



EUROPEAN
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Proposal for a

COUNCIL DECISION

repealing Council Decision 77/706/EEC on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products and Commission Decision 79/639/EEC laying down detailed rules for the implementation of Council Decision 77/706/EEC

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Under Council Decision 77/706/EEC, the Commission may set a target of up to 10% for reducing the consumption of petroleum products in case of a disruption; Member States have to take all appropriate measures to reduce their consumption accordingly. This decision and Commission Decision 79/639/EEC establish complex rules for reducing oil consumption in case of a disruption. They have never been used in practice. In particular, the Commission has never set a Community target for reducing the consumption of petroleum products.

This legislation was basically in line with the 1974 International Energy Program, the founding treaty of the International Energy Agency, which required IEA Member countries to implement demand restraint measures sufficient to reduce consumption by 7 or 10%, whenever the group sustains a reduction in its oil supplies of at least 7 or 12%, respectively.

In general, oil supply disruptions can be addressed by increasing supply (releasing stocks or increasing indigenous production) or reducing demand (demand restraint measures or fuel switching). Over the years, the importance of emergency stocks has increased and the release of such stocks is now generally considered – also by the IEA – as the main emergency response tool. In case of an oil supply disruption, the release of emergency oil stocks can replace the missing volumes quickly and without disturbing the economic activity of the EU and the life of its citizens. Moreover, emergency oil stocks are often financed by a levy paid by consumers who legitimately expect that those stocks are released in case of a disruption, rather than consumption is restricted.

The related Oil Stocks Directive¹ has been revised in 2009 and is applicable from 2013. It provides a strengthened framework for the establishing and the availability of emergency oil stocks and specifies the procedures under which the stocks can be used. It also requires Member States to have procedures in place "to impose general or specific restrictions on consumption in line with the estimated shortages, inter alia, by allocating petroleum products to certain groups of users on a priority basis" (Article 20(1)). It is an important tool contributing to the general energy policy objective of security of supply. Now that the revised Oil Stocks Directive has been adopted and entered into force, it appears relevant to address the lack of necessity for keeping overlapping rules in Council Decision 77/706/EEC.

The Commission proposes, on this basis, that the Council repeal Council Decision 77/706/EEC and, at the same time, also Commission Decision 79/639/EEC.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

In its meeting on 23 January 2014, the Coordination Group for oil and petroleum products has been consulted about the appropriateness to repeal the Council Decision. Member States supported the initiative to repeal the Council Decision and the implementing Commission Decision which were enacted in a time when emergency stocks had a less prominent role than today.

The impact assessment² for the revised oil stocks directive (Council Directive 2009/119/EC) has examined the alternative emergency response tools (demand restraint, fuel switching and

¹ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, OJ L 265, 09/10/2009, p. 9–23

² SEC(2008) 2858

production surge) and highlighted their limitations. In particular, demand restraint measures require public acceptance which may sometimes be difficult to obtain and may also hamper business and industry activities and the mobility of citizens.

3. LEGAL ELEMENTS OF THE PROPOSAL

The proposal is based on Article 122(1) of the Treaty on the Functioning of the European Union (TFEU) (ex Article 100(1) EC and previously ex Article 103(4) EEC on which Council Decision 77/706/EEC was based).

As a consequence of the repeal of the abovementioned Decision, Commission Decision 79/639/EEC which lays down detailed rules for the implementation of Council Decision 77/706/EEC will lose its legal basis and practical application. In order to ensure legal certainty, the Commission Decision 79/639/EEC should be repealed as well. This can be done by the Council on the proposal by the Commission.

Proposal for a

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repealing Council Decision 77/706/EEC on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products and Commission Decision 79/639/EEC laying down detailed rules for the implementation of Council Decision 77/706/EEC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 7 November 1977, the Council decided, in its Decision 77/706/EEC³, to establish a mechanism for the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products.
- (2) On 15 June 1979, the Commission, in its Decision 79/639/EEC⁴, laid down detailed rules for the implementation of Council Decision 77/706/EEC.
- (3) Decisions 77/706/EEC and 79/639/EEC establish complex procedures, entailing significant administrative burden for both the Member States and the Commission, including various reporting obligations. Those procedures have not found any practical application.
- (4) In case of a supply disruption, emergency stocks can replace the missing volumes quickly and efficiently, without disturbing the economic activity and hindering mobility. Therefore, emergency stocks are now considered as the main response tool to address an oil supply disruption.
- (5) Furthermore, Council Directive 2009/119/EC sets up a strengthened framework for emergency stocks, ensuring their availability and physical accessibility and establishing the procedures for their use.
- (6) Directive 2009/119/EC⁵ also requires Member States to have procedures in place to impose general or specific restrictions on consumption, inter alia, by allocating petroleum products to certain groups of users on a priority basis.

³ Council Decision 77/706/EEC of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (OJ L 292, 16.11.1977, p. 9).

⁴ Commission Decision 79/639/EEC of 15 June 1979 laying down detailed rules for the implementation of Council Decision 77/706/EEC (OJ L 183, 19.7.1979, p. 1).

⁵ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products (OJ L 265, 09/10/2009, p. 9).

- (7) The Commission's Regulatory Fitness and Performance Programme systematically reviews Union legislation in order to identify opportunities for simplification and reducing regulatory burden.
- (8) As a consequence of the repeal of the Decision 77/706/EEC the Commission Decision 79/639/EEC which lays down detailed rules for the implementation of Decision 77/706/EEC will become obsolete and should be repealed as well,

HAS ADOPTED THIS DECISION:

Article 1

Decisions 77/706/EEC and 79/639/EEC are repealed.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President