

Revision of the Energy Taxation Directive

Presidency compromise text

Working Party on Tax Questions (Indirect Taxation – Excise duties/Energy taxation) 25 April 2024

The new compromise text below was drawn up as the follow-up to the meeting of the Working Party on Tax Questions (High Level) on 26 March 2024 and strives to take into account, as far as possible, the legitimate concerns expressed by the delegations. The Presidency has done its utmost to preserve the delicate balance when suggesting compromise solutions.

If the compromise text is favourably received by the delegations during the meeting of the WPTQ on 25 April 2024, the Presidency will schedule additional meeting(s) to fine-tune the text before raising it to the political level. However, if delegations cannot support the compromise text, the risk is that the currently applicable ETD will continue to apply during an undefined period which would be unfortunate. In particular, the Presidency would like to draw delegations' attention to the fact that the currently applicable ETD is technically obsolete and therefore does not leave to Member States room for manoeuvre to fiscally promote products that are less damaging to the environment/climate.

Modifications compared to the Presidency compromise text contained in document WK 3898/2024 (prepared for the 26 March 2024 HLWP) are highlighted in bold, underlined or strikethrough.

As far as the text of recitals is concerned, modifications compared to the text of the Commission original proposal are highlighted in bold, underlined or strikethrough. Regarding Annex II, delegations have expressed their wish that Annex II should contain energy content. However, due to lack of technical data, the Presidency has not yet modified Annex II. The Presidency invites delegations to send in writing information on energy content, if possible.

Draft
COUNCIL DIRECTIVE
**restructuring the Union framework for the taxation of energy products and
electricity (recast)**

(Text with EEA relevance)

Presidency note:

The recitals have been amended in order to reflect the changes made in the Articles.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 and Article 192(2), first subparagraph, point (a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) ~~Council Directive 2003/96/EC⁺ has been substantially amended several times². Since further amendments are to be made, that Directive should be recast in the interests of clarity.~~
- (12) Directive 2003/96/EC³ 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 also integrated environmental protection requirements, in particular, in the light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.
- (23) 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’⁴. 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 framework⁵.
- (34) 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.
- (45) Member States should, however, be able to use the energy taxation of motor fuels, heating fuels and electricity for a variety of purposes not necessarily nor specifically or exclusively related to the reduction of greenhouse gases.
- (56) Appreciable differences in the national levels of energy taxation applied by Member States could prove detrimental to the proper functioning of the internal market.
- (67) The establishment of appropriate Union minimum levels of taxation may enable existing differences in the national levels of taxation to be reduced.
- (78) As a party to the United Nations Framework Convention on Climate Change, the Union has ratified the Paris Agreement. The taxation of energy products and, where appropriate, electricity is one of the instruments available for achieving the Paris Agreement objectives.
- (89) 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~~

⁺ ~~Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).~~

² ~~See Annex II, Part A.~~

³ **Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).**

⁴ COM(2019) 640 final of 11 December 2019.

⁵ 14861/19 of 5 December 2019.

Parliament and of the Council⁶, to Directive (EU) 2018/2001 of the European Parliament and of the Council⁷, and to Regulation (EU) 2020/852 of the European Parliament and of the Council⁸. 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.

(910) In the interest of fiscal neutrality, the same minimum levels of taxation should apply for each component of energy taxation, to all energy products put to a given use. ~~Where equal minimum levels of taxation are thus set, Member States should, also for reason of fiscal neutrality, ensure equal levels of national taxation on all products concerned.~~

(1011) Member States should 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 in order to ensure an environmentally tailored structure of rates. **Member States can achieve this ranking within a transitional period of seven years in order to provide a gradual introduction of the ranking.**

The minimum levels of energy taxation should be **regularly and** automatically **updated following a harmonised procedure**, 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.~~

(11) In case of an energy product consisting of one or more energy products, specific provisions should be laid down to ensure as much as possible an effective implementation of the environmentally tailored structure of rates.

(12) In order to ensure a smooth implementation of certain provisions relating to some products or uses, ~~a~~transitional periods of application **are** needed.

(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).

(14) Fiscal arrangements made in connection with the implementation of the 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 **the** ~~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.

⁶ 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).

⁷ 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).

⁸ 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).

- (15) Energy prices are key elements of energy, transport and environment policies in the Union.
- (16) As heat is only subject to very limited intra-Union trade, output taxation of heat should remain outside the scope of this Union framework.

(17) Hazardous and municipal waste should be out of scope of this Union framework. The inclusion of hazardous and municipal waste could imply a deviation of waste from waste incineration installations towards landfills in the Union, which create methane emissions, and exports to third countries, with a potential hazardous impact on the environment.

This out of scope treatment does not prevent Member States to subject these waste streams to taxation at national level.

(18) Energy products should essentially be subject to a Union framework when used as heating fuel or motor fuel. To that extent, it is in the nature and the logic of the tax system to exclude from the scope of the framework dual uses and non-fuel uses of energy products. Electricity used in similar ways should be treated on an equal footing.

(19) The taxation of energy products and electricity used for mineralogical processes should be aligned with the general rules of the Directive but a transitional period for their implementation should be set.

~~(2017)~~ It is necessary to establish different Union minimum levels of taxation according to the use of the energy products and electricity.

~~(2118)~~ 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.~~

~~(2219)~~ The need to pursue the **national policy** objectives of the Directive requires that **an optional** ~~no~~ distinction is made between commercial and non-commercial **use of energy products used as propellant**, ~~diesel~~ as well as **between** business and non-business use **or depending on quantitative consumption levels** for heating fuels and electricity

(23) Member States may need to differentiate between commercial and non-commercial use of energy products used as propellants, in order to limit the distortion of competition operators might be confronted with, notably for motor fuel used by hauliers and coach transport engaging in intra-Union activities.

~~(20)~~ Energy products should essentially be subject to a Union framework when used as heating fuel or motor fuel. To that extent, it is in the nature and the logic of the tax system to exclude from the scope of the framework dual uses and non-fuel uses of energy products. Electricity used in similar ways should be treated on an equal footing.

~~(2424)~~ 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-Union EU air navigation should be taxed. The **possibility for Member States to exempt** ~~exemption~~ for the fuel used by cargo-only flights is still needed in the absence of more efficient alternatives.

~~(2522)~~ In order to ensure a smooth implementation of this Directive, the minimum levels of taxation for motor fuels used for intra-Union EU **air navigation other than private pleasure navigation** ~~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 **during the same transitional period** 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.

For extra-Union air navigation, Member States may exempt or apply the same levels of taxation.

~~(26)~~ **Energy products and electricity used for private pleasure navigation should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.**

~~(27)~~ **In order to provide Member States that are highly reliant on transport services and remain heavily dependent on the aviation industry for the movement of people and for the trading of goods and services with time to adjust, intra-Union air navigation of flights to or from aerodromes located on islands with no road or rail link with the main continental landmass of the European Union, will be subject to a zero minimum rate for ten years and will have another transitional period of five years prior to be subject to the standard levels of taxation.**

~~(2823)~~ 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-Union EU waterborne ~~regular service~~ navigation **other than private pleasure waterborne 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 **subject to a zero minimum rate during a transitional period** ~~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.

For extra-Union waterborne navigation, Member States may exempt or apply the same levels of taxation.

