Bioenergy Europe's position on the revision of the Energy Taxation Directive, COM (2021) 563

Achieving the ambitious climate and energy targets envisaged within the European Green Deal while improving the functioning of the internal market requires a revision of the Energy Taxation Directive (ETD) which has remained unchanged since 2003. A robust fiscal framework for energy products can substantially contribute to the EU's 2030 energy targets and increase the effectiveness of other decarbonisation policies.

Crucially, the revised ETD must better reflect the environmental impact of polluting energy products and remove subsidies for fossil fuels. The new ETD, thanks to the well-designed system of minimal excise rates, should incentivise customers to purchase the least carbon-intensive source of the energy and to promote renewable energy production and investment as intended in the Renewable Energy Directive. **It is therefore crucial that sustainable biomass fuels are exempted from the scope of the proposed legal act[1].**

One of the paramount challenges of the comprehensive reform of the carbon pricing system proposed within the Fit for 55 package is to design it in a socially acceptable way. The extension of the carbon pricing via the EU ETS system on fossil fuels used in the building and transport sector, combined with higher excise rates, the phase-out of subsidies, and tax exemption for these fuels, will inevitably increase price levels. The impact of such changes will be mostly felt by vulnerable customers.

Sustainable biomass fuels are the most affordable and common replacement of fossil fuels in the heating sector. These solutions are cost-competitive, market-ready, and easy to scale up. As bioenergy is locally sourced, the development of its value chain facilitates the creation of local jobs as well as sets regional and rural development objectives. Therefore, to offset the prospective rise of prices in the heating sector, the use of sustainable bioenergy fuels should be promoted and incentivised.

Further, it is counterproductive that minimum tax rates are envisaged to be imposed on sustainable biomass fuels – the only renewable energy fuel undergoing a thorough sustainability assessment. It would slow down the transition from fossil fuels and lead to unnecessarily high costs for end users. Moreover, the new tax would inevitably impose an administrative burden on small and mid-scale enterprises supplying these fuels which will send a bad signal to all market players involved.

Imposing a flat common rate for all biomass fuels will particularly disincentivise consuming the lowest-priced fuels produced from different types of residues and wastes, which will thus undermine the circular use of such products. The use of these fuels for energy has considerable environmental advantages, and there is a risk that due to decreased competitiveness, some of these fuels will end up at landfills and decay without producing any substitution benefit. There will be a similar effect for harvesting residues with a high cost for collection and transport, particularly in remote locations.

[1] Sustainable biomass fuels like those that are complying with the requirements of Renewable Energy Directive (2018/2001 EU) and its successor currently under discussions.

Moreover, the impact assessment related to the legislative proposal misses the analysis of market effects of minimal rates for biofuels and certain solid wood products, which will spill over in the increasing costs within the transport and heating sectors. As a result, such measures may lead to unintended market consequences: for instance, considering the **objectives and side-effects of the EU ETS reform,** they may worsen the price impact on the most vulnerable customers.

The purpose of the ETD is to minimise the risk of unfair competition within the common market, currently favouring fossil fuels which have until now benefitted from unproportionally low tax burdens. This is mainly a problem concerning fossil fuels. For bioenergy, there is scarce evidence that tax exemption or reductions have been used to distort competition on the market. On the contrary, measures undermining the competitiveness of such products will result in slowing down the decarbonisation pace in sectors that are already lagging behind in the process.

LEGISLATIVE PROPOSAL ASSESSMENT

The legislative proposal rectifies several structural problems of the current legal framework.

- taxation calculated in EUR/GJ based on the net calorific value of the energy products instead of volume envisaged in Art. 1.2
- the introduction on minimum tax rates for intra EU aviation (Art. 14) and intra EU maritime transport (Art. 15)
- the cancellation of existing tax exemptions for various fossil fuels envisaged in Art. 16
- the introduction of minimum tax rates within Annex I, tables A and C, on the fossil fuels used in the transport sector and heating, although proposed minimum rates should be much higher to facilitate faster phase-out of fossil fuels

The proposal can be improved in several aspects to avoid unintended market effects and support faster decarbonisation.

- in Art. 2 the envisaged extension of the scope of the Directive on energy products such as solid wood products falling under CN codes 4401 and 4402 (fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms; wood charcoal), as well as sustainable biogas and biofuels (components falling within codes: CN2207, CN2909, CN 3823, CN 3824 99 CN 3824 99 86, CN3824 99 92, CN3826 00 10 and CN3826 00 90)
- in Art. 16 the envisaged possibility to grant tax exemptions and reduction for the products under CN 2705 ‘Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons’