



2021/0213(CNS)

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DRAFT REPORT

on the proposal for a Council directive restructuring the Union framework for the taxation of energy products and electricity (recast)
(COM(2021)0563 – C9-0362/2021 – 2021/0213(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Johan Van Overtveldt

(Recast – Rule 110 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive restructuring the Union framework for the taxation of energy products and electricity (recast)
(COM(2021)0563 – C9-0362/2021 – 2021/0213(CNS))**

(Special legislative procedure – consultation – recast)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2021)0563),
 - having regard to Article 113 and Article 192(2), first subparagraph, point (a) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0362/2021),
 - having regard to the opinion of the European Economic and Social Committee of 20 January 2022¹,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the contributions submitted by of the German Bundesrat and the Spanish Parliament on the draft legislative act,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts,
 - having regard to the letter of ... from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 110(3) of its Rules of Procedure,
 - having regard to Rules 110 and 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2022),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Approves the Commission proposal as adapted to the recommendations of the

¹ OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal

Consultative Working Party of the legal services of the European Parliament, the Council and the Commission and as amended below;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) The European Commission Evaluation of the Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (SWD(2019)0329), the Council conclusions of 29 November 2019 on the EU energy taxation framework, the Regulatory Scrutiny Board Opinion of 19 March 2021 (SEC(2021)0663) and the European Court of Auditors Review 01/2022 on energy taxation, carbon pricing and energy subsidies, contain important considerations to which the Council should pay attention to in order to design an adequate system of energy taxation.

Or. en

Amendment 2

Proposal for a directive

Recital -1 a (new)

Text proposed by the Commission

Amendment

(-1a) The International Air Transport Association (IATA) published a resolution in October 2021 for the global air transport industry to achieve net-zero carbon emissions by 2050, in which IATA members commit themselves to achieving net zero carbon emissions by 2050 and call on governments to ensure that the industry's action is supported by a coherent and coordinated policy framework which drives innovation and does not rely on cost-ineffective instruments.

Or. en

Amendment 3

**Proposal for a directive
Recital -1 b (new)**

Text proposed by the Commission

Amendment

(-1b) The independent think tank CE Delft published a study in November 2021 entitled "The impacts of the ETD proposals on shipping and bunkering", which draws attention to the impact of this Directive in the maritime navigation sector.

Or. en

Amendment 4

**Proposal for a directive
Recital -1 c (new)**

Text proposed by the Commission

Amendment

(-1c) It is unfortunate that to date the Commission has failed to produce a

comprehensive overall impact assessment for the entire "Fit for 55" package, elaborating on its cumulative and combined effects. This is problematic since the overall impact of the package on social costs and their distribution, competitiveness, jobs, carbon and business leakage remains unclear. The absence of such an overall assessment also prevents a clear view of the synergies and interdependencies between the various proposals of the "Fit for 55" package. Moreover, the "Fit for 55" package should also be aligned with more recent climate-related proposals.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire "Fit for 55" package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 5

Proposal for a directive Recital -1 d (new)

Text proposed by the Commission

Amendment

(-1d) The impact assessment accompanying this proposal has substantial shortcomings. The main concerns expressed in the Commission Regulatory Scrutiny Board Opinion remain valid, notably: "(1)The report does not sufficiently explain the coherence between the Energy Taxation Directive" and other "Fit for 55" initiatives, in particular the Emissions Trading System (ETS); (2) The report is not sufficiently clear on its objectives. In particular, it does not clearly determine to what extent revenue raising is an objective. It does not sufficiently explain

possible conflicts between fiscal and environmental targets; (3) The report does not sufficiently justify some of the proposed minimum targets and why alternative packages were not explored under the preferred option(s); (4) The analysis of the impacts on employment, international competitiveness and air pollution is not sufficiently developed."

Or. en

Justification

Your rapporteur finds that the impact assessment accompanying the ETD proposal has some shortcomings. He refers to the main arguments in the Commission's Regulatory Scrutiny Board opinion, which remain valid.

Amendment 6

Proposal for a directive Recital -1 e (new)

Text proposed by the Commission

Amendment

(-1e) Given that this Directive will generate additional compliance costs for the affected sectors, compensatory actions should be taken in order to prevent an increase in the total level of regulatory burden imposed on those sectors. Therefore, prior to the entry into force of this Directive, the Commission should present proposals to offset the regulatory burden introduced by this Directive through the revision or repeal of provisions in other legal acts of the Union that generate compliance costs in the sectors affected by this Directive.

Or. en

Justification

The von der Leyen Commission clearly adopted the "one in, one out" approach as a guiding principle for legislation, cf.

https://ec.europa.eu/commission/presscorner/detail/en/IP_19_6657

Amendment 7

Proposal for a directive Recital -1 f (new)

Text proposed by the Commission

Amendment

(-1f) The current geopolitical and socio-economic situation with rising energy prices and increasing inflation urges policymakers to all the more carefully assess the potential social costs of their policies to ensure that they do not result in an increase in energy poverty or in job losses. Sustainable energy products are still often more costly than traditional energy products and are even unaffordable for many citizens.

Or. en

Justification

Rising energy prices and inflation have been news headlines already for months. Furthermore, the latest geopolitical and military developments are not at all reassuring.

Amendment 8

Proposal for a directive Recital -1 g (new)

Text proposed by the Commission

Amendment

(-1g) The CO₂ price per tonne has risen sharply over the past months and this trend is expected to continue and even increase further in the future.

Or. en

Justification

Cf. <https://sandbag.be/index.php/carbon-price-viewer/>

Amendment 9

Proposal for a directive Recital -1 h (new)

Text proposed by the Commission

Amendment

(-1h) A fair sustainable transition requires accompanying social measures. Member States' competent authorities are best placed to decide the social measures that should be taken and therefore, should be free, within their respective competences, to decide on the level of compensation. Governments, however, cannot and should not compensate for all costs, but should be able to choose to adopt tax shifts to ensure consumers' overall purchasing power, opt for targeted support measures and prioritise sound budgets.

Or. en

Justification

Member States are best placed to decide on social measures.

Amendment 10

Proposal for a directive Recital -1 i (new)

Text proposed by the Commission

Amendment

(-1i) Having regard to the different starting points of Member States, this Directive should continue to provide them with adequate flexibility with regard to the measures to be taken to respond to the social impact of energy taxation.

Or. en

Justification

In view of the energy transition, there are clear distinctions, opportunities and challenges

between the EU-27. Legislators should consider those differences and not take a purely Western-European approach to the file.

Amendment 11

Proposal for a directive Recital -1 j (new)

Text proposed by the Commission

Amendment

(-1j) Energy transition is a crucial means for achieving the goal of climate neutrality at Union level by 2050. Innovation is the driving force for sustainable change. Successful climate and energy policies require an economic growth scenario that also puts competitiveness and welfare at the centre. That is critical for the legitimacy of the Green Deal and for obtaining general support for climate measures, since there is no broad public acceptance of sacrificial policies or of a degrowth scenario.

Or. en

Justification

Transitions can only be successful in an economic growth scenario. The challenge for the EU is to decarbonise while remaining competitive and thus ensuring citizens' welfare.

Amendment 12

Proposal for a directive Recital -1 k (new)

Text proposed by the Commission

Amendment

(-1k) The importance of a balanced energy mix should be emphasised in view of the strategic autonomy of and the security of supply for Member States. Moreover, decisions on the energy mix remain a competence of Member States.

Justification

Cf. Article 194 TFEU.

Amendment 13

**Proposal for a directive
Recital -1 l (new)**

Text proposed by the Commission

Amendment

(-1l) In terms of energy efficiency, it is evident that the cheapest energy is the energy that is not used. In that regard, it remains important to give the proper signal for the responsible consumption of each energy product, regardless of the source of production.

Justification

Encouraging energy efficiency remains an important objective, also of the ETD.

Amendment 14

**Proposal for a directive
Recital -1 m (new)**

Text proposed by the Commission

Amendment

(-1m) Decisions on taxation are in the competence of Member States, which are sovereign in this field. Therefore, this Directive should adhere to the principles of subsidiarity, efficacy and proportionality.

Justification

Cf. Article 113 TFEU in conjunction with Article 5(3) TEU and Protocol (No 2) on the

application of the principles of subsidiarity and proportionality.

Amendment 15

Proposal for a directive

Recital -1 n (new)

Text proposed by the Commission

Amendment

(-1n) Member States should take into account existing international agreements such as the Mannheim Convention for inland navigation on the river Rhine.

Or. en

Justification

Cf. <https://www.ccr-zkr.org/11020100-en.html>

Amendment 16

Proposal for a directive

Recital 2

Text proposed by the Commission

Amendment

(2) Directive 2003/96/EC was adopted in order to ensure the proper functioning of the internal market as regards the taxation of energy products and electricity. Directive 2003/96/EC also integrated environmental protection requirements, in particular, in the light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

(2) Directive 2003/96/EC was adopted in order to ensure the proper functioning of the internal market as regards the taxation of energy products and electricity. Directive 2003/96/EC also integrated environmental protection requirements, in particular, in the light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change. ***By taxing the consumption of energy, this Directive gives a clear signal in favour of energy efficiency.***

Or. en

Justification

Encouraging energy efficiency remains an important objective, also for the ETD.