- (29) Energy products and electricity used for private pleasure waterborne navigation should be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.
- (30) Member States should be allowed to apply total or partial exemptions or reductions in the level of taxation for fishing. Fisheries are vital to the livelihood and cultural heritages of coastal communities in the Union. Fisheries have specific consumption patterns compared to other sectors. Fishing vessels require energy for propulsion, refrigeration and other operational needs, often operating in remote and challenging environments.
- (31) In order to take into account the specific situation of Member States that are highly reliant on transport services and remain heavily dependent on the navigation industry for the movement of people and for the trading of goods and services, Member States may apply total or partial exemptions for vessels that provide maritime transport services within a Member State.
- (32) Member States should be allowed to apply a preferential treatment to the taxation of certain activities in the aviation and waterborne navigation that are important to the functioning and the security of the Member State such as military flights and voyages of the coast guard.
- (3324) For extra-Union EU air navigation, without prejudice to international obligations, and for extra-Union EU waterborne navigation, ~~including fishing~~, Member States may exempt or apply the same levels of intra-Union EU taxation, according to the type of activity.
- (3425) Member States should be permitted to apply certain other exemptions or reduced levels of taxation, where that will not be detrimental to the environmental objectives, to the proper functioning of the internal market and will not result in distortions of competition.
- (3526) In particular, highly efficient combined heat and power generation and, in order to promote the use of alternative energy sources, renewable forms of energy may qualify for preferential treatment. At the same time, a transitional period is needed to complete the transition to high-efficiency cogeneration used for the heating of households.
- (3627) Targeted reductions in the ~~tax~~ level of taxation may prove necessary to incentivise the achievement of environmental protection objectives and improvements in energy efficiency of the Union productive sector.
- (3728) Targeted reductions in the ~~tax~~ level of taxation 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 whose real gross domestic product per inhabitant is significantly less than the European average should be able to apply for a transitional period a preferential treatment for the taxation of energy products and electricity used by all households.
- (3829) In view of the financial, economic and environmental effects on each Member State, ~~such as the need of electrification of the transport sector~~, it is necessary to provide for a procedure authorising the introduction by Member States, for a set period, of other exemptions or reductions in the level of taxation ~~reduced levels of taxation~~. ~~For reasons of protection of environment and human health, including the reduction of air pollution, it is necessary to~~

~~provide for a procedure authorising the introduction by Member States, for a set period, of specific increased rates. Such authorisation, following a justified request by Member States and on a proposal from the Commission, should be adopted by means of a Council implementing decision in accordance with Article 291 of the TFEU. Such measures should be under regular review.~~

(39) In the event of a significant and lasting increase in the average retail price of energy products or electricity, Member States should be allowed, after informing the Commission, to apply reductions in the level of taxation that can go below the minimum rates during a limited period of time.

If the criteria concerning the increase of retail price remain fulfilled, Member States can apply for an extension of the application of these reductions in the level of taxation over a subsequent period by following the procedure referred to in recital 38.

~~(40)~~ The list of energy products subject to the control and movement provisions of Council Directive **(EU) 2020/262** ~~2008/118/EC~~⁹ should include selected energy products, in order to ensure a unified and standardised treatment of those products and to take into account the risk of tax evasion, avoidance or abuse.

~~(41)~~ In order to ensure free movement whilst at the same time respecting the security requirements applicable to commercial motor vehicles and special containers, the definition of standard tanks of such vehicles should reflect the fact that fuel tanks are not exclusively fitted to commercial vehicles by their manufacturer.

~~(42)~~ Provision should be made for the Member States to notify the Commission of certain national measures. Such notification does not release Member States from the obligation, laid down in Article 108 (3) of the TFEU, to notify certain national measures. This Directive should not prejudice the outcome of any future State aid procedure that may be undertaken in accordance with Articles 107 and 108 of the TFEU.

~~(43)~~ The scope of Directive **(EU) 2020/262** ~~2008/118/EC~~ should, where appropriate, be extended to the products and indirect taxes covered by this Directive.

~~(44)~~ In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to determine whether the control and movement provisions of Directive **(EU) 2020/262** ~~2008/118/EC~~ are to apply to the products giving rise to evasion, avoidance or abuse. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰.

~~(45)~~ Reference should be made to the version presently applicable of the Combined Nomenclature. In order to ensure that the references to Combined Nomenclature (CN) codes in this Directive, **the references made to the greenhouse gas emissions saving**

⁹ Council Directive **(EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4)**, ~~2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).~~

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

criteria set out in Article 29 of Directive (EU) 2018/2001 and the references to the products of Annex IX of the same Directive are updated whenever necessary, **that Annex II of this Directive reflects the commonly used energy products** and that the minimum rates of taxation reflect prices evolution, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission ~~in respect of updating the reference to those CN codes, and in respect of updating the minimum tax rates based on yearly variations of the consumer price index.~~ It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the Council receives all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (~~4636~~) 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 relevant objectives of the Treaties.
- (~~4737~~) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (~~4838~~) This Directive should be 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 IV H, Part B,

HAS ADOPTED THIS DIRECTIVE:

Presidency note:

The Presidency has made text modifications and renumbering throughout the whole text in order to improve readability.

The dates concerning the entry into force and the transitional periods have been adapted throughout the whole text, taking into account the time elapsed since the presentation of this file by the Commission on 14 July 2021.

