



To: Ministers of Finance and Environment and Permanent Representations in Brussels of EU Member States,
European Parliament: Rapporteurs and shadow-rapporteurs in The Committee on Economic and Monetary Affairs and The Committee on Industry, Research and Energy

24 October 2011

Dear Sir/Madam,

Re: Revision of the Energy Tax Directive

The use of economic incentives is crucial for the ability of the EU Member States to comply with its climate policy commitments (including the mandatory emission targets in the Effort Sharing Decision) in a cost-efficient way. The existing Energy Tax Directive is not fit for this and is in urgent need of revision. The proposal presented by the Commission in April 2011 includes several important improvements like a minimum CO₂ tax, equal treatment of all fuels (“technical neutrality”) and inflation adjustment of the energy tax minimum. Unfortunately it does not sufficiently tackle central problems like “tank tourism” and the taxation of aviation and shipping. The proposal also unnecessarily limits the possibilities for the Member States to use taxation as a cost-efficient instrument in climate policy. It also includes provisions that will undermine the efficiency of the EU Emissions Trading Scheme (ETS). On the basis of this, our organisations urge the Member States and the European Parliament to push for the following changes:

- 1. Delete the tax ban on fuels for aviation, shipping and the production of electricity (art. 14)**
- 2. Strengthen the Member States’ fiscal sovereignty over diesel taxes**
- 3. Allow Member States to tax CO₂ emissions from biomass-based fuels**
- 4. Make the minimum CO₂ tax fully mandatory for all non-ETS use of fossil heating fuels**
- 5. Introduce a mandatory minimum tax on nuclear fuel**
- 6. Investigate a switch from taxing some transport fuels based on fuel USED instead of fuel TANKED**

Our arguments are developed in the attachment.

Yours faithfully,

Anselm Görres, President, Green Budget Europe

Jeremy Wates, Secretary General, EEB

Jos Dings, Director, T&E

On the revision of the Energy Tax Directive

The EU climate policy is based on two pillars:

- The EU Emission Trading Scheme (EU ETS), limiting emissions from the power sector and larger industries,
- The Effort-Sharing Decision (ESD), defining mandatory 2020 emission limits for each member state for activities not included in EU ETS.

The idea behind ESD is that the Member States shall be free to choose their own ways to comply. Unfortunately both the present Energy Tax Directive (ETD) and the suggested new version from the Commission limit those possibilities. A revised ETD must lead to a better functioning EU ETS and a strengthening of the Member States' ability to comply with ESD.

SUGGESTIONS:

1. Delete the tax ban on fuels for aviation, shipping and the production of electricity (article 14)

According to article 14, EU Member States are not allowed to tax input fuel for electricity production and fuel for non-pleasure aviation and shipping. The EU strives to get rid of international obstacles for taxation on aviation and shipping fuels, which both create an uneven playing field in the transport market but, more importantly, severely limit the possibilities to reduce the climate impact from those sectors. Concerning taxation on input fuel for the production of electricity, there may exist "selfish" reasons for Member States not to tax those fuels, but it is hard to see why the EU should explicitly prohibit it.

2. Strengthen the Member States' fiscal sovereignty over diesel taxes

Transport fuels can be bought in one country and consumed in another. This permits some Member States to attract fuel tax revenues from other Member States by applying lower tax rates. The present system creates a race to the bottom which limits the possibilities for the majority of the Member States to utilise fuel taxes in order to reduce the CO₂ emissions in a cost-efficient way.

The Commission proposal would only slightly increase the minimum diesel tax rate. More important for securing the fiscal sovereignty not only for the "fuel tax havens" is the introduction of a general principle of "technically neutral energy taxation" which from 2023 would cover also transport fuels. A consequence is that diesel will always have to be taxed 8-9 per cent more per litre than petrol, reflecting its higher energy content and the larger amount of CO₂ produced when burning a litre of diesel. Far from completely removing the pressure downwards on the diesel taxes it clearly increases the possibilities for most countries to raise their diesel taxes.

Parts of the car manufacturing industry claim that the technical neutrality will damage the market for diesel cars, making it impossible to reach the 95 g/km fleet average CO₂ emission for 2020, as laid down in the Cars & CO₂ regulation. Facts do not underpin this hypothesis. Lots of statistics instead show that fuel taxes have surprisingly small impact on the petrol/diesel car split. Much more important is the design of fixed taxes (sales, taxes, annual vehicle taxes, company car taxation etc.).

In the long run the Union has to find a more solid solution to the tank tourism problem to avoid unnecessarily high costs for the reduction of CO₂ from the transport sector – see point 6.

3. Allow Member States to tax CO₂ emissions from biomass-based fuels

According to the Commission proposal, Member States would only be permitted to put CO₂ tax on bio fuels and bio liquids that do not comply with the sustainability criteria as set in the Directive on Renewable Energy, while taxing i.a. solid biomass-based fuels would not be allowed. This means Member States will be forced to strongly promote almost all biomass-based fuels even if they affect the climate just as much or even more than regular fossil fuels. It is hard to see why EU should ban CO₂ taxes related to the climate impact of almost all biomass-based fuels.

4. Make the minimum CO₂ tax fully mandatory for all non-ETS use of fossil heating fuels

If the energy taxes paid by activities outside the ETS are lower than the price of ETS emission allowances, actors affected are given incentives to avoid becoming part of the ETS. The suggestion from the Commission that fossil fuels used for heating purposes in households and industries not covered by EU ETS shall be exempted from the mandatory minimum CO₂ tax of 0,02 €/kg will give incentives that will undermine the efficiency of the EU ETS and make it more difficult for Member States to comply with their ESD targets. If it is cheaper for households and industries in some countries to preserve their individual, often inefficient heating systems instead of getting connected to more efficient district heating, this will not only make it more difficult and expensive for the Member States to comply with the ESD commitments, it will also slow down the transition of the trading sectors towards a low-carbon economy with a smaller energy import bill. This tension will become stronger as

the total yearly number of emission allowances is reduced and the price of emission allowances subsequently rises. On the basis of this, we urge you to make the minimum CO₂ tax fully mandatory.

5. Introduce a mandatory minimum tax on nuclear fuel

One central intention with the EU ETS is to raise the cost for power companies that use fossil fuels for the production of electricity, giving incentives for energy conservation and a switch to other forms of electricity generation. A consequence will be huge profits for power companies which base their production on nuclear power. To create a level playing field and avoid a drastic expansion of nuclear power and channelling of huge profits generated by the EU climate policy into that industry, nuclear fuel should be included in the energy tax directive and a minimum tax on nuclear fuel rods introduced.

6. Explore the conditions for a partial switch to taxing transport fuel USED instead of fuel TANKED

“Tank tourism” is a major obstacle for the efficient use of energy taxation. “Tankering”, the equivalent to tank tourism within aviation, seriously prevents the possibilities to tax fuel used in this sector. The North American IFTA system – where hauliers pay fuel taxes for lorries in the state or province where the fuel is used, not where it is purchased – provides an interesting solution, but there may be others. Switching from taxing fuel TANKED to fuel USED could open interesting possibilities also in the field of aviation and shipping. Most important is that the Commission is given a clear mandate to develop more long-term solutions to the “tank tourism” problem.

For further information:

Magnus Nilsson

Senior Campaigner, Transport & Environment

E-mail: magnus.nilsson@transportenvironment.org

Mob: +46-(0)708-99 66 88

Fax: +46-(0)8-510 60 658

www.transportenvironment.org