Amendment 17

Proposal for a directive Recital 3

Text proposed by the Commission

(3) It is necessary to ensure that clear taxation rules for energy products and electricity continue to contribute to the smooth functioning of the internal market while at the same time tackling the climate and environmental-related challenges in the context of the Communication from the Commission ‘The European Green Deal’²⁸. Energy taxation can contribute to the **ambition of at least 55 % reduction in net greenhouse gas emissions by 2030 compared to 1990**, as well as to **the objective of zero pollution through** the implementation of the polluter-pays principle, by **ensuring that the taxation of motor fuels, heating fuels and electricity better reflects the impact they have on the environment and on health**. The contribution of energy taxation to those objectives has been endorsed by the Council Conclusions on the EU energy taxation framework²⁹.

²⁸ COM(2019)0640 of 11 December 2019.

²⁹ 14861/19 of 5 December 2019.

Amendment

(3) It is necessary to ensure that clear taxation rules for energy products and electricity continue to **primarily** contribute to the smooth functioning of the internal market while at the same time tackling the climate and environmental-related challenges in the context of the Communication from the Commission ‘The European Green Deal’²⁸. Energy taxation can contribute to the **new European climate and energy targets for 2030**, as well as to the implementation of the polluter-pays principle, by **imposing a consumption tax on** motor fuels, heating fuels and electricity **while avoiding double taxation**. The contribution of energy taxation to those objectives has been endorsed by the Council Conclusions on the EU energy taxation framework²⁹.

²⁸ COM(2019)0640 of 11 December 2019.

²⁹ 14861/19 of 5 December 2019.

Or. en

Justification

Your rapporteur wishes to emphasize that the smooth functioning of the internal market is the prime objective of the ETD. He sees clear risks for double taxation in (indirectly) including carbon content in the ETD by the ranking proposed by the Commission.

Amendment 18

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) A sound and smart energy taxation framework should not be merely designed to generate revenues, but should also provide a behavioural steering effect resulting in improved environmental outcomes.

Or. en

Justification

Taxation should lead to behavioural change but should at the same time be future-proof and predictable.

Amendment 19

Proposal for a directive Recital 4

Text proposed by the Commission

Amendment

(4) Environmental taxation can be **a cost-effective mean for Member States to achieve the targeted reductions of greenhouse gasses**. The proper functioning of the internal market requires common rules on that taxation.

(4) **Most often measures other than taxes are a more cost-efficient means to steer behaviour in a desired direction.** Environmental taxation can be **used as a last resort to this end**. The proper functioning of the internal market requires common rules on that taxation. **The energy taxation framework should be effective, proportionate, future-proof and predictable. To that end, this Directive should foster energy efficiency in a technology neutral manner, while CO₂ price signals should be given by the European Union Emissions Trading System.**

Or. en

Justification

Taxation should lead to behavioural change but should at the same time be future-proof and predictable.

Amendment 20

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Rules should be laid down to base energy taxation on the energy content of energy products and electricity, ***coupled with their environmental performances***. For those purposes, reference should be made to the definitions of Directive 2012/27/EU of the European Parliament and of the Council³⁰, to Directive (EU) 2018/2001 of the European Parliament and of the Council³¹, and to Regulation (EU) 2020/852 of the European Parliament and of the Council³². Moreover, the list of energy products should be updated to include certain energy products, in order to ensure a unified and standardised treatment of those fuels.

³⁰ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

³¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328 21.12.2018, p. 82).

³² Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a

Amendment

(9) Rules should be laid down to base energy taxation on the energy content of energy products and electricity, ***based on the principle of technology neutrality. The Annexes to this Directive should ensure full consistency with that principle***. For those purposes, reference should be made to the definitions of Directive 2012/27/EU of the European Parliament and of the Council³⁰, to Directive (EU) 2018/2001 of the European Parliament and of the Council³¹, and to Regulation (EU) 2020/852 of the European Parliament and of the Council³². Moreover, the list of energy products should be updated to include certain energy products, in order to ensure a unified and standardised treatment of those fuels.

³⁰ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

³¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328 21.12.2018, p. 82).

³² Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a

framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

Or. en

Justification

Your rapporteur fully supports the change from volume to energy content as the basis for energy taxation. This change would enable to end certain disadvantages of renewable energy products vis-à-vis fossil fuels (cf. ECA review). However, your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission, and this mainly for three reasons: to avoid high social costs, to avoid double taxation (e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement.

Amendment 21

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) Member States should also replicate at any time the ranking of minimum levels of taxation as laid down in the annex in relation to different products for each given use in order to ensure an environmentally tailored structure of rates. The minimum levels of energy taxation should be automatically aligned every year to take into account the evolution of their real value in order to preserve the current level of rate harmonization and therefore reduce the volatility stemming from energy and food prices. This alignment should be made on the basis of the changes in the Union-wide harmonised index of consumer prices excluding energy and unprocessed food as published by Eurostat.

deleted

Or. en

Justification

Your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission, mainly for three reasons: to avoid high social costs, to avoid double taxation

(e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement.

Amendment 22

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) As a general principle, Member States should apply to energy products and electricity levels of taxation not less than the minimum levels of taxation as set out by the Directive. Member States should be permitted to comply with the Union minimum taxation levels by taking into account the total charge levied in respect of all indirect taxes which they have chosen to apply (excluding VAT).

Amendment

(13) As a general principle, Member States should apply to energy products and electricity levels of taxation not less than the minimum levels of taxation as set out by the Directive ***in order to ensure a level playing field between Member States, and competitiveness***. Member States should be permitted to comply with the Union minimum taxation levels by taking into account the total charge levied in respect of all indirect taxes which they have chosen to apply (excluding VAT).

Or. en

Justification

The smooth functioning of the internal market requires a level playing field.

Amendment 23

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Fiscal arrangements made in connection with the implementation of this Union framework for the taxation of energy products and electricity are a matter for each Member State to decide. In this regard, Member States might decide not to increase the overall tax burden if they consider that the implementation of such a principle of tax neutrality could contribute to the restructuring and the modernisation of their tax systems by encouraging

Amendment

(14) Fiscal arrangements made in connection with the implementation of this Union framework for the taxation of energy products and electricity are a matter for each Member State to decide. In this regard, Member States might decide not to increase the overall tax burden if they consider that the implementation of such a principle of tax neutrality could contribute to the restructuring and the modernisation of their tax systems by encouraging

behaviour conducive to greater protection of the environment and increased labour use.

behaviour conducive to greater protection of the environment and increased labour use. ***Tax shifts to guarantee the overall consumer purchasing power become more urgent and compelling in scenarios of rising energy prices and inflation.***

Or. en

Justification

In the context of increasing energy prices and inflation, it is important to guarantee the overall consumers' purchasing power. This can be achieved by tax shifts in the Member States.

Amendment 24

Proposal for a directive

Recital 18

Text proposed by the Commission

Amendment

(18) Energy products used as a motor fuel for certain purposes and those used as heating fuel are normally taxed at lower levels than those applicable to energy products used as a propellant. Electricity should always be among the least taxed energy sources in view of fostering its use, notably in the transport sector. To that purpose, Member States should endeavour to apply the same level of taxation to electricity used to charge electric vehicles as for heating purposes during the necessary time following the entry into force of this Directive.

deleted

Or. en

Justification

Your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission, mainly for three reasons: to avoid high social costs, to avoid double taxation (e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement.

Amendment 25

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Air navigation and waterborne navigation are not only important sectors for the economy of the Union but also essential to ensure connectivity in the Union. Both sectors operate in an international environment and require a global level playing field to remain competitive. Therefore, without prejudice to possible Union measures, global market-based measures remain the most effective option for those sectors and the Union should find proper solutions at international level.

Or. en

Justification

The study of CE Delft clearly demonstrates the impact of the ETD proposal on bunkering and shipping. If not managed well, the ETD proposal could provoke port evasion and thus lead to a triple loss: loss for the environment, loss of revenues and loss of economic activities.

Amendment 26

Proposal for a directive Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) There are legitimate reasons to revise the privileged tax regimes of kerosene and heavy fuels. Such revision should be based on an in-depth impact assessment, which should analyse the combined and cumulative effects of the "Fit for 55" package on the air navigation and waterborne navigation sectors, including the genuine risks of evasion to non-European air hubs and ports and the impact of Brexit.

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 27**Proposal for a directive****Recital 21***Text proposed by the Commission*

(21) The Union and the Member States have concluded multilateral agreements regarding air services and air transport, or bilateral agreements with third countries. Those agreements include provisions related to the taxation of aviation fuel. Aviation fuel has traditionally had a privileged tax regime. The need to pursue the objectives of the Directive requires that, without prejudice to those international agreements, energy products and electricity supplied for intra-EU air navigation, ***except cargo-only flights*** should be taxed. ***The exemption for the fuel used by cargo-only flights is still needed in the absence of more efficient alternatives.***

Amendment

(21) The Union and the Member States have concluded multilateral agreements regarding air services and air transport, or bilateral agreements with third countries. Those agreements include provisions related to the taxation of aviation fuel. Aviation fuel has traditionally had a privileged tax regime ***due to the international environment in which the sector operates and the need for a global level playing field to remain competitive.*** The need to pursue the objectives of the Directive requires that, without prejudice to those international agreements, energy products and electricity supplied for intra-EU air navigation, should be taxed ***adequately and based on an in-depth impact assessment.***

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55” package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 28

Proposal for a directive Recital 22

Text proposed by the Commission

(22) In order to ensure a smooth implementation of this Directive, the minimum levels of taxation for motor fuels used for intra-EU ***non-business and non-pleasure*** flights would be reached over a transitional period of ten years, whereas sustainable alternative fuels and electricity would be subject to a zero minimum rate ***for ten years***. Energy products and electricity used for intra-EU ***business aviation and pleasure*** flights should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.

Amendment

(22) In order to ensure a smooth implementation of this Directive, the minimum levels of taxation for motor fuels used for intra-EU flights would be reached over a transitional period of ten years, whereas sustainable alternative fuels and electricity would be subject to a ***permanent*** zero minimum rate. Energy products and electricity used for intra-EU flights should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.

Or. en

Justification

Your rapporteur is convinced that a ten years transition period for sustainable alternatives is too short.

Amendment 29

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Fuel used for waterborne navigation, including fishing, should also be taxed, and the Member States party to international agreements providing for the exemption of that fuel, have to, ***by the date of the application of this Directive***, ensure they eliminate the incompatibilities. It is necessary to allow for a different level of taxation to be applied to the use of energy products and electricity for intra-EU waterborne ***regular service*** navigation,

Amendment

(23) Fuel used for waterborne navigation, including fishing, should also be taxed ***adequately and based on an in-depth impact assessment***, and the Member States party to international agreements providing for the exemption of that fuel, have to ensure they eliminate the incompatibilities. It is necessary to allow for a different level of taxation to be applied to the use of energy products and electricity for intra-EU waterborne

fishing and freight transport and their respective at berth activities. Considering the specificity of those uses, the minimum levels of taxation should be lower than the ones applicable to general motor fuel use. In order to provide an incentive to the use of sustainable alternative fuels *and electricity*, such fuels *and electricity* should be exempted from taxation *for ten years*. Energy products and electricity used for the remaining intra-EU waterborne navigation should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.

navigation, fishing and freight transport and their respective at berth activities. Considering the specificity of those uses, the minimum levels of taxation should be lower than the ones applicable to general motor fuel use. In order to provide an incentive to the use of sustainable alternative fuels, such fuels should be *permanently* exempted from taxation. Energy products and electricity used for the remaining intra-EU waterborne navigation should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55” package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 30

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) This Directive should promote the cost-efficient deployment of installations and the use of shore side electricity by providing a permanent tax exemption to shore side electricity.

Or. en

Justification

Your rapporteur advocates a permanent tax exemption for shore side electricity, in line with the requirements put forward in the proposal for a regulation on Deployment of alternative fuels (2021/0223 (COD)) and the proposal for a regulation on Sustainable maritime fuels (2021/0210 (COD)).

Amendment 31

Proposal for a directive Recital 24

Text proposed by the Commission

(24) For extra-EU air navigation, without prejudice to international obligations, and for extra-EU waterborne navigation, including fishing, Member States may **exempt or** apply the same levels of intra-EU taxation, according to the type of activity.

Amendment

(24) For extra-EU air navigation, without prejudice to international obligations, and for extra-EU waterborne navigation, including fishing, Member States may apply the same levels of intra-EU taxation, according to the type of activity.

Or. en

Justification

Reformulation in view of a global level playing field.

Amendment 32

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) Certain tax exemptions and reductions may prove necessary, notably because of risks connected to international competition.

Or. en

Justification

Partial reintroduction of original text.

Amendment 33

Proposal for a directive Recital 28

Text proposed by the Commission

(28) Targeted reductions in the tax level may prove necessary to tackle the social impact of energy taxes. An exemption from taxation may temporarily prove necessary to protect vulnerable households.

Amendment

(28) Targeted reductions in the tax level may prove necessary to tackle the social impact of energy taxes. An exemption from taxation may temporarily prove necessary to protect vulnerable households. ***Member States are in a better position to determine the concrete conditions under which a household within their territory should be considered as vulnerable for the purposes of an energy tax exemption. In this regard, out of respect to the principle of subsidiarity, Member States should remain free to determine which households are at risk.***

Or. en

Justification

Member States are best placed to decide upon social measures.

Amendment 34

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) Every **five** years and for the first time **five** years after the entry into force of this Directive, the Commission should report to the Council on the application of this Directive, examining in particular the minimum levels of taxation, the impact of innovation and technological developments, especially as regards energy efficiency, the use of electricity in transport and the justification for the exemptions, reductions and differentiations laid down in this Directive. The report should take into account the proper functioning of the internal market, environmental and social considerations, the real value of the minimum levels of taxation and the wider

Amendment

(36) Every **ten** years and for the first time **ten** years after the entry into force of this Directive, the Commission should report to the Council on the application of this Directive, examining in particular the minimum levels of taxation, the impact of innovation and technological developments, especially as regards energy efficiency, the use of electricity in transport and the justification for the exemptions, reductions and differentiations laid down in this Directive. The report should take into account the proper functioning of the internal market, environmental and social considerations, the real value of the minimum levels of taxation and the wider

relevant objectives of the Treaties.

relevant objectives of the Treaties.

Or. en

Justification

The taxation framework needs to be future-proof and predictable. Your rapporteur believes that a possible review within five years is not realistic nor desirable.

Amendment 35

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. Member States shall impose taxation on energy products and electricity in accordance with this Directive.

Amendment

1. Member States shall impose taxation on energy products and electricity in accordance with this Directive.

The Council is invited to determine the rates in the Tables A, B and C of Annex I.

Or. en

Justification

Your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission, mainly for three reasons: to avoid high social costs, to avoid double taxation (e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement. Since the Council is the legislator on the ETD, your rapporteur invites the Council to revise the Tables of Annex I, to align them with the principle of technology neutrality.

Amendment 36

Proposal for a directive

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For the purposes of this Directive, the consumption for energy products supplied for use as fuel to vessels shall only include the share of total fuels bunkered and used during voyages falling within the scope of Article 15.

Justification

Your rapporteur agrees that maritime fuels should be taxed. However, the tax should be well targeted in order to avoid carbon and business leakage. Furthermore, EU law has no extraterritorial application. Your rapporteur therefore proposes to tax only the amount of maritime fuels that is used within the waters of EU Member States.

Amendment 37**Proposal for a directive****Article 5 – paragraph 1 – introductory part***Text proposed by the Commission*

1. Member States shall ensure that where equal minimum levels of taxation are laid down in Annex I in relation to a given use, equal levels of taxation are fixed for products put to that use. Member States shall also replicate at any time the **ranking of** minimum levels of taxation as laid down in Annex I in relation to different products for each given use.

Amendment

1. Member States shall ensure that where equal minimum levels of taxation are laid down in Annex I in relation to a given use, equal levels of taxation are fixed for products put to that use. Member States shall also replicate at any time the minimum levels of taxation as laid down in Annex I in relation to different products for each given use.

Or. en

Justification

Your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission, mainly for three reasons: to avoid high social costs, to avoid double taxation (e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement.

Amendment 38**Proposal for a directive****Article 5 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

For the purposes of ranking mentioned in the first subparagraph, electricity shall be considered together with other motor fuels and heating fuels indicated in Tables B and C of Annex I, ***except*** when Member States

Amendment

Electricity shall be considered together with other motor fuels and heating fuels indicated in Tables B and C of Annex I ***and shall therefore be included in those tables.*** When Member States apply a

apply a specific level of taxation to electricity used to charge electric vehicles, **in which case** electricity shall be considered together with motor fuels indicated in Table A of Annex I, unless otherwise specified in this Directive.

specific level of taxation to electricity used to charge electric vehicles, electricity shall be considered together with motor fuels indicated in Table A of Annex I, unless otherwise specified in this Directive.

Or. en

Justification

Your rapporteur favours a technology neutral approach, instead of the ranking proposed by the Commission. Mainly for three reasons: to avoid high social costs, to avoid double taxation (e.g., vis-à-vis the ETS) and to ensure a better implementation and enforcement.

Amendment 39

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. The minimum levels of taxation laid down in this Directive shall be adapted every year starting from 1 January 2024 to take account of the changes in the harmonised index of consumer prices excluding energy and unprocessed food as published by Eurostat. The minimum levels shall be adapted automatically, by increasing or decreasing the base amount in euro by the percentage change in that index over the preceding calendar year.

deleted

The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend the minimum levels of taxation as referred to in the first subparagraph.

Or. en

Justification

Your rapporteur rejects the proposal of an automatic indexation since this would mean a perpetual tax increase, beyond control of the Member States.

Amendment 40

Proposal for a directive Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend the minimum levels of taxation as referred to in the first subparagraph.

deleted

Or. en

Justification

Your rapporteur rejects the proposal of an automatic indexation since this would mean a perpetual tax increase, beyond control of the Member States.

Amendment 41

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Amendment

As from ***1 January 2023***, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Table A of Annex I.