Article 1

1. Member States shall impose taxation on energy products referred to in Article 2(1) and electricity referred to in Article 2(2) in accordance with this Directive.

2. ~~For the purposes of this Directive, t~~Taxation shall be calculated in Euro/Gigajoule (EUR/GJ) on the basis of net calorific value as set out in Annex II.

2a. Member States may express their national levels of taxation in **other** units ~~other than those specified in paragraph 2~~ provided that the corresponding levels of taxation, following conversion into those units, are not below the **EU** minimum levels of taxation ~~specified in this Directive~~. When volume units are applied, the volume shall be measured at a temperature of 15°C. The conversion factors shall be those laid down in Annex II.

3. The Commission is empowered to adopt delegated acts in accordance with Article 26 to amend or supplement Annex II. For that purpose, the following rules shall apply for each energy product:

(a) where the conversion factor from any unit to GJ is referred to in Annex VI to Commission Implementing Regulation **(EU)** 2018/2066/~~EU~~, in Annex III to Directive (EU) 2018/2001, in any Union legal act modifying or replacing those legal acts or in any delegated or implementing acts based on such Union legal acts, that conversion factor shall be used; where the conversion factor from any unit to GJ is referred to in both Annex VI to Commission Implementing Regulation **(EU)** 2018/2066/~~EU~~ and Annex III to Directive (EU) 2018/2001, the conversion factor laid down in the latter shall be used;

(b) where the legal acts referred to in point (a) do not contain the relevant conversion factor from any unit to GJ, the conversion factor shall be determined:

- (i) by using the conversion factors laid down in the legal acts referred to in point (a) for an energy product with similar physical and chemical properties used as motor or heating fuel;
- (ii) on the basis of the relevant available information where no such similar energy product is mentioned in the legal acts referred to in point (a).

4. Where Annex II does not contain a net calorific value for the energy product and unit concerned, Member States shall refer to the conversion factor determined according to the principles laid down in paragraph 3. Member States shall inform the Commission of this conversion factor without delay.

Article 2

1. ~~For the purposes of this Directive, t~~The term ‘energy products’ shall apply to:

(a) products falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

- (b) products falling within CN codes 2207 20, if these are intended for use as heating fuel or motor fuel and are exempted from the harmonized excise duty on alcohol and alcoholic beverages in accordance with Article 27(1), points (a) or (b), of Council Directive 92/83/EC¹¹;
- (c) products falling within CN codes 2701 and 2702;
- (d) products falling within CN code 2703, if these are used as heating fuel in installations with a total rated thermal input equal to or exceeding 7,5 MW;
- (e) products falling within CN codes 2704 to 2715;
- (f) products falling within CN code 2804 10, if these are intended for use as heating fuel or motor fuel;
- (g) products falling within CN code 2814, if these are intended for use as heating fuel or motor fuel;
- (h) products falling within CN codes 2901 and 2902;
- (i) products falling within CN code 2905 11 00, if these are intended for use as heating fuel or motor fuel;
- (j) products falling within CN codes 2909 19 10 and, if intended for use as heating fuel or motor fuel, CN code 2909 19 90;
- (k) products falling within CN code 3403;
- (l) products falling within CN code 3811;
- (m) products falling within CN code 3814, if these are intended for use as heating fuel or motor fuel;
- (n) products falling within CN code 3817;
- (o) products falling within CN code 3823 19, if these are intended for use as heating fuel or motor fuel;
- (p) products falling within CN codes 3824 99 86, 3824 99 92 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3824 99 93, 3824 99 96 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3826 00 10 and 3826 00 90, if these are intended for use as heating fuel or motor fuel;
- (q) other products than those referred to in points (a) to (p), including additives and extenders to motor fuels, if these are intended for use, offered for sale or used as motor fuel;
- (r) other hydrocarbon-containing products than those referred to in points (a) to (p) with a net calorific value of at least [9 GJ/1 000 kg], if these are intended for use, offered for sale or used as heating fuel; products not containing any pure hydrocarbon molecules or consisting of less than 5 percent by weight of such molecules are not considered as hydrocarbon-containing products.

¹¹ Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21)

2. This Directive shall also apