Reports of Cases

OPINION OF ADVOCATE GENERAL
BOBEK
delivered on 19 January 2017 [1]

Case C-465/15

Hüttenwerke Krupp Mannesmann GmbH
v
Hauptzollamt Duisburg

(Request for a preliminary ruling from the Finanzgericht Düsseldorf (Finance Court, Düsseldorf, Germany))

(Reference for a preliminary ruling — Taxation of energy products and electricity — Directive 2003/96/EC — Scope of application — Notion of electricity used principally for the purposes of chemical reduction — Inclusion of electricity used for turbo blowers for the production of pig iron in blast furnaces)

I. Introduction

1. Hüttenwerke Krupp Mannesmann GmbH ('the Applicant' in the main case) runs a blast furnace producing pig iron. That process involves chemical reduction of iron ore to create the pig iron, which requires the injection of compressed hot air into the blast furnace. The compressed air is produced using turbo blowers.

2. The dispute in the main case between the Applicant and the Hauptzollamt Duisburg (competent tax authority, Duisburg, Germany, 'the Defendant'), and the question put by the national court, is whether the electricity used to drive the turbo blowers is 'used principally for the purposes of chemical reduction' within the meaning of Article 2(4)(b) of Directive 2003/96/EC ('the Directive'). [2] If so, it would not be subject to minimum taxation under that directive.

1 Original language: English.

2 Council Directive of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283/51, p. 51).

II. Legal framework

A. EU law

1. Directive 2003/96

3. Recitals 2 to 7 and 22 of the Directive state as follows:

‘(2) The absence of Community provisions imposing a minimum rate of taxation on electricity and energy products other than mineral oils may adversely affect the proper functioning of the internal market.

(3) The proper functioning of the internal market and the achievement of the objectives of other Community policies require minimum levels of taxation to be laid down at Community level for most energy products, including electricity, natural gas and coal.

(4) Appreciable differences in the national levels of energy taxation applied by Member States could prove detrimental to the proper functioning of the internal market.

(5) The establishment of appropriate Community minimum levels of taxation may enable existing differences in the national levels of taxation to be reduced.

(6) In accordance with Article 6 of the Treaty, environmental protection requirements must be integrated into the definition and implementation of other Community policies.

(7) As a party to the United Nations Framework Convention on Climate Change, the Community has ratified the Kyoto Protocol. The taxation of energy products and, where appropriate, electricity is one of the instruments available for achieving the Kyoto Protocol objectives.

…

(22) Energy products should essentially be subject to a Community framework when used as heating fuel or motor fuel. To that extent, it is in the nature and the logic of the tax system to exclude from the scope of the framework dual uses and non-fuel uses of energy products as well as mineralogical processes. Electricity used in similar ways should be treated on an equal footing.’

4. Article 1 of the Directive requires Member States to impose taxation on ‘energy products and electricity’.

5. Article 2(1) defines energy products by a list of CN codes, in some cases limited to intended use as motor fuels or heating fuels. Article 2(2) confirms that the Directive also applies to ‘electricity falling within CN code 2716’.

6. Article 2(3) requires, in certain cases, that Member States apply rates of taxation to products not falling within the definition of ‘energy products’, where those products are intended for use, offered for sale or used as motor fuels or heating fuels.

7. Article 2(4)(b) provides that the Directive shall not apply to the following uses of energy products and electricity:

‘— energy products used for purposes other than as motor fuels or as heating fuels,

— dual use of energy products

An energy product has a dual use when it is used both as heating fuel and for purposes other than as motor fuel and heating fuel. The use of energy products for chemical reduction and in electrolytic and metallurgical processes shall be regarded as dual use,

— electricity used principally for the purposes of chemical reduction and in electrolytic and metallurgical processes,

— electricity, when it accounts for more than 50% of the cost of a product. "Cost of a product" shall mean the addition of total purchases of goods and services plus personnel costs plus the consumption of fixed capital, at the level of the business, as defined in Article 11. This cost is calculated per unit on average. "Cost of electricity" shall mean the actual purchase value of electricity or the cost of production of electricity if it is generated in the business,

— mineralogical processes

"Mineralogical processes" shall mean the processes classified in the NACE nomenclature under code DI 26 "manufacture of other non-metallic mineral products" in Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community.

However, Article 20 shall apply to these energy products.'

