period allowed by Article 19(2) of the Directive.

According to the Spanish authorities, the temporary reductions in rates, by having a direct impact on product prices, provide rapid relief to households and businesses. In the current context, they are therefore considered an appropriate instrument for mitigating the economic consequences of high energy prices, particularly by reducing their adverse impact on households and on the economy as a whole.

In its conclusions of 19 March 2026, the European Council underlined that the energy transition remains the most effective strategy for achieving Europe's strategic autonomy, strengthening resilience, structurally lowering energy prices, and delivering the clean, abundant and homegrown energy needed to power the economy of the future.

At the same time the European Council recognised that targeted solutions are needed in the short term to ensure availability of affordable energy, taking into account technological neutrality and the specific situations of Member States, the particular exposure of certain industrial sectors to the risk of relocation, and the need to improve the conditions for energy-intensive innovative sectors, without undermining predictability and the level playing field.

In view of this, the European Council called on the Commission to present without delay a toolbox of targeted temporary measures to address the recent spikes in the prices of imported fossil fuels arising from the crisis in the Middle East. The European Council Conclusions provide political guidance from the Member States and constitute a political mandate to adopt fiscal measures allowing for the requested flexibilities. These Conclusions clearly advocate for the full utilisation of the derogations and flexibilities foreseen in the Directive, including the adoption of temporary reduced rates, carefully linked to the extraordinary circumstances and the objectives of energy affordability.

The objectives of such measures would be to enable Member States to develop targeted and temporary solutions to deal with the negative impact of the current energy crisis on prices. These are needed in the short term to ensure affordable energy, taking into account technological neutrality and the specific situations of Member States, the particular exposure of certain industrial sectors to the risk of relocation, and the need to improve the conditions for energy-intensive innovative sectors, without undermining predictability and the level playing field.

In this context, Spain adopted a number of measures through Royal Decree-Law 7/2026 of 20 March approving the Comprehensive Response Plan to the Crisis in the Middle East, with the aim of mitigating the impact of increased energy prices. The rates of the Mineral Oil Tax were reduced to the minimum levels permitted under Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity. These fiscal measures were intended to remain in force until 30 June 2026.

However, the conflict in the Middle East remains active, which continues to keep oil and gas markets volatile and prices above pre-crisis levels.

In this context, Spain decided to temporarily maintain certain measures introduced by Royal Decree-Law 7/2026 of 20 March, while providing for their gradual withdrawal if energy markets stabilise and the risks associated with the current geopolitical situation diminish.

More specifically, the measures introduced by Royal Decree-Law 18/2026 of 29 June adopting certain measures within the framework of the Comprehensive Response Plan to the Crisis in the Middle East, affecting diesel fuel, unleaded petrol and products consisting of blends of petrol or diesel with bioethanol, biomethanol or biodiesel, among others consist of further reducing the rates of the Mineral Oil Tax.

In particular, the reductions in Mineral Oil Tax rates during July 2026 amount to 15 euro cents per litre compared with the rates applicable before the outbreak of the conflict in the Middle East. However, should the consumer price indices for petrol and diesel evolve unfavourably, resulting in prices that are 15% higher than their pre-conflict levels, the tax reductions would be increased.

Within the period of applicance of this derogation oil and gas prices are expected to continue to be volatile. Oil prices are expected to remain elevated while the conflict and the disruption of the Strait of Hormuz is ongoing. Fuel prices follow the dynamics of crude oil price with a delay of a week or two, with the distinction that gasoline prices tend to react less directly to oil prices, while gas oil that the EU is importing tends to be more volatile than crude oil prices.

The global nature of oil prices and the limited influence Member States have on those prices make this crisis an exogenous crisis. All Member States will be subject to similar global prices for energy products. The ability to cope with price increases will, however, differ significantly, for instance dependant on income, transport mode, heating source and the energy efficiency of housing. This will make effects of price increases asymmetrical. Additionally, lower income households tend to spend a larger part of their income on consumption, instead of investments or savings. This makes increases in consumption prices more impactful for lower income households.

Spain depends heavily on road transport for both passengers and freight, as well as on private cars and busses for daily commuting, including travel to workplaces and educational establishments.

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

Article 19(1), first subparagraph, of Council Directive 2003/96 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 reductions in question, the Spanish authorities intend to help mitigate the effects of high retail prices of gas oil on the road transport sector triggered by the hostilities in the Middle East.

These tax reductions would lead to a situation where recipients would benefit from effective excise rates which are below the EU minimum rate under the Directive, hence the authorisation under discussion.