As from ... ***[the date of entry into force of this Directive]***, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Table A of Annex I.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 42

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

Without prejudice to Article 5(2), when a transitional period is applicable as provided for in Table A of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until ***1 January 2033***. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until ***1 January 2033***.

Amendment

When a transitional period is applicable as provided for in Table A of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until ... ***[ten years after the date of entry into force of this Directive]***. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until ... ***[ten years after the date of entry into force of this Directive]***.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 43

Proposal for a directive Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. As from ***1 January 2023***, notwithstanding Article 7, the minimum levels of taxation applicable to products used as motor fuel for the purposes set out in paragraph 2 of this Article shall be fixed as set out in Table B of Annex I .

Amendment

1. As from ... ***[the date of entry into force of this Directive]***, notwithstanding Article 7, the minimum levels of taxation applicable to products used as motor fuel for the purposes set out in paragraph 2 of this Article shall be fixed as set out in Table B of Annex I .

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact

assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 44

Proposal for a directive Article 8 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Without prejudice to Article 5(2), when a transitional period is applicable as provided for in Table B of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until ***1 January 2033***. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until ***1 January 2033***.

Amendment

When a transitional period is applicable as provided for in Table B of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until ... ***[ten years after the date of entry into force of this Directive]***. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until ... ***[ten years after the date of entry into force of this Directive]***.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 45

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

As from ***1 January 2023***, the minimum levels of taxation applicable to heating fuels shall be fixed as set out in Table C of Annex I .

Amendment

As from ... ***[the date of entry into force of this Directive]***, the minimum levels of taxation applicable to heating fuels shall be fixed as set out in Table C of Annex I .

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 46

Proposal for a directive Article 9 – paragraph 2

Text proposed by the Commission

*Without prejudice to Article 5(2), when a transitional period is applicable as provided for in Table C of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until **1 January 2033**. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until **1 January 2033**.*

Amendment

When a transitional period is applicable as provided for in Table C of Annex I, the increase in the minimum levels of taxation shall be fixed at one tenth per year until ... ***[ten years after the date of entry into force of this Directive]***. For low-carbon fuels, the minimum level of taxation set for the first year of the transitional period shall apply until ... ***[ten years after the date of entry into force of this Directive]***.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 47

Proposal for a directive Article 10

Text proposed by the Commission

Article 10

As from 1 January 2023, the minimum levels of taxation applicable to electricity shall be fixed as set out in Table D of

Amendment

deleted

Annex I.

Or. en

Justification

As from the date indicated in Article 33, the minimum levels of taxation applicable to electricity shall be fixed as set in the Tables A to C of Annex I.

Amendment 48

**Proposal for a directive
Article 13 – paragraph 1**

Text proposed by the Commission

1. Member States shall exempt from taxation under fiscal control energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity.

Amendment

1. Member States shall exempt from taxation under fiscal control energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity, ***if the source of the electricity production is listed in Article 16(1)(b).***

Or. en

Justification

The goal of the "Fit for 55"-package is to incentivise decarbonisation. It should therefore be specified that only 'clean' energy sources can lead to a tax exemption, when used to produce electricity.

Amendment 49

**Proposal for a directive
Article 13 – paragraph 2**

Text proposed by the Commission

2. By derogation from paragraph 1, Member States may, for reasons of environmental policy, subject the products referred to in paragraph 1 to taxation without having to respect the minimum levels of taxation laid down in this Directive. ***In such case, the taxation of***

Amendment

2. By derogation from paragraph 1, Member States may, for reasons of environmental policy, subject the products referred to in paragraph 1 to taxation without having to respect the minimum levels of taxation laid down in this

those products shall replicate the ranking between the minimum levels of taxation as laid down in Annex I and shall not be taken into account for the purposes of satisfying the minimum level of taxation on electricity laid down in Article 10.

Directive.

Or. en

Justification

The rapporteur prefers this Directive to be based on the principle of technological neutrality. The reference to the ranking can therefore be deleted.

Amendment 50

**Proposal for a directive
Article 14 – paragraph 1 – introductory part**

Text proposed by the Commission

1. Without prejudice to international obligations and to Article 5 of this Directive, as applicable as a single use to intra-EU air navigation of ***flights other than business and pleasure*** flights, Member states shall apply under fiscal control not less than the minimum levels of taxation prescribed in this Directive to energy products supplied for use as fuel to aircrafts, and to electricity used directly for charging electric aircrafts, for the purposes of intra-EU air navigation of those flights.

Amendment

1. Without prejudice to international obligations and to Article 5 of this Directive, as applicable as a single use to intra-EU air navigation of flights, Member states shall apply under fiscal control not less than the minimum levels of taxation prescribed in this Directive to energy products supplied for use as fuel to aircrafts, and to electricity used directly for charging electric aircrafts, for the purposes of intra-EU air navigation of those flights.

Or. en

Justification

The rapporteur is generally in favour of a kerosene tax, provided that the risks of carbon and business leakage are thoroughly assessed. It is for him however incomprehensible that passenger flights would be subject to such a tax and e.g. private jets would be exempted. The Commission does not clarify this distinction. For the rapporteur, a kerosene tax should not discriminate according to its use.

Amendment 51

Proposal for a directive

Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The minimum levels of taxation referred to in the first subparagraph shall start from zero and increase each year by one tenth of the final minimum rates, set out in **Tables A and D** of Annex I, over a transitional period of ten years. A minimum rate of zero shall apply to sustainable biofuels and biogas, low-carbon fuels, renewable fuels of non-biological origin, advanced sustainable biofuels and biogas, and electricity **over that transitional period of ten years.**

Amendment

The minimum levels of taxation referred to in the first subparagraph shall start from zero and increase each year by one tenth of the final minimum rates, set out in **Table A** of Annex I, over a transitional period of ten years ... **[the date of entry into force of this Directive]**. A minimum rate of zero shall apply to sustainable biofuels and biogas, low-carbon fuels, renewable fuels of non-biological origin, advanced sustainable biofuels and biogas, and electricity.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic, especially for a sector where the risk for carbon and business leakage is significant.

Amendment 52

Proposal for a directive

Article 14 – paragraph 1 – subparagraph 4

Text proposed by the Commission

For the purposes of this Article, ‘business aviation’ shall mean the operation or use of aircraft by companies or individuals for the carriage of passengers or goods as an aid to the conduct of their business, flown for purposes generally considered not for public hire and piloted by individuals having, at the minimum, a valid commercial pilot license with an instrument rating.

Amendment

deleted

Justification

The rapporteur is generally in favour of a kerosene tax, provided that the risks of carbon and business leakage are thoroughly assessed. It is for him however incomprehensible that passenger flights would be subject to such a tax and e.g. private jets would be exempted. The Commission does not clarify this distinction. For the rapporteur, a kerosene tax should not discriminate according to its use.

Amendment 53**Proposal for a directive****Article 14 – paragraph 1 – subparagraph 5**

Text proposed by the Commission

Amendment

For the purposes of this Article, ‘pleasure flights’ shall mean the use of an aircraft for personal or recreational purposes not associated with a business or professional use.

deleted

Amendment 54**Proposal for a directive****Article 14 – paragraph 2**

Text proposed by the Commission

Amendment

2. *Energy products supplied for use as fuel to aircrafts and electricity used directly for charging electric aircrafts, for the purposes of intra-EU air navigation of cargo-only flights shall be exempted.*

deleted

By derogation from the first subparagraph of this paragraph, Member states may apply the same level of taxation laid down in paragraph 1 to cargo-only domestic flights referred to in the first subparagraph of this paragraph.

Where a Member State has entered into an agreement with one or several Member

States, it may also apply the same level of taxation laid down in paragraph 1 to intra-EU air navigation of cargo-only flights mentioned in the first subparagraph.

For the purposes of this paragraph, 'cargo-only flight' shall mean a scheduled or non-scheduled air service performed by aircraft carrying revenue loads other than revenue passengers, excluding flights carrying one or more revenue passengers and flights listed in published timetables as open to passengers.

Or. en

Justification

The rapporteur is not in favour of discrimination according to the use of flights. This would hinder legal certainty, create loopholes and hamper innovation and decarbonisation. The rapporteur is next to that in favour of a technological neutral approach with respect to decarbonisation. Electrification could be one answer to that question. It is up to the legislator to set the goal, not the technology to reach that goal.

Amendment 55

**Proposal for a directive
Article 14 – paragraph 2 – subparagraph 1**

Text proposed by the Commission

Amendment

By derogation from the first subparagraph of this paragraph, Member states may apply the same level of taxation laid down in paragraph 1 to cargo-only domestic flights referred to in the first subparagraph of this paragraph.

deleted

Or. en

Justification

The rapporteur is not in favour of discrimination according to the use of flights. This would hinder legal certainty, create loopholes and hamper innovation and decarbonisation.

Amendment 56

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where a Member State has entered into an agreement with one or several Member States, it may also apply the same level of taxation laid down in paragraph 1 to intra-EU air navigation of cargo-only flights mentioned in the first subparagraph. ***deleted***

Or. en

Justification

The rapporteur is not in favour of discrimination according to the use of flights. This would hinder legal certainty, create loopholes and hamper innovation and decarbonisation

Amendment 57

Proposal for a directive

Article 14 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

For the purposes of this paragraph, ‘cargo-only flight’ shall mean a scheduled or non-scheduled air service performed by aircraft carrying revenue loads other than revenue passengers, excluding flights carrying one or more revenue passengers and flights listed in published timetables as open to passengers. ***deleted***

Or. en

Justification

The rapporteur is not in favour of discrimination according to the use of flights. This would hinder legal certainty, create loopholes and hamper innovation and decarbonisation.

Amendment 58

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

3. Without prejudice to international obligations, Member States may **exempt or** apply the same levels of taxation applied for intra-EU air navigation to extra-EU air navigation **according to the type of flight**.

Amendment

3. Without prejudice to international obligations, Member States may apply the same levels of taxation applied for intra-EU air navigation to extra-EU air navigation.

Or. en

Amendment 59

Proposal for a directive Article 14 – paragraph 5 – introductory part

Text proposed by the Commission

5. Member States **may apply under fiscal control total or partial exemptions to** electricity supplied to stationary aircrafts.

Amendment

5. Member States **shall exempt** electricity supplied to stationary aircrafts.

Or. en

Justification

The rapporteur here takes the same approach as for shore side electricity for vessels.

Amendment 60

Proposal for a directive Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

1. Without prejudice to Article 5, Member states shall apply, as a single use, under fiscal control not less than minimum levels of taxation as set out in **Tables B and D** of Annex I to energy products supplied for use as fuel to vessels, and to

Amendment

1. Without prejudice to Article 5, Member states shall apply, as a single use, under fiscal control not less than minimum levels of taxation as set out in **Table B** of Annex I to energy products supplied for use as fuel to vessels, and to electricity

electricity used directly for charging electric vessels, for the purposes of intra-EU waterborne **regular service** navigation, fishing and freight transport.

used directly for charging electric vessels, for the purposes of intra-EU waterborne navigation **by passenger ships**, fishing and freight transport.

Or. en

Justification

The rapporteur takes a technological neutral approach. Electricity should therefore be listed alongside with other energy products. The notion of 'passenger ships' is more in line with existing international law and would therefore enhance legal certainty on the scope of application of this Directive.

Amendment 61

**Proposal for a directive
Article 15 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Over a transitional period of ten years, minimum rates of zero shall apply to sustainable biofuels and biogas, low-carbon-fuels, renewable fuels of non-biological origin, advanced sustainable biofuels and biogas and electricity.

Amendment

Minimum rates of zero shall apply to sustainable biofuels and biogas, low-carbon-fuels, renewable fuels of non-biological origin, advanced sustainable biofuels and biogas and electricity.

Or. en

Justification

Your rapporteur believes that a transition period of ten years may be too short.

Amendment 62

**Proposal for a directive
Article 15 – paragraph 1 – subparagraph 4**

Text proposed by the Commission

For the purposes of this Article, '**regular service**' shall mean a series of ro-ro passenger ship **or high-speed** passenger craft crossings operated so as to serve traffic between the same two or more

Amendment

For the purposes of this Article, 'passenger ship' means a ship that carries more than **12 passengers, including but not limited to cruise ships, high speed** passenger crafts, and ships with facilities to enable road or

ports, or a series of voyages from and to the same port without intermediate calls, either: according to a published timetable or with crossings so regular or frequent that they constitute a recognisable systematic series.

rail vehicles to roll on and roll off the vessel.

Or. en

Justification

This amendment aligns the definition of 'passenger ship' with the one used in international law, e.g. the SOLAS convention.

Amendment 63

**Proposal for a directive
Article 15 – paragraph 2**

Text proposed by the Commission

2. Member states may **exempt or** apply the same levels of taxation applied for intra-EU waterborne navigation to extra-EU waterborne navigation according to the type of activity.

Amendment

2. Member states may apply the same levels of taxation applied for intra-EU waterborne navigation to extra-EU waterborne navigation according to the type of activity.

Or. en

Justification

The rapporteur aligns this possibility with the one with respect to air navigation. Member States are free to apply the intra-EU regime for extra-EU navigation.

Amendment 64

**Proposal for a directive
Article 15 – paragraph 4**

Text proposed by the Commission

4. Electricity produced on board a vessel shall be exempted from taxation.

Amendment

4. Electricity produced on board a vessel shall be exempted from taxation, **unless generated by fossil marine fuels as set out in Table B of Annex I.**

Justification

The goal is to put incentives towards decarbonisation. Burning fossil fuels in order to generate electricity does not seem the right incentive.

Amendment 65

Proposal for a directive
Article 15 – paragraph 5

Text proposed by the Commission

5. Member States ***may apply under fiscal control total or partial exemptions to*** electricity directly supplied to vessels berthed in ports.

Amendment

5. Member States ***shall exempt*** electricity directly supplied to vessels berthed in ports.

Justification

This proposed exemption should considerably enhance the air quality in our ports and port cities.

Amendment 66

Proposal for a directive
Article 16 – paragraph 1 – point b – introductory part

Text proposed by the Commission

(b) electricity:

Amendment

(b) electricity ***and hydrogen***:

Justification

From an economical and geopolitical perspective, the rapporteur believes it would make more sense to diversify decarbonisation technologies. Hydrogen has in that regard great potential and should therefore enjoy the same legal regime as electricity.

Amendment 67

Proposal for a directive

Article 16 – paragraph 1 – point b – indent 5 a (new)

Text proposed by the Commission

Amendment

- ***of nuclear origin***

Or. en

Justification

The goal of the "Fit for 55"-package is to incentivise decarbonisation. It is therefore odd that the Commission did not include nuclear energy in this list, since it hardly has a carbon footprint. The Commission recently acknowledges this fact, when it included this energy source in its latest Taxonomy Delegated Act.

Amendment 68

Proposal for a directive

Article 17 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) reductions in the level of taxation, which shall not go below the minima as set out in Table C **and D** of Annex I, to energy products and electricity used for combined heat and power generation, without prejudice to Article 13;

(a) reductions in the level of taxation, which shall not go below the minima as set out in Table C of Annex I, to energy products and electricity used for combined heat and power generation, without prejudice to Article 13;

Or. en

Justification

Electricity is an energy product among many others and should therefore be listed amongst those other products in the Tables A, B and C.

Amendment 69

Proposal for a directive

Article 17 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) reductions in the level of taxation, which shall not go below the minima as set out in Table B and D of Annex I, to energy products and electricity used for the carriage of goods and passengers by rail, metro, tram and trolley bus, and for local public passenger transport, waste collection, armed forces and public administration, disabled people and ambulances;

deleted

For the purposes of point (b), electricity shall be ranked among motor fuels indicated in Annex I Table B;

Or. en

Justification

The public sector is an important societal actor. Economies of scale are easily feasible here. The public sector should therefore lead by example. This will enhance the legitimacy of this Directive.

Amendment 70

Proposal for a directive

Article 17 – paragraph 1 – point c – introductory part

Text proposed by the Commission

Amendment

(c) reductions in the level of taxation, which shall not go below the minima as set out in Table C *and D* of Annex I, to energy products used as heating fuel and electricity if used by households *and/or by organisations recognised as charitable by the Member State concerned. In the case of such charitable organisations, Member States shall confine the reduction to use for the purpose of non-business activities. Where mixed use takes place, taxation shall apply in proportion to each type of use. If a use is insignificant, it may be treated as nil.*

(c) reductions in the level of taxation, which shall not go below the minima as set out in Table C of Annex I, to energy products used as heating fuel and electricity if used by households.

Justification

All societal actors should contribute to the principle of decarbonisation. Leaving the backdoors open, will inevitably lead to unintended consequences and will undermine the legitimacy of this Directive.

Amendment 71**Proposal for a directive****Article 17 – paragraph 1 – point c – paragraph 1***Text proposed by the Commission*

For the purposes of point (c), the minimum levels of taxation as set out in **Tables C and D** of Annex I shall start from zero and increase over a transitional period of ten years by one tenth of the final minimum rates in each year.

Amendment

For the purposes of point (c), the minimum levels of taxation as set out in **Table C** of Annex I shall start from zero and increase over a transitional period of ten years by one tenth of the final minimum rates in each year.

Justification

Electricity is an energy product among many others and should therefore be listed amongst those other products in the Tables A, B and C.

Amendment 72**Proposal for a directive****Article 17 – paragraph 1 – point c – paragraph 2***Text proposed by the Commission*

For the purposes of point (c), energy products and electricity used by households recognised as vulnerable may be exempt for a maximum period of ten years after the entry into force of this Directive. ***For the purposes of this paragraph, ‘vulnerable households’ shall mean households significantly affected by the impacts of this Directive which, for the purpose of this Directive, means that they are below***

Amendment

For the purposes of point (c), energy products and electricity used by households recognised as vulnerable may be exempt for a maximum period of ten years after the entry into force of this Directive. ***Member States shall be free to decide on the definition of ‘vulnerable households’.***

the ‘at risk of poverty’” threshold, defined as 60% of the national median equivalised disposable income.

Or. en

Justification

Social policies remain a Member State competence. Respecting that will enhance the legitimacy of this Directive.

Amendment 73

**Proposal for a directive
Article 17 – paragraph 1 – point d**

Text proposed by the Commission

(d) reductions in the level of taxation, which shall not go below the minima as set out in Table C **and D** of Annex I to energy products used for heating purposes and to electricity, used for agricultural, horticultural or aquaculture works, and in forestry.

Amendment

(d) reductions in the level of taxation, which shall not go below the minima as set out in Table C of Annex I to energy products used for heating purposes and to electricity, used for agricultural, horticultural or aquaculture works, and in forestry.

Or. en

Justification

Electricity is an energy product among many others and should therefore be listed amongst those other products in the Tables A, B and C.

Amendment 74

**Proposal for a directive
Article 18 – paragraph 1 – introductory part**

Text proposed by the Commission

Without prejudice to Article 5, as applicable as a single use, Member States may apply tax reductions , which shall not go below the relevant minima as set out in Tables B, **C and D** of Annex I on the consumption of energy products used for

Amendment

Without prejudice to Article 5, as applicable as a single use, Member States may apply tax reductions , which shall not go below the relevant minima as set out in Tables B **and C** of Annex I on the consumption of energy products used for

heating purposes or for the purposes of Article 8(2) , points (b) and (c), and on electricity in the following cases:

heating purposes or for the purposes of Article 8(2) , points (b) and (c), and on electricity in the following cases:

Or. en

Justification

The rapporteur regards electricity as one energy product amongst many other and lists it therefore together with the other energy products in the Tables A to C.

Amendment 75

**Proposal for a directive
Article 19 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Amendment

States, regional and local government authorities and other bodies governed by public law shall not be considered as business entities in respect of the activities or transactions in which they engage as public authorities. However, when they engage in such activities or transactions, they shall be considered as a business entities in respect of those activities or transactions where treatment as non-business entities would lead to significant distortions of competition.

deleted

Or. en

Justification

The public sector is an important societal actor. Economies of scale are easily feasible here. The public sector should therefore lead by example. This will strengthen the legitimacy of this Directive.

Amendment 76

**Proposal for a directive
Article 20 – paragraph 1 – introductory part**

Text proposed by the Commission

1. In addition to the provisions set out in the previous Articles, in particular in Articles 14, 15, 16, 17 and 18, the Council, acting unanimously on a proposal from the Commission, may adopt implementing acts, authorising any Member State to introduce further exemptions or reductions for specific policy considerations. Where it is necessary, for reasons of protection of environment and human health, including the reduction of air pollution, the Council, acting unanimously on a proposal from the Commission, may adopt implementing acts, authorising any Member State to introduce specific increased rates derogating from the ***ranking between the*** minimum levels of taxation as laid down in Annex I.

Amendment

1. In addition to the provisions set out in the previous Articles, in particular in Articles 14, 15, 16, 17 and 18, the Council, acting unanimously on a proposal from the Commission, may adopt implementing acts, authorising any Member State to introduce further exemptions or reductions for specific policy considerations. Where it is necessary, for reasons of protection of environment and human health, including the reduction of air pollution, the Council, acting unanimously on a proposal from the Commission, may adopt implementing acts, authorising any Member State to introduce specific increased rates derogating from the minimum levels of taxation as laid down in Annex I.

Or. en

Justification

The rapporteur favours a technological neutral approach.

Amendment 77

**Proposal for a directive
Article 20 – paragraph 1 – subparagraph 3**

Text proposed by the Commission

Within three months of receiving all relevant and necessary information, the Commission shall either present a proposal for the authorisation of such a measure by the Council or, alternatively, shall inform the Council of the reasons why it has not proposed the authorisation of such a measure.

Amendment

Within three months of receiving all relevant and necessary information, the Commission shall either present a proposal for the authorisation of such a measure by the Council or, alternatively, shall inform the Council of the reasons why it has not proposed the authorisation of such a measure.

If the Commission does not act within three months of receiving all relevant and necessary information, the proposed measure shall be considered not to be

authorised.

Or. en

Justification

The situation in which the Commission would not act was not foreseen in the Commission proposal. The rapporteur therefore suggests this solution, in line with the principles of this Directive.

Amendment 78

**Proposal for a directive
Article 29 – paragraph 2**

Text proposed by the Commission

2. The power to adopt the delegated acts referred to in Article 2(8) **and Article 5(2)** shall be conferred on the Commission for an indeterminate period of time from **1 January 2023**.

Amendment

2. The power to adopt the delegated acts referred to in Article 2(8) shall be conferred on the Commission for an indeterminate period of time from ... **[the date of entry into force of this Directive]**.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55” package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 79

**Proposal for a directive
Article 29 – paragraph 3**

Text proposed by the Commission

3. The delegation of power referred to in Article 2(8) **and Article 5(2)** may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in

Amendment

3. The delegation of power referred to in Article 2(8) may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the

the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Justification

The rapporteur is not in favour of an automatic indexation of rates, since this would create a perpetual tax increase, without control of the Member States. The reference to the indexation mechanism should therefore be deleted.

Amendment 80

**Proposal for a directive
Article 29 – paragraph 6**

Text proposed by the Commission

6. A delegated act adopted pursuant to Article 2(8) **and Article 5(2)** shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council have informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Amendment

6. A delegated act adopted pursuant to Article 2(8) shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council have informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Or. en

Justification

Article 5(2) was deleted, since the automatic indexation of the tax rates, would result in a perpetual price hike, beyond the control of the Member States.

Amendment 81

**Proposal for a directive
Article 30 – paragraph 1 – introductory part**

Text proposed by the Commission

1. Member States shall adopt and

Amendment

1. Member States shall adopt and

publish **by [31 December 2022]** , the laws, regulations and administrative provisions necessary to comply with Article 1(2), Article 2(1), points (b) to (o), Article 2(3), second, third and fourth subparagraphs, Article 2(4) to (8), Article 3, Article 5, Article 7, Article 8(1), Article 9(1), Article 13, Articles 14 and 15, Article 16, point (b), last sentence, Article 16, point (c), (d) and (e), Article 17, Article 18, Article 19, Article 21(1), point (b), Article 21(1), point (d), Article 21(1), points (i) to (m), Article 21(1), second subparagraph, Article 21(2), Article 22 (1), Article 22(4), Article 25(2), Article 26(1), Article 28, Article 29, Article 30, Article 31 and Annex I . They shall immediately communicate the text of those measures to the Commission .

publish **before ... [the date of entry into force of this Directive]**, the laws, regulations and administrative provisions necessary to comply with Article 1(2), Article 2(1), points (b) to (o), Article 2(3), second, third and fourth subparagraphs, Article 2(4) to (8), Article 3, Article 5, Article 7, Article 8(1), Article 9(1), Article 13, Articles 14 and 15, Article 16, point (b), last sentence, Article 16, point (c), (d) and (e), Article 17, Article 18, Article 19, Article 21(1), point (b), Article 21(1), point (d), Article 21(1), points (i) to (m), Article 21(1), second subparagraph, Article 21(2), Article 22 (1), Article 22(4), Article 25(2), Article 26(1), Article 28, Article 29, Article 30, Article 31 and Annex I . They shall immediately communicate the text of those measures to the Commission .

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 82

Proposal for a directive

Article 30 – paragraph 1 – subparagraph 1

Text proposed by the Commission

They shall apply those measures from **[1 January 2023]** .

Amendment

They shall apply those measures from ... **[the date of entry into force of this Directive]**.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence

of an assessment on the overall impact highly problematic.

Amendment 83

Proposal for a directive

Article 31 – paragraph 1

Text proposed by the Commission

Every **five** years and for the first time **five** years after **1 January 2023**, the Commission shall submit to the Council a report on the application of this Directive.

Amendment

Every **ten** years and for the first time ... **[ten years after the date of entry into force of this Directive]**, the Commission shall submit to the Council a report on the application of this Directive.

Or. en

Justification

The rapporteur supports an evaluation clause in this Directive. He is however also of opinion that legal certainty is quintessential in order to attract sufficient resources to invest in decarbonisation technology. Thinking thoroughly should happen now and not within 5 years. This means also that the Commission should come forward with comprehensive impact assessment of the entire "Fit for 55"-package.

Amendment 84

Proposal for a directive

Article 31 – paragraph 2

Text proposed by the Commission

The report by the Commission shall, inter alia, examine the minimum levels of taxation, the impact of innovation and technological developments, in particular as regards energy efficiency, the **use of electricity in transport** and the justification for the exemptions, reductions and differentiations laid down in this Directive. The report shall take into account the proper functioning of the internal market, environmental and social considerations, the real value of the minimum levels of taxation and the relevant wider objectives

Amendment

The report by the Commission shall, inter alia, examine the minimum levels of taxation, the impact of innovation and technological developments, in particular as regards energy efficiency, the **competitiveness of our industries** and the justification for the exemptions, reductions and differentiations laid down in this Directive. The report shall take into account the proper functioning of the internal market, environmental and social considerations, the real value of the minimum levels of taxation and the

of the Treaties.

relevant wider objectives of the Treaties.

Or. en

Justification

The rapporteur takes a technological neutral approach with respect to the ETD. He is of opinion that the legislator should set the goal, i.e. decarbonisation, not the solution to reach that goal. That is up to the market. This will lead to economically and environmentally better solutions. We can however not contribute to the fight against climate change on a economic graveyard. We therefore must keep our eyes open to our competitiveness as well.

Amendment 85

Proposal for a directive Article 32 – paragraph 1

Text proposed by the Commission

Directive 2003/96/EC as amended by the acts listed in Annex II, Part A, is repealed with effect from **1 January 2023**, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law and the dates of application of the Directives set out in Annex II, Part B.

Amendment

Directive 2003/96/EC as amended by the acts listed in Annex II, Part A, is repealed with effect from ... **[the date of entry into force of this Directive]**, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law and the dates of application of the Directives set out in Annex II, Part B.

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55” package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 86

Proposal for a directive Article 33 – paragraph 1

Text proposed by the Commission

This Directive shall enter into force **on the**

Amendment

The Council is invited to mandate the

twentieth day following that of its publication in the Official Journal of the European Union.

*Commission to prepare and publish within a reasonable time a comprehensive overall impact assessment comprising the entire "Fit for 55" package. This Directive shall enter into force **six months after the date on which the Council has declared itself satisfied with that impact assessment.***

Or. en

Justification

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire "Fit for 55"-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic.

Amendment 87

**Proposal for a directive
Article 33 – paragraph 2**

Text proposed by the Commission

Amendment

Article 1(1), Article 2(1), point (a), Article 2(2), Article 2(3), first subparagraph, Article 4, Article 6, Article 8(2), Article 10, Article 11, Article 12, Article 16, point (a), Article 16, point (b), Article 20, Article 21(1), point (a), Article 21(1), point (c), Article 21(1), points (e) to (h), Article 21(1), point (n), Article 21(3), Article 22(2) and (3), Article 22(5), Article 23, Article 24, Article 25(1), Article 26(2), and Article 27, which are unchanged by comparison with the repealed Directive, shall apply from 1 January 2023.

deleted

Or. en

Amendment 88

**Proposal for a directive
Annex I – Part A**

Text proposed by the Commission

Table A. — Minimum levels of taxation applicable to motor fuels for the purposes of Article 7
(in EUR/Gigajoule)

	Start of transitional period <i>(01.01.2023)</i>	Final rate after completion of transitional period <i>(01.01.2033) before indexation</i>
Petrol	10,75	10,75
Gasoil	10,75	10,75
Kerosene	10,75	10,75
<u>Non-sustainable biofuels</u>	10,75	10,75
Liquefied Petroleum Gas (LPG)	7,17	10,75
Natural gas	7,17	10,75
Non-sustainable biogas	7,17	10,75
Non renewable fuels of non-biological origin	7,17	10,75
Sustainable food and feed crop biofuels	5,38	10,75
Sustainable food and feed crop biogas	5,38	10,75
Sustainable biofuels	5,38	5,38
Sustainable biogas	5,38	5,38
Low-carbon fuels	0,15	5,38
Renewable fuels of non-biological origin	0,15	0,15
Advanced sustainable biofuels and biogas	0,15	0,15

Amendment

Table A. — Minimum levels of taxation applicable to motor fuels for the purposes of Article 7
(in EUR/Gigajoule)

	Start of transitional period	Final rate after completion of transitional period
Petrol
Gasoil
Kerosene
<u>Non-sustainable biofuels</u>
Liquefied Petroleum Gas (LPG)
Natural gas
Non-sustainable biogas
Non renewable fuels of non-biological origin
Sustainable food and feed crop biofuels

Sustainable food and feed crop biogas	...	...
Sustainable biofuels	...	...
Sustainable biogas	...	...
Low-carbon fuels	...	...
Renewable fuels of non-biological origin	...	...
Advanced sustainable biofuels and biogas	...	...
Electricity	...	...

Or. en

Justification

Your rapporteur favours a technology neutral approach. This approach requires that energy products be subject to the same tax rate independently of their environmental performance. Parliament lacks data to suggest at this stage the technologically neutral rates. Taxation is further a Member States' competence. Your rapporteur invites the Council, with the Commission's help, to set the minimum rate for each energy use. These rates should also respect the transition periods and exemptions. Electricity should be incorporated alongside other energy products in the Tables as it is an energy product amongst others. This justification applies to the three next amendments.

Amendment 89

Proposal for a directive Annex I – Part B

<i>Text proposed by the Commission</i>		
Table B. — Minimum levels of taxation applicable to motor fuels used for the purpose set out in Article 8(2) (in EUR/Gigajoule)		
	Start of transitional period (01.01.2023)	Final rate after completion of transitional period (01.01.2033) before indexation
Gas oil	0,9	0,9
Heavy fuel oil	0,9	0,9
Kerosene	0,9	0,9
Non-sustainable biofuels	0,9	0,9
Liquefied Petroleum Gas (LPG)	0,6	0,9
Natural gas	0,6	0,9
Non-sustainable biogas	0,6	0,9

Non renewable fuels of non-biological origin	0,6	0,9
Sustainable food and feed crop biofuels	0,45	0,9
Sustainable food and feed crop biogas	0,45	0,9
Sustainable biofuels	0,45	0,45
Sustainable biogas	0,45	0,45
Low-carbon fuels	0,15	0,45
Renewable fuels of non-biological origin	0,15	0,15
Advanced sustainable biofuels and biogas	0,15	0,15

Amendment

Table B. — Minimum levels of taxation applicable to motor fuels used for the purpose set out in Article 8(2) (in EUR/Gigajoule)

	Start of transitional period	Final rate after completion of transitional period
Gas oil
Heavy fuel oil
Kerosene
Non-sustainable biofuels
Liquefied Petroleum Gas (LPG)
Natural gas
Non-sustainable biogas
Non renewable fuels of non-biological origin
Sustainable food and feed crop biofuels
Sustainable food and feed crop biogas
Sustainable biofuels
Sustainable biogas
Low-carbon fuels
Renewable fuels of non-biological origin
Advanced sustainable biofuels and biogas
Electricity

Or. en

Amendment 90

**Proposal for a directive
Annex I – Part C**

Text proposed by the Commission

Table C. — Minimum levels of taxation applicable to heating fuels (in EUR/Gigajoule)

	Start of transitional period (01.01.2023)	Final rate after completion of transitional period (01.01.2033) before indexation
Gas oil	0,9	0,9
Heavy fuel oil	0,9	0,9
Kerosene	0,9	0,9
Coal and coke	0,9	0,9
Non-sustainable bioliquids	0,9	0,9
Non-sustainable solid products falling within CN codes 4401 and 4402	0,9	0,9
Liquefied Petroleum Gas (LPG)	0,6	0,9
Natural gas	0,6	0,9
Non-sustainable biogas	0,6	0,9
Non renewable fuels of non-biological origin	0,6	0,9
Sustainable food and feed crop bioliquids	0,45	0,9
Sustainable food and feed crop biogas	0,45	0,9
Sustainable bioliquids	0,45	0,45
Sustainable biogas	0,45	0,45
Sustainable solid products falling within CN codes 4401 and 4402	0,45	0,45
Low-carbon fuels	0,15	0,45
Renewable fuels of non-biological origin	0,15	0,15
Advanced sustainable bioliquids, biogas and products falling within CN codes 4401 and 4402	0,15	0,15

Amendment

Table C. — Minimum levels of taxation applicable to heating fuels (in EUR/Gigajoule)

	Start of transitional period	Final rate after completion of transitional period
Gas oil

Heavy fuel oil	...	...
Kerosene	...	...
Coal and coke	...	...
Non-sustainable bioliquids	...	...
Non-sustainable solid products falling within CN codes 4401 and 4402	...	...
Liquefied Petroleum Gas (LPG)	...	...
Natural gas	...	...
Non-sustainable biogas	...	...
Non renewable fuels of non-biological origin	...	...
Sustainable food and feed crop bioliquids	...	...
Sustainable food and feed crop biogas	...	...
Sustainable bioliquids	...	...
Sustainable biogas	...	...
Sustainable solid products falling within CN codes 4401 and 4402	...	...
Low-carbon fuels	...	...
Renewable fuels of non-biological origin	...	...
Advanced sustainable bioliquids, biogas and products falling within CN codes 4401 and 4402	...	...
Electricity	...	...

Or. en

Amendment 91

Proposal for a directive Annex I – Part D

<i>Text proposed by the Commission</i>		
<i>Table D. — Minimum levels of taxation applicable to electricity (in EUR/Gigajoule)</i>		
	<i>Start of transitional period (01.01.2023)</i>	<i>Final rate after completion of transitional period (01.01.2033) before indexation</i>
<i>Electricity</i>	<i>0,15</i>	<i>0,15</i>
<i>Amendment</i>		

deleted

Or. en

EXPLANATORY STATEMENT

1. Introduction

There is broad consensus on the urgency of combatting climate change and the crucial role of the energy transition in this endeavour. Your rapporteur emphasizes innovation as the driving force for sustainable change. He strongly believes that successful climate and energy policies require an economic growth scenario that also puts competitiveness and welfare at the centre.

A recent Eurobarometer¹ shows that EU citizens regard combating climate change as a policy priority. Still, your rapporteur observes two clear caveats in this regard:

1. Today, sustainable often means more expensive, and for many citizens even unaffordable. Consumers' support for environmental objectives does not yet go hand in hand with their preparedness to pay extra for sustainable products.
2. If the objective is to make use of price signals to steer consumer behaviour towards more sustainable practices, it should be clear that governments cannot and should not compensate for all costs. They however can and should prioritise sound budgets.

Taxation remains predominantly a Member States' competence, which is a situation with which your rapporteur fully agrees. The role of the European Parliament is limited to providing its opinion while it is incumbent on the Member States within the Council to broker an agreement.

The current Directive on energy taxation dates back to 2003 and is no longer fit for purpose. The proposal for a recast of the Energy Taxation Directive (hereafter "ETD proposal" or "ETD") is part of the "Fit for 55"-package that the European Commission presented in July 2021.

The timing of the ETD proposal makes it even more challenging as rising energy prices and inflation are currently hitting Member States and broader geopolitical and military developments are not at all reassuring. Your rapporteur is concerned that the revised ETD could cause significant social costs, in terms of a rise in energy poverty and unemployment.

Your rapporteur acknowledges notwithstanding, that the ETD proposal contains some good elements, such as the change from volume to energy-content as the basis for taxation and the broadening of the taxable base. These elements contribute to a more predictable, uniform and targeted regulatory framework. However, your rapporteur believes that, despite these positive elements, the ETD proposal and its impact assessment have significant shortcomings.

2. General principles in assessment

2.1 Coherence, overall impact and cumulative effects on businesses and households, including carbon and business leakage

Your rapporteur finds that the impact assessment accompanying the ETD proposal has some

¹ Special Eurobarometer on the Future of Europe, January 2022, <https://europa.eu/eurobarometer/surveys/detail/2554>

shortcomings. He refers to the main arguments in the Commission’s Regulatory Scrutiny Board opinion², which remain valid.

The Commission has unfortunately chosen not to present a comprehensive overall impact assessment comprising the entire “Fit for 55”-package, which should have elaborated on the cumulative and combined effects of the different proposals. Your rapporteur finds the absence of an assessment on the overall impact highly problematic. Simply arguing that the costs of non-action are higher than those that would result from taking action is an unsatisfying answer to the legitimate questions about the package’s overall costs, their distribution among economic actors and its impact on competitiveness and jobs.

The absence of a clear and in-depth analysis of synergies and interdependencies between the “Fit for 55”-initiatives is also echoed in some of the EPRS ex-ante impact assessments. A fortiori, the rapporteur sees equally the need for some alignment with other recent climate-related proposals such as the gas market reform, the taxonomy and the state aid rules. Finally, your rapporteur remains sceptical on whether the Commission has sufficiently assessed potential impacts of combined measures on carbon and business leakage, especially for sectors that operate in an international environment such as maritime shipping and aviation. While global-level solutions for those sectors are therefore preferable, unilateral European measures can be legitimate but should at least be thoroughly assessed before being put in place. Moreover, the 10-year exemption for sustainable alternative fuels is too short.

To accommodate these concerns, your rapporteur proposes to link the date of entering into force of the Directive to a comprehensive overall impact assessment.

2.2 Subsidiarity and proportionality

Your rapporteur acknowledges the importance of setting minimum taxation rates in view of a proper functioning of the internal market. Your rapporteur firmly believes that the Directive should fully respect the subsidiarity principle.

- Your rapporteur fully supports that taxation matters are to be decided upon by unanimity in the Council and not by qualified majority voting (“QMV”). Therefore, the “passerelle clause” should not be used and the review clause should not be regarded as a possibility for pushing for QMV. In this context, your rapporteur considers that Member States should remain free regarding the updating of the tax rates and therefore does not support the proposal for their automatic indexation, which would result in a chronic tax increase.
- The Directive should fully respect the differences between the EU-27 Member States and continue to provide sufficient flexibility to Member States, e.g. in Article 5.
- Your rapporteur fully recognises that a sustainable transition requires accompanying social measures. However, he strongly believes that the competent authorities in the Member States are best placed to decide on the households and consumers to benefit from social measures.

² SEC (2021) 663, 19 March 2021.

2.3 Effective, future-proof and predictable taxation, avoiding double taxation

Ideally, a sound and smart energy taxation framework is not merely designed to generate revenues, but also to steer behaviour leading to improved environmental outcomes.

In practice, however, there are a number of caveats to make here. Most often, measures other than taxes are far more cost-efficient to steer behaviour in a desired direction, and thus to achieve better environmental results. Using taxation to this end should be the last resort. Moreover, taxation is insufficiently agile and adaptable to a fast-moving and changing environment. The risk of lagging behind events is real.

The Commission advocates introducing a taxation ranking based on environmental performance to better steer consumer behaviour. It argues that such a ranking does not amount to the introduction of a carbon-content element through the back door. However, your rapporteur identifies many inconsistencies in this approach, amongst others, the following:

- An environmental ranking does introduce a carbon-content element in the ETD, albeit perhaps only indirectly. This conflicts in certain cases with the market-based Emission Trading System (“ETS”) and risks to provoke double taxation;
- The proposal pushes electrification by taxing electricity at the lowest rate. Though there are many arguments in favour of electrification, your rapporteur considers it inconsistent that the source of electricity production is not taken into account for the taxation of electricity;
- The criteria used by the Commission to determine the new minimum rates remain unclear;
- It remains unclear how effective the environmental ranking proposed by the Commission would be to achieve a better environmental outcome;
- Predictability of regulation, including taxation, is quintessential for both businesses and households and, therefore, the ETD recast should be future-proof. A recurrent or incessant amendment of the Directive should be avoided.

For all the above-mentioned reasons, your rapporteur firmly believes that the ETD should have “technology neutrality” as a guiding principle. The Council should therefore revise the Annexes to make them fully consistent with the principle of technology neutrality, which requires that energy products for a certain use be subject to the same tax rate independently of their environmental performance. Your rapporteur considers that Parliament lacks sufficient data and, consequently, it is not in a position to suggest at this stage the technologically neutral rates that should be applied to motor fuels, heating fuels and to the uses of electricity. He therefore invites the Council, with the support and assistance of the Commission, to establish the minimum rate for each energy use after a thorough in-depth assessment.

Noteworthy is furthermore a recent publication of the European Court of Auditors³ in which it investigated the different tax treatment for different energy products. It reinforces the view of the rapporteur to use the ETS for giving CO₂ price signals and enhance the functioning of the

³ Review 01/2022: Energy taxation, carbon pricing and energy subsidies, 31 January 2022

internal market with a technology neutral approach in the ETD. This should lead to both an environmentally and economically optimal solution.

2.4 Affordability: ETD impact on energy consumer prices

Your rapporteur is convinced that climate and energy measures have to be feasible and affordable, in order to obtain public support or acceptance. By affordability, your rapporteur means that the overall purchasing power of consumers should be guaranteed. In view of rising energy prices and inflation, a tax shift in Member States becomes ever more urgent and compelling.

Unlike the ECB, your rapporteur has been consistently arguing that the observed increasing inflation is not merely temporarily. He sees clear reasons why the current surge is likely to have a more permanent character. Moreover, the rising energy prices themselves and the push for more “green energy” have an impact on inflation.⁴

Your rapporteur is genuinely concerned about the social implications of the ETD proposal as it stands. Already confronted with higher prices, consumers of all kinds will have to pay more for basic needs like transport, connectivity and heating. As already stated above, public money cannot compensate for all these costs. Therefore, legislators should make sure that prices remain proportionate, that citizens’ purchasing power is guaranteed and that targeted measures are taken by the Member States to support vulnerable consumers.

2.5 Feasibility and implementation

The Commission proposes 2023 for the Directive to enter into force. This seems a rather ambitious date. Your rapporteur considers in light of the considerations above that it should be up to the Council to make sound decisions, based on a fully-fledged impact assessment and that therefore the Directive should enter into force only after a comprehensive overall impact assessment of the “Fit for 55”-package is carried out.

Your rapporteur believes that a predictable framework that is as clear-cut as possible can also contribute to a sound implementation. In that sense, the technology neutral principle would facilitate implementation, control and enforcement and prevent fraud or circumvention. Equally, if a kerosene tax would apply, it should be on all flights, without e.g. excluding cargo.

3. Conclusion

Your rapporteur fully supports a recast of the current ETD. He agrees with the main changes put forward by the Commission: the change from volume to energy content as the basis for taxation would allow for the elimination of certain distortive advantages to fossil fuels vis-à-vis alternative fuels, and the extension of the taxable basis, including for the maritime and aviation sector, on the condition that it is based on a thorough and in-depth impact assessment.

Your rapporteur further considers that the differentiation of minimum rates proposed by the

⁴ Isabel Schnabel, ECB executive board member, <https://www.ft.com/content/80cbd05f-d722-411f-9bbe-155cd8c06f7e>, January 10 2022.

Commission based on the environmental performance of fuels would lead to significant social costs, may provoke double taxation and make the framework more difficult to enforce and easier to circumvent. For all those reasons, your rapporteur firmly advocates a technology neutral approach.

Finally, to ensure sound policy-making and strengthen the legitimacy of the proposed changes, your rapporteur invites Member States to support his call for a global impact assessment.