III. Facts, procedure and question referred

8. The Applicant operates a steel plant. In the plant's blast furnace facility, pig iron is produced. The iron ore is transformed into pig iron by removing oxygen (chemical reduction). That reaction takes place at high temperatures and involves the use of compressed hot air.

9. The compressed air used for the chemical reduction is generated by turbo blowers and injected into the blast furnace.

10. The Applicant made a claim to the Defendant for tax relief under Paragraph 9a of the Stromsteuergesetz ('StromStG', the national law on electricity taxation in Germany which transposes the third indent of Article 2(4)(b) of the Directive setting out one of the exclusions to the Directive's application) for the electricity that it used for the operation of the turbo blower.

11. The Defendant rejected the claim on the ground that, under Paragraph 9a(1)(4) of the StromStG, only electricity that has been used for processes of chemical reduction qualifies for tax relief. The tax advantage could only be obtained if the electricity had been used principally for chemical reduction. In this case, however, it decided that the electricity had been used primarily to drive a motor in order to produce compressed air. The electricity did not bring about a chemical reduction of iron ore.

12. The Applicant appealed against that decision to the Defendant. One of its arguments was that pursuant to its Article 2(4)(b), third indent, the Directive does not apply to electricity which is used principally for the purposes of chemical reduction. That provision thereby also permits other uses, in particular the production and transport of compressed air, without which the processes of chemical reduction in the blast furnace would be impossible. It submitted that the use of the electricity for which the Applicant claimed relief is not completed in the turbo blowers. The concept of a chemical reduction process extends also to the production of compressed air, that being an essential input.

13. The appeal was dismissed by the Defendant. The Applicant challenged that decision before the Finanzgericht Düsseldorf (Finance Court, Düsseldorf, Germany), which decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

'Is the third indent of Article 2(4)(b) of [Council Directive 2003/96] restructuring the Community framework for the taxation of energy products and electricity to be interpreted with respect to the blast furnace process for the production of pig iron as meaning that electricity for the propulsion of the turbo blower is to be regarded as electricity which is used principally for the purposes of chemical reduction?'

14. Written observations have been submitted by the Applicant and the Defendant in the main case and the European Commission. The interested parties participating in the written stage, as well as the Government of the United Kingdom, presented oral argument at the hearing held on 17 November 2016.

IV. Assessment

15. Article 2(4)(b) of the Directive excludes from the Directive's application 'electricity used principally for the purposes of chemical reduction and in electrolytic and metallurgical processes', meaning that the latter would not be subject to taxation.

16. By its question, the referring court asks whether the notion 'for the purposes of chemical reduction' covers electricity used for the operation of turbo blowers, which compress air, and which is then used in the chemical reduction of iron ore to pig iron.

17. The national court's question is basically about remoteness. The electricity is not used directly in the chemical transformation of the iron ore, in the sense of being used to remove oxygen from the ore.[3] Instead, the electricity is used to generate an input — compressed air — for the chemical reduction. That input is *essential* for the chemical reduction and is injected *directly and immediately* into the blast furnace. But is that 'immediate' and 'direct' enough to be considered as being used 'for the purposes of chemical reduction'?

18. For the reasons set out below, in my view it is. I shall consider below the natural meaning of the relevant provisions (A), a systemic and purposive reading (B), the relevance of existing case-law on Article 2(4)(b), second indent (C), and finally, their application to the present case (D).

A. Natural reading

19. The third indent of Article 2(4)(b) of the Directive has not yet been interpreted by this Court.

20. On a natural reading of the words electricity 'principally used for the purposes of chemical reduction', that notion certainly could include the electricity used to drive the turbo blowers. Although the electricity is used in a sense 'for the purpose' of turning a fan and generating compressed air, that is clearly not an end in itself. The compressed air is injected immediately into the blast furnace. It constitutes an essential input for the chemical reduction of iron ore. Indeed, in *that* sense, the electricity serves no other purpose than to make the chemical reduction possible.

21. However, a mere exegesis of the words 'for the purpose of' and their equivalent in other languages[4] does not, in my view, conclusively answer the national court's question.

3 That contrasts with, for example, electrolysis, in which the electricity is used directly to separate out chemical substances.

4 For example, in French: 'pour'; Spanish: 'a efectos de'; Italian: 'per'; Dutch: 'voor'; German: 'für die Zwecke'; Czech: 'pro účely'.

22. Various textual uncertainties can be said to persist: the provision does not explicitly distinguish between electricity 'directly' or 'indirectly' used for the purposes of chemical reduction. Nor does it specify that 'chemical reduction' means the actual reaction itself as opposed to the process more broadly. It is true that a vague connection with the chemical reaction would be insufficient. The exemption could obviously not cover, for example, electricity used to run the drinks machine in a plant's staff canteen. Such links are too tenuous. By contrast, in the present case, the immediate and essential nature of the production and use of the input — compressed air — makes the response less clear.

23. The natural reading therefore remains ambiguous on a key element already identified: remoteness. A systemic and purposive reading of the same provision thus becomes necessary.

B. Systemic and purposive reading

24. I shall focus below on four aspects, namely: a reading of the third indent as a whole (1), a consideration of the nature of Article 2(4)(b) as an exception to the Directive or as defining its scope (2), the need for a narrow reading to preserve 'effet utile' (3), and a parallel reading of Article 2(4)(b), second and third indents (4).

1. The third indent as a whole

25. As a preliminary point in this regard, and at the junction between a natural and systemic reading, it is useful to consider the third indent in its entirety. Although the referring court specifically extracts the example of 'chemical reduction' as the object of interpretation, the third indent also refers to 'electrolytic' (which refers to production by electrolysis) and 'metallurgical' processes. My instant and natural reading of these three exceptions together is that they refer to three types of industrial process, as was pleaded by the Applicant in its written observations.

26. In the oral hearing, the Commission submitted that, just like 'chemical reduction', the notion of 'metallurgical processes' should be read narrowly. However, the Commission also acknowledged that even on such a reading the notion would nevertheless potentially encompass a range of processes in the metal industry (including chemical reduction of ores).

27. For that reason alone, I am wary of an overly narrow reading of the term 'for the purposes of chemical reduction', which would relate only to the very specific stripping away of oxygen atoms through the direct application of electricity. Why would there be an imperative need for a narrow construction of one term if the same process is likely to be caught anyway by another term within the same exception?

2. Article 2(4)(b): exception or definition of scope?

28. Relying on a systemic and purposive interpretation, the Defendant in the main proceedings and the Commission nonetheless plead for such a narrow reading of Article 2(4)(b), third indent. Their basic position is that the words 'for the purposes of chemical reduction' relate only to electricity used as part of the actual chemical reduction reaction. This would not therefore include electricity used in the turbo blowers, which would then be covered by the Directive. By contrast, the Applicant, as well as the United Kingdom Government, take a broader view of the notion, concluding that electricity used in the turbo blowers would fall within Article 2(4)(b), third indent and be excluded from the scope of the Directive.

29. In support of their positions, the Defendant and the Commission argue that the very fact that Article 2(4)(b) sets out exceptions to the general rule of taxation of energy products and electricity means that it must therefore be interpreted narrowly. In that respect, they refer to the general case-law that exceptions must be interpreted narrowly [5] and the line of case-law setting out that there was no legislative intention to introduce broad exceptions to the Directive. [6]

30. Whilst at first glance this is attractive as an argument, on closer inspection that case-law is not of much help in responding to the national court's question.

31. To begin with, I would underline in that respect that Article 2(4) of the Directive does not set out a list of exceptions. Instead it defines the scope of the Directive. That is in my view clear from a systemic reading of the Directive, of which Article 2 defines the products and uses to which the Directive applies. Exceptions and exclusions to this generally defined scope of application are laid down later in the Directive, in particular in Articles 17 to 19. The reading of Article 2(4)(b) as defining scope rather than laying down exceptions is, moreover, supported by the Court's judgment in the *Fendt* case (concerning Directive 92/81/EEC, [7] the predecessor of the Directive). [8]

32. For that reason, I do not consider that the starting position should necessarily be that Article 2(4)(b) ought to receive as narrow a reading as possible. But even if such a starting position were to be embraced, and, for practical purposes, by their nature exclusion-inserting definitions relating to the material scope of a directive were to be equated with exceptions themselves, the key issue remains the same: narrow construction of an exception should not be pushed so far as to deprive the exception of any reasonable meaning and relevance.

3. Narrow reading to preserve 'effet utile'?

33. For similar reasons, I also disagree with the Commission's related suggestion that reading 'for the purposes of chemical reduction' as meaning anything broader than direct use of electricity to remove oxygen would undermine the whole Directive or somehow fatally compromise its 'effet utile'.

34. That is, to my mind, a somewhat overly dramatic suggestion. The Commission indeed withdrew to some extent from it at the oral hearing. I recall that what is at issue here is the very specific question of whether electricity used to compress air for injection into the blast furnace falls within the scope of the third indent of Article 2(4)(b) of the Directive. It is undisputed that that part of the process is intimately related to and essential for [9] the chemical reduction. Indeed, the Commission itself at times appeared to have trouble making the distinction in its pleadings. [10]

5 Citing, for example, judgment of 5 March 2015, *Statoil Fuel & Retail* (C-553/13, EU:C:2015:149, paragraph 39).

6 See, for example, judgments of 21 December 2011, *Haltergemeinschaft LBL* (C-250/10, not published, EU:C:2011:862, paragraph 23), and of 1 December 2011, *Systeme Helmholz* (C-79/10, EU:C:2011:797, paragraph 23).

7 Council Directive of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils (OJ 1992 L 316, p. 12).

8 Judgment of 5 July 2007, *Fendt Italiana* (C-145/06 and C-146/06, EU:C:2007:411, paragraph 37): 'although mineral oils used other than as motor fuel or heating fuel fell within the scope of Directive 92/81 — since, as the Court held in paragraphs 30 and 33 of *Commission* v *Italy*, it was compulsory for those products to be exempted from the harmonised excise duty — it was the intention of the Community legislature, on the occasion of the adoption of Directive 2003/96, to change that arrangement by excluding such products from the scope of that directive'.

9 That essentiality was explicitly confirmed by the referring court itself.

10 Thus, for example, in both its written and oral pleadings, the Commission refers to the 'close link' that must exist between the chemical reduction and the use of electricity, which at first sight could cover electricity used in the turbo blowers. (The Commission subsequently qualified this wording in its oral pleadings.)

35. As already stressed above in point 32, I am also alert to the risk that an excessively narrow reading of the term 'for the purposes of chemical reduction' reduces its scope to practically nothing. It could result in that term covering almost exclusively uses that in any event fall within the scope of the exemption for electricity used 'in metallurgical processes'. Thus, the same question arises again: if that were indeed the intention of the legislature, why introduce three different terms into the wording of the third indent of Article 2(4)(b)?

36. In that regard, the Commission and the Defendant offered in their written and oral pleadings two examples of industrial processes involving use of electricity principally 'for the purposes of chemical reduction'. Those examples were (i) electric arc furnaces and (ii) silicon wafer production. It is not the purpose of this Opinion to engage in detailed debate of the merits of those examples in the abstract. However, it was clear at the oral hearing that there was disagreement over whether those industrial processes would actually involve use of electricity principally 'for the purposes of chemical reduction', and if they did whether they would also fall into the notion of electricity used principally 'in metallurgical processes'.

37. As a result, to my mind, it still remains an open question whether, on the Commission and the Defendant's reading of the third indent of Article 2(4)(b), the exemption for electricity used principally 'for the purposes of chemical reduction' would have any practical relevance at all.

4. Systemic and 'parallel' reading of the second and third indents

38. Is it possible to gain further insight into the interpretation of the third indent of Article 2(4)(b), on the basis of a systemic reading of the second and third indents of that provision taken together?

39. The Commission and the Defendant argue for such a systemic reading. They go even further. They call for what is referred to as a 'parallel' reading of the two indents. That parallel reading leads, in their views, to a rather narrow interpretation of the third indent.

40. As correctly pointed out by the Defendant and the Commission, recital 22 of the Directive refers to the dual-use exception for energy products found in Article 2(4)(b), second indent, and calls for electricity 'used in similar ways … [to] be treated on an equal footing'. Similar treatment of electricity and energy products is also necessary to help avoid undue distortions of competition, which would in particular compromise the pursuit of the Directive's internal market objectives.

41. However, despite that need for similar treatment, and more generally the obvious need to ensure coherency of interpretation, it is clear that there are very significant differences between the wording and structure of the second and third indents of Article 2(4)(b). Those differences warrant being set out here in detail, as they place clear limits on a 'parallel' reading of the two indents.

42. The second indent is in some ways *narrower* than the third indent. The second indent applies only to dual uses of energy products. However, the notion of dual use is completely missing from the third indent. Furthermore, the second indent applies only where one use is made of the energy products as a heating fuel (to the exclusion of motor fuels). Such a limitation is again missing from the third indent.