The possibility to introduce such effective tax rates can be envisaged under Article 19 of the Directive since its purpose is to allow Member States to introduce further exemptions, repayments or reductions for specific policy considerations.

The limited period of validity is within the maximum period allowed by Article 19(2) of the Directive, with the possibility of renewal.

Finally, the tax reduction is not cumulative with any other sorts of tax reduction.

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

At the same time, tax reductions imply fiscal costs and tend to increase fossil fuel demand, thereby exacerbating the imbalance of supply and demand. Therefore, the measure should remain strictly limited in time and its expected impact on fossil fuel demand as well as its fiscal cost should be assessed. Where needed, compensatory measures should be taken.

State aid rules

The temporary tax reduction requested by the Spanish authorities will result in rates below the minimum levels of taxation of transport fuels as laid down in Article 7 and Table A of Annex I to the Directive.

The present proposal is without prejudice to any assessment of the Spanish measure 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.

- **Consistency with other Union policies**

Each draft derogation under Article 19 of the Energy Taxation Directive must be examined by the Commission taking into account the proper functioning of the internal market, the need to ensure fair competition and EU health, environment, energy and transport policies.

According to the Spanish authorities, the envisaged tax reduction should partially alleviate high retail prices of petrol and diesel due to the recent transport fuel price increases resulting also from hostilities in the Middle East and the disruption in the Strait of Hormuz.

As a result of this exceptional situation, this temporary measure is not likely to affect intra-EU trade. Overall, the measure seems acceptable from the point of view of the proper functioning of the internal market and the need to ensure fair competition. Given its limited effects and the limited duration, the measure should not distort competition or hinder the functioning of the internal market.

Environmental and climate policy

The Union remains firmly committed to its climate and energy objectives as stated in the European Climate Law (Regulation 2021/1119). The temporary tax reductions allowed by this act should not lead to a structural weakening of price signals that encourage energy efficiency and the transition to renewable energy sources.

Energy policy

Given the scale of the current energy price spike resulting from the situation in the Middle East, Member States may require an ability to temporarily lower the excise rates below the EU minimum rates for products.

Given its short duration and the current exceptional circumstances linked to the geopolitical situation coupled with an exceptionally high market price of energy products, an ability to reduce excise rates below minimum rates established under the Directive is considered adequate and proportionate to the need to balance out the specific policy objectives listed in Article 19 of the Directive, and notably the EU's environmental policy with the emergency imperative to ensure affordability for businesses and households.

Internal market policy and fair competition

As a result of the exceptional situation, this temporary measure is not likely to affect intra-EU trade. Overall, the measure seems acceptable from the point of view of the proper functioning of the internal market and the need to ensure fair competition. Given its limited effects and the limited duration, the measure should not distort competition or hinder the functioning of the internal market.

Social policy

The observed and expected increase in the cost of energy across the Union and the resulting second-round effects has a disproportionate impact on low-income households[3]. Reductions in excise duties targeted at road haulage and bus transport operators can therefore have a positive social impact by contributing to minimising cost increases for low-income households.

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 Member States 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 reductions do not exceed what is necessary to attain the objective in question.

The authorisation is for a very limited period of time, namely 3 months (from 1 July 2026 to 30 September 2026) and in an energy crisis context.

- **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 Spain and concerns only this Member State.

[3] Economic and distributional effects of higher energy prices on households in the EU - Employment, Social Affairs and Inclusion

- **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. In line with better regulation rules these types of acts are not subject to an impact assessment, by their nature.

- **Regulatory fitness and simplification**

The measure does not provide for a simplification. It is the result of the request made by Spain 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 an effective tax reduction, which is provided for a limited period of time. The applicable tax rates can fall below the minimum levels of taxation set by the Energy Taxation Directive. The measure can be evaluated in case of a proposal to extend the validity of this Decision.

- **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 Spain will be allowed to apply reduced taxation rates to gas oil, unleaded petrol and their biocomponents used as motor fuels, below the minimum levels of taxation.

Article 2 stipulates that the authorisation requested is granted for 3 months, from 1 July 2026 until 30 September 2026, as requested by Spain, which is within the maximum period of 6 years allowed by the Directive.

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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[4], and in particular Article 19(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Excise duties as established by Directive 2003/96/EC contribute to the final cost of energy products supplied within the Union. A reduction in excise duties below the minimum rates can mitigate some of the energy cost increases currently experienced by Member States.

(2) The mechanisms provided for in Directive 2003/96/EC enable Member States to lower, within defined limits, the tax burden on specific energy products in a targeted and temporary manner. In view of the exceptional and urgent nature of the current situation, it is necessary to provide for specific, time-limited mechanisms that explicitly aim to alleviate the impact of the energy price shock.

