Council of the
European Union

Brussels, 15 July 2021
(OR. en)

10872/21
ADD 7

Interinstitutional File:
2021/0213(CNS)

FISC 123
ECOFIN 745
ENER 327
ENV 527
CLIMA 192
IA 137

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2021) 642 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast)

Delegations will find attached document SWD(2021) 642 final.

Encl.: SWD(2021) 642 final

EUROPEAN
COMMISSION

Brussels, 14.7.2021
SWD(2021) 642 final

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a Council Directive

restructuring the Union framework for the taxation of energy products and electricity (recast)

{COM(2021) 563 final} - {SWD(2021) 640 final} - {SWD(2021) 641 final} - {SEC(2021) 663 final}

Executive Summary Sheet
Impact assessment on the revision of Directive 2003/96/EC
A. Need for action
What is the problem and why is it a problem at EU level?
In the context of the European Green Deal (EGD), the initiative for a revision of Directive 2003/96/EC (Energy Taxation Directive or ETD) is part of the 'Fit for 55 Package'. The main problems addressed by the impact assessment are the fact that the ETD: i) is not in line with EU climate and energy objectives; ii) de facto favours fossil fuel use and iii) is no longer contributing to the proper functioning of the internal market. The main drivers of these problems are: i) the present level and structure of minimum rates (absence of an indexation mechanism, taxation of fuel based on volume instead of energy content and without taking into account their environmental performance), ii) the outdated coverage of energy products (in particular biofuels), and iii) the variety of tax differentiations, reductions and exemptions, which limit the effective coverage of the Directive.
What should be achieved?
The main objectives of the proposed policy options are: I. Contributing to the EU 2030 targets and climate neutrality by 2050 in the context of the European Green Deal. This would align taxation of energy products and electricity with EU energy and climate policies and contribute to the EU efforts to reduce emissions while ensuring coherence with the ETS and avoiding inconsistencies and overlaps. II. Preserving and improving the EU internal market by updating the scope and the structure of rates as well as by rationalising the use of tax exemptions and reductions by Member States. III. Preserving the capacity of the ETD to generate revenues for the budgets of the Member States as well as the distributional effects are other elements to take into due account.
What is the value added of action at the EU level (subsidiarity)?
The problems identified can only be remedied by means of a revision of the ETD, in coordination with other EU policy measures. National approaches risk distorting the internal market and undermining the EGD objectives due to the non-harmonised structure and level of the national taxes. Only a harmonised framework can help to attain the EU levels of ambition in these areas while seeking to preserve both the competitiveness of the productive sectors and the equal taxation treatment among sectors and energy uses. The EU's contribution to achieve higher climate ambitions globally will be more effective if the EU coordinates all the possible policy instruments, including taxation, in the context of an ambition plan, which encompasses also the extension of the ETS and other relevant policy actions in the "fit for 55 Package".
B. Solutions
What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The baseline (option 0) represents the existing 2030 climate and energy legislative framework, namely the previously agreed climate and energy targets of 40% GHG emission reduction by 2030, as well as the main policy tools to implement these. Option 1 would index the minimum rates and partly broaden the tax basis while substantially keeping its structure. The intra-EU aviation and maritime sectors would be included in the scope with a zero minimum rate by removing the current tax exemptions. Option 2 introduces a system of simplified rates Minimum rates are indexed and based on energy content and a transitional period (10 years for option 2a and a shorter period until 2030 for option 2b). It focuses on energy content with an increased taxation level (mostly for heating fuels) and extension of the taxable base intra-EU navigation in aviation and maritime sectors would be included in the scope of the Directive with minimum rates which will be linearly increased during a transitional period of 10 years with respect to intra-EU activities. Option 2c introduces a new component in the rates that takes into account air pollutant emissions of the products on top of the features of option 2a. Option 3 brings in a carbon content component for the sectors that are currently not covered by the ETS. As for option 2, also in this case, two transitional periods (10 years and 2030) are considered. The introduction of a pollution component is also analysed in this option. Considering that the ETS system should be extended to cover the emissions of transport and buildings, in order to avoid double taxation, option 2a is considered the prefered option. A well-calibrated extension of the ETS to road transport, maritime and inland shipping and buildings coupled with option 2 for ETD review could help to achieve the EU's ambitious climate objective of 55% emission reductions while allowing attain the rest of the objectives with the ETD review.
What are different stakeholders' views? Who supports which option?
In a public consultation, a vast majority of businesses and public authorities consider relevant an energy tax based on energy content. Moreover, an overwhelming majority of all types of respondents are in favour of a revision of the ETD that introduces incentives for alternative energy sources that supports the transition towards climate neutrality by reducing the possibility of favouring fossil fuels via less tax reductions, exemptions and rebates. A vast majority of citizens and public society representatives support the removal of preferential tax treatment to specific sectors of activity and of the distinction between commercial and non-commercial uses.
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise of main ones)?
The preferred option 2a is fully coherent with other initiatives of the 'Fit for 55' Package and relevant EU policies. The proposed policy option will contribute to the EGD objectives by reducing emissions in EU27. Compared to the baseline scenario, emissions in 2035 are estimated to decline as follows: GHG: -1,6%; NOx: -1,7%; PM2.5: -2,5%; SO2: -1,6% The introduction of the sector of aviation and maritime intra-EU transport in the scope of the Directive will contribute to greater coherence of transport taxation. The introduction of new minima and the broadening of the tax base will contribute to greater convergence of effective tax rates in the EU.

What are the costs of the preferred option (if any, otherwise of main ones)?
Estimates indicate the following costs: i) Loss of employment by 0.2% at EU 27 level in 2025 compared to the baseline, ii) Increase in household heating and transport prices, and, iii) Cost increase for business due to reduced exemptions and increases in fossil fuel prices. Increased tax rates lead to an increase in consumer prices, both for motor and heating fuels. Under the preferred option, this increase is similar across heating and transport fuel prices, around 0,8.% and 1.2% respectively. The results indicate that the proposed tax changes may reduce adjusted disposable income (the disposable income net of indirect taxes) of households, often in a regressive way. However, when the extra tax revenues raised are transferred back to households in a lump-sum fashion, the whole tax change turns to be progressive, for these transfers determine a larger increase in disposable income for poorer households.
What are the impacts on SMEs and competitiveness?
The proposed option will not have a specific impact on SME not on the competitiveness of the EU industry
Will there be significant impacts on national budgets and administrations?
In the baseline, revenues in Member States are projected to decrease in the coming years by nearly 32% between 2020 and 2035 due to the expected evolution of the energy system with a decreasing dependency on fuels thanks to energy savings and a shift from fossil fuels as well if Member States do not increase their national rates. The preferred option2a would mitigate to a great extent this trend by increasing revenues. The revision of ETD aims at introducing improvements and simplification in the tax rates and taxable base. The envisaged changes however should not fundamentally alter the actual levy and administration of excise taxation on energy products and electricity.
Will there be other significant impacts?
No
Proportionality?
The proposal is proportionate and necessary to achieve the objectives, as it addresses current limitations with the ETD while substantially keeping its structure. The proposed option 2a brings new minima, broadens the tax base, cares of the particular situation of vulnerable households and industry and provides for a transitional period of 10 years to allow a smooth transition. Furthermore, the initiative foresees regular reviews to ensure proportionality of the policy measures.
D. Follow up
When will the policy be reviewed?
Currently, article 29 of the ETD provides for a regular examination on the basis of a report and, where appropriate, a proposal from the Commission. A report will be prepared 5 years after the Directive implementation.