
UPEI Position

Ensuring the delivery of decarbonisation through coherent energy taxation

UPEI, Europe's Independent Fuel Suppliers, fully embraces the ambition upon which all the proposals of the Fit for 55 Package are built upon.

It is in this regard that we welcomed the long overdue proposal to revise the Energy Taxation Directive (ETD), as part of the legislative proposals presented in July 2021.

As the market players at the forefront of the supply of renewable and low-carbon fuels, UPEI is convinced that a coherent framework for minimum taxation rates for energy products will help the uptake of cleaner technologies, while supporting businesses and addressing some existing dysfunctions within the single market.

In light of this, we welcome the focus on the energy content of fuels as well as the sectoral approach included in the proposal, as in most cases it will complement the CO₂ price approach for sectors included under the new EU ETS. We also welcome the removal of many of the taxation exemptions from the Directive, as it will help simplify taxation regimes and will contribute to developing a real level-playing field among powertrains.

However, UPEI would like to warn against the risks that the removal of some of these exemptions could entail to the greater uptake of renewable or low-carbon fuels, especially in the maritime sector.

Given that bunkering decisions are very price sensitive¹, and the bunker market is very transparent the imposition of new fiscal costs on EU bunkering (while keeping non-EU bunkering off costs) will incentivise the bunkering of ships outside the EU. These operations, which are not significantly costly for ship operators and are logistically simple given the proximity of ports from neighbouring non-EU countries.

This could enter in contradiction with the objectives of the Commission's proposal – and the whole Fit for 55 Package – itself, since many operators could be tempted to fuel their vessels outside the EU with energy products that would not necessarily contribute to the very much needed decarbonisation of maritime transport.

Moreover, this could be accompanied by a loss of competitiveness of EU ports, since they could lose bunkering volumes in their operations. This loss of competitiveness could be aggravated by direct and indirect environmental effects:

- Direct, since fuelling conventional bunker fuels in non-EU ports could become attractive as a cost-containment issue for operators.
- Indirect, since these neighbouring non-EU ports, due to an increase in traffic, could lead to maritime congestion, an excessive extension of bunkering terminals or to a greater deployment of floating or open waters bunkering, with all the safety concerns that this could imply.

¹ CE Delft: "The impacts of the ETD proposals on shipping and bunkering" Publication Code 21.210349.355, November 2021

However, while supporting an exemption for bunkering fuels, UPEI believes that decarbonisation needs to be triggered by bold policies and ambitious legislation. This is why we want to emphasise that should the exemption be restored, maritime transport emissions will be governed by the revised EU ETS: the new system will impose, through CO2 pricing, enough pressure on fuel suppliers and ship operators to embrace decarbonisation without undermining our global competitiveness and without leaving any backdoor open to carbon leakage or bunkering tourism.

The cumulative application of both instruments (ETD and ETS) would not allow emission reductions beyond those attained by the EU ETS itself; furthermore, the removal of exemptions under the ETD could come to undermine the progress achieved by the EU ETS through carbon leakage by bunkering of fossil energy products outside the EU.

We trust that the proposals outlined below will help ensuring the delivery of decarbonisation of maritime transport while avoiding unintended consequences. UPEI and its members remain committed and stand ready to supplying low-carbon products, contributing to reaching our common and shared climate ambition.

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UPEI represents nearly 2,000 European importers and wholesale/retail distributors of energy for the transport and heating sectors, supplying Europe's customers independently of the major energy producers. They are the interface between producers and consumers, using their own infrastructure and flexibility to supply existing demand for conventional and renewable liquid fuels, as well as non-liquid alternatives as part of the energy transition. They cover more than a third of Europe's current demand. The organisation brings together national associations and suppliers across Europe.

Independent fuel suppliers bring competition to Europe's energy market and are able to respond rapidly to changes affecting supply, contributing to security on a local, national and regional level. They have developed and maintain a comprehensive infrastructure for the sourcing, storage and distribution of transport and heating fuels, with a commitment to delivering a high-quality service to all consumers, including those in remote areas.

Since 1962 UPEI has been advocating for a level playing field and fair competition to ensure an affordable, sustainable, and secure energy supply for Europe's consumers. Today, in the context of the transition to a low carbon economy, UPEI and its members are also addressing the challenges of adapting the product range and meeting consumer demand through market-oriented solutions.

With its strong track record in pioneering the supply of renewable fuels in the EU, UPEI's members remain committed to delivering and embracing new, cost effective solutions which further promote energy efficiency and reduce pollutants and emissions.

Annex – suggested amendments to the ETD proposal

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Amendment 1 – Recital 23

Commission proposal	Amendment suggestion
<p>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, 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.</p>	<p>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, 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.</p> <p><i>Fuel used for waterborne navigation, including fishing, should be exempted from the taxation provided that the vessel concerned is subject to the EU Emission Trading System under Directive [reference to ETS Directive].</i></p> <p><i>Since the cumulative application of both instruments would not allow emission reductions beyond those attained, overall, through the emissions trading scheme alone, but on the contrary would cause carbon leakage by bunkering of fossil energy products outside the European Community waters, taxation must not apply to fuel consumption in vessels subject to the emissions trading scheme.</i></p>

Amendment 2 – Recital 24

Commission proposal	Amendment suggestion
<p>For extra-EU air navigation, without prejudice to international obligations, and for extra-EU waterborne navigation, including fishing,</p>	<p>For extra-EU air navigation, without prejudice to international obligations, and for extra-EU waterborne navigation,</p>

Member States may exempt or apply the same levels of intra-EU taxation, according to the type of activity	<i>including fishing</i> ; Member States may exempt or apply the same levels of intra-EU taxation, according to the type of activity
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Amendment 3 – Article 15

Commission proposal	Amendment suggestion
<p>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, and to electricity used directly for charging electric vessels, for the purposes of intra-EU waterborne regular service navigation, fishing and freight transport.</p> <p>For the purposes of the first subparagraph, electricity shall be ranked among motor fuels indicated in Table B of Annex I.</p> <p>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.</p> <p>For the purposes of this Article, 'intra-EU waterborne navigation' shall mean navigation between two ports located in the Union, including domestic navigation.</p> <p>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 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.</p> <p>For the purposes of this Article, 'freight transport' shall mean a scheduled or non-scheduled service performed by vessel carrying revenue loads other than revenue passengers, excluding voyages carrying one or more revenue passengers and voyages listed in published timetables as open to passengers.</p>	<p>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, and to electricity used directly for charging electric vessels, for the purposes of intra-EU waterborne regular service navigation, fishing and freight transport.</p> <p>For the purposes of the first subparagraph, electricity shall be ranked among motor fuels indicated in Table B of Annex I.</p> <p>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.</p> <p>For the purposes of this Article, 'intra-EU waterborne navigation' shall mean navigation between two ports located in the Union, including domestic navigation.</p> <p>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 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.</p> <p>1. Without prejudice to Article 5, Member states shall exempt, under fiscal energy products supplied for use as fuel to vessels and electricity used directly for charging electric vessels as long as the vessel is subject to the EU ETS [reference to ETS Directive]</p> <p><i>The Commission shall examine the effectiveness of this measure five years after this Directive come into force and</i></p>

	<i>proceed in accordance to Article 20 (3), if necessary.</i>
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.	2. Member states may also apply the exemption from taxation for extra-EU waterborne navigation, even if this fuel consumption of the vessel has not been subject to the emissions trading scheme, yet.
3. Member States shall subject to taxation laid down in the first paragraph motor fuels and electricity used in the field of the manufacture, development, testing and maintenance of vessels, and motor fuels and electricity used for dredging operations in navigable waterways and in ports.	<p>3. Member States shall subject to taxation laid down in the first paragraph motor fuels and electricity used in the field of the manufacture, development, testing and maintenance of vessels, and motor fuels and electricity used for dredging operations in navigable waterways and in ports.</p> <p>2. <i>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 and electricity used in the field of manufacture, development, testing and maintenance of vessels, and motor fuels and electricity used for dredging operations in navigable waterways and in ports.</i></p> <p><i>Over a transitional period of not less than 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</i></p>