43. In other ways the second indent is *broader*, as it presents chemical reduction, electrolysis and metallurgy only as examples of dual use, whereas the third indent presents these as an exhaustive list. Additionally, the second indent can apply even where chemical reduction, electrolysis and metallurgy are only minor uses. The third indent requires them to be principal uses.

44. These are significant and explicit textual differences in the scope of these two indents, inserted by the legislature. They are inevitable to some extent. Physically electricity is very different from other energy products. One such major difference is that other energy products can undergo a chemical transformation, enabling them to perform a role in industrial processes, which is impossible in the case of electricity.[11] That possibility is indeed central to the 'dual use' wording of the exception in the second indent of Article 2(4)(b).

45. In short, I consider that there are serious textual and practical limitations to a 'parallel' reading of the second and third indents of Article 2(4)(b).

46. I stress this point because the Commission in particular has made that parallel reading key to its argument and pushes it quite far in its written pleadings. The Commission maintains that: (i) a dual-use requirement could potentially be read into the third indent; and (ii) that the third indent might only apply if electricity is used as a heating fuel (and not if used as a motor fuel). That, in my view, constitutes a somewhat questionable use of systemic and purposive interpretation, essentially aiming at rewriting the text of a directive. Such an approach should be, for the sake of legal certainty, clearly rejected.

47. Notwithstanding these clear limits on a 'parallel' reading of the second and third indents of Article 2(4)(b) and my concerns about the Commission's rather flexible approach to legal interpretation, I do agree that some insights can be gained from the existing case-law on the second indent. I turn to that case-law in the following section.

C. Case-law on the second indent of Article 2(4)(b)

48. The main case of interest here is the *X* case.[12] It concerned application of the dual-use exception under the second indent of Article 2(4)(b). The applicant in that case was producing sugar. It used heating fuel in that process. It also used the CO_2 produced from the combustion of the fuel for two purposes. First, in the production of the sugar itself (CO_2 is an essential input). Second, it exported the CO_2 for use in the production of fertilisers. The national court asked if these amounted to dual use and could benefit from the dual-use exception. The court said that when the CO_2 was used as a sugar input it was dual use, but when it was exported it was not.

49. In its reasoning, which is worth quoting extensively here, the Court stated that:[13]

'… there may be dual use of an energy product burned in a manufacturing process where … that *process cannot be completed* without a substance that *can be generated*, which is not in dispute, *only by the combustion* of that energy product.

Since the energy product in question is thus used as an energy source in that manufacturing process in order to obtain the gas generated exclusively by burning that energy product, it is possible to take the view that two concomitant uses are made of that function as a source of energy.

However, if, in circumstances such as those in the main proceedings, a gas generated by combustion is not the product required to complete the production process, but a residue of that process which is merely recycled, there is no dual use of the actual energy product. Thus, the mere fact that the gas generated constitutes a primary material in a *separate manufacturing process*, such as the production of chemical fertiliser, cannot suffice for the view to [be] taken that there is dual use of the energy product which was burned.' (Emphasis added.)

11 I return to that point below in the context of the *X* case.

12 Judgment of 2 October 2014, *X* (C-426/12, EU:C:2014:2247).

13 Judgment of 2 October 2014, *X* (C-426/12, EU:C:2014:2247, paragraphs 24 to 26).

50. Three points follow from the reasoning of the Court. First, the Court highlights the essential nature of the input ('cannot be completed without'). Second, the input needs to be generated by the combustion of the fuel ('only by the combustion'). Third, if the input were diverted to 'a separate manufacturing process', the dual-use exception could not apply.

51. *YARA* is another, more recent case relating to the second indent of Article 2(4)(b) of the Directive.[14]

52. That case concerned the production of ammonia. As part of the process, 'poor' gases were produced. These were then mixed with natural gas and burned, with the heat being used to fulfil multiple functions: heating and drying of vapours; chemical decomposition; evacuation of waste gases. The question put to the Court was essentially whether the natural gases could benefit from the dual-use exception.

53. In replying in the negative, the Court reiterated the basic principles set out in the *X* case. It concluded that there was no dual use of the natural gas for two reasons. First, the production process could be completed without the natural gas. Moreover, even if it could not be, there was no transformation of the natural gas into vapour.[15]

54. The *X* and *YARA* cases are interesting in two ways. First, the conditions of directness developed by the Court in the *X* case and confirmed in *YARA* are, in my view, also useful as a basis to determine when electricity is used 'for the purposes of chemical reduction'. Second, the cases also serve to highlight once again the limits of parallels between the second and third indents of Article 2(4)(b).

55. As regards the latter point, it is implicit in both *YARA* and *X* that the energy product could only benefit from the 'dual use' exception to the extent that it had been *physically transformed* and *contributed in that altered state* to the production process. As highlighted above, such a transformation is simply irrelevant in the case of electricity. That condition therefore cannot be transposed to the third indent.

D. The criteria and their application to the present case

56. Coming back to the former point and thereby also returning to the main point of this case: what of the criterion of remoteness? There are two conditions developed in the *X* and *YARA* cases that remain, in my view, relevant to the present case: *essentiality* and *immediacy of use*.

57. In order to be considered as 'dual use', combustion of the energy product *must generate an essential input* for the production process. For the reasons mentioned above, electricity cannot be 'transformed' into the input but the electricity must be used to generate it.

58. As regards *immediacy* of use, the *X* case makes it clear that the dual-use exception cannot apply when the input generated is exported outside the production process. Although not presented specifically in that way, *YARA* moreover implies that evacuation of waste is not sufficiently part of the process to allow for application of the dual-use exception.

14 See order of 17 December 2015, *YARA Brunsbüttel* (C-529/14, not published, EU:C:2015:836).

15 More specifically, the order states that the vapour is not a substance that can be generated only using natural gas. See order of 17 December 2015, *YARA Brunsbüttel* (C-529/14, not published, EU:C:2015:836 , paragraph 28).

59. Applying these criteria to the present case, it would appear that the electricity used constitutes an *essential* input for the chemical reduction. It is a necessary component thereof. The national court indeed explicitly confirms that point in its request. It is correct that the electricity itself is not transformed into the essential input in the same way as in, for example, the *X* case. However, as discussed above, that is simply a result of the inherently different physical nature of electricity and other energy products. Still, the input remains both essential and necessary, thus constituting an indispensable part of the process. In short, without it, the chemical reduction could not happen.

60. I also consider that there is *direct and immediate* use in this case. The compressed air is generated and used on site as part of a continuous process of chemical reduction. Unlike in the *X* case, for example, it is not exported in whole or in part, and serves the unique purpose of making the chemical reduction possible.

61. However, before concluding, I think it is also necessary to address explicitly some of the 'what if' type arguments raised by the Commission and the Defendant. Those parties argued that, if electricity used in the turbo blowers were excluded from application of the Directive, then that would open the door to any manner of other exclusions. The example of electricity used to run conveyer belts to transport other raw materials to the blast furnace was cited several times.

62. The criteria applied above at points 59 to 60 are, in my view, justified because they are consistent with the text of the Directive, a systemic and purposive reading thereof, and also with the previous cases of *X* and *YARA*.

63. As acknowledged by the Commission, application of Article 2(4)(b) calls for a case-by-case assessment. Therefore, I am wary of extending or applying the above conclusions to other cases, in the abstract. That said, and while remaining within the realm of the hypothetical, since they are not a subject matter of the present case, I am sceptical about claims that electricity used to run conveyer belts might be covered by the exception. Conveyer belts do not 'generate' any input; they merely move things from one place to the next. Nor do they constitute an essential, thus indispensable part of the process of chemical reduction. Other ways or means of transportation could certainly be envisaged. Nor is there the same immediacy as in the case of compressed air directly injected into the blast furnace as part of the chemical reduction process.

64. For all these reasons, I consider that the referring court's question should be answered as follows:

The third indent of Article 2(4)(b) of Council Directive 2003/96 restructuring the Community framework for the taxation of energy products and electricity is to be interpreted with respect to the blast furnace process for the production of pig iron as meaning that electricity for the propulsion of the turbo blower is to be regarded as electricity which is used principally for the purposes of chemical reduction.

V. Conclusion

65. In the light of the above, I propose that the Court respond to the question posed by the Finanzgericht Düsseldorf (Finance Court, Düsseldorf, Germany) as follows:

The third indent of Article 2(4)(b) of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity is to be interpreted with respect to the blast furnace process for the production of pig iron as meaning that electricity for the propulsion of the turbo blower is to be regarded as electricity which is used principally for the purposes of chemical reduction.