(3) Temporary reductions in the taxation of targeted energy products are able to deliver rapid relief to households and undertakings, by directly lowering end-user prices. In the current situation, such extraordinary reductions are a suitable and necessary instrument to address the serious disturbance in the economy resulting from the energy price shock.

(4) By letters dated 29 June 2026 and 15 July 2026, the Spanish authorities requested authorisation, pursuant to Article 19 of Directive 2003/96/EC, to apply tax rates which fall below the minimum levels laid down in Table A of Annex I to that Directive for gas oil, unleaded petrol and their biocomponents used as motor fuels.

(5) The authorisation was requested for a period of 3 months, from 1 July 2026 until 30 September 2026. Spain requests different decreases to the tax rates applicable in July and those applicable in August and September, due to need to adjust the tax rates to the volatile situation on the international oil market.

(6) According to the Spanish authorities, the application of such reduced rates of excise duty aims to mitigate the impact of the price increase of gas oil, unleaded petrol and biocomponents resulting from the geopolitical situation and affecting directly or, through second-round effects, indirectly both households and companies.

[4] OJ L 283, 31.10.2003, p. 51.

(7) The Commission examined the requested authorisation and found it unlikely to hinder the proper functioning of the internal market. The Commission considers the requested derogation to be adequate and proportionate, given its short duration, the exceptional circumstances linked to the geopolitical situation, coupled with an exceptionally high market price of oil, and the need to strike a balance between the specific policy objectives listed in Article 19(1), third subparagraph, of Directive 2003/96/EC, in particular the Union environmental policy, and the emergency imperative to ensure energy affordability for businesses and households.

(8) Spain should therefore be authorised to temporarily apply reduced rates of excise duty below the Union minimum levels to gas oil, unleaded petrol and their biocomponents used as motor fuels.

(9) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under that provision is to be strictly limited in time. However, in order not to undermine future developments of the existing legal framework, it is appropriate to provide that, should the Council, acting on the basis of Article 113 of the Treaty on the Functioning of the European Union (TFEU) or any other relevant provision of the TFEU, introduce new minimum levels of taxation for gas oil and unleaded petrol used as motor fuels, with which the authorisation granted by this Decision is not compatible, that authorisation should cease to apply.

(10) At the same time, untargeted tax reductions imply significant fiscal costs and tend to increase fossil fuel demand, thereby exacerbating the imbalance of supply and demand. Therefore, the authorisation granted by this Decision should remain strictly limited in time.

(11) This decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

(1) For the period from [] to [], Spain is authorised to apply the following reductions of the rates below the minimum levels of taxation referred to in Article 7 of Directive 2003/96:

(a) for unleaded petrol with an octane rating of 98 or higher, and products consisting of a blend of such petrol with bioethanol or biomethanol: up to EUR 5,08 per 1 000 litres;

(b) for unleaded petrol with an octane rating of less than 98 and products consisting of a blend of such petrol with bioethanol or biomethanol: up to EUR 36,31 per 1 000 litres.

(c) for gas oil as well as for products consisting of a mixture of diesel and biodiesel used as motor fuel for purposes other than those set out in Article 8(2) of Directive 2003/96/EC: up to EUR 101 per 1 000 litres.

2. For the period from [] to 30 September 2026, Spain is authorised to apply the following reductions of the rates below the minimum levels of taxation referred to in Article 7 of Directive 2003/96:

(a) for unleaded petrol with an octane rating of 98 or higher, and products consisting of a blend of such petrol with bioethanol or biomethanol: up to EUR 55,08 per 1 000 litres;

(b) for unleaded petrol with an octane rating of less than 98 and products consisting of a blend of such petrol with bioethanol or biomethanol: up to EUR 86,31 per 1 000 litres;

(c) for gas oil as well as for products consisting of a mixture of diesel and biodiesel used as motor fuel for purposes other than those set out in Article 8(2) of Directive 2003/96/EC: up to EUR 151 per 1 000 litres.

Article 2

This Decision shall apply from [day of adoption of the decision] to 30 September 2026.

However, in the event that the Council, acting on the basis of Article 113 TFEU or any other relevant provision of the TFEU, introduces new minimum levels of taxation referred to in Article 7 of Directive 2003/96/EC for gas oil and unleaded petrol used as motor fuels with which the authorisation granted in Article 1 of this Decision is not compatible, this Decision shall cease to apply on the date from which those new minimum levels of taxation apply.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels,

For the Council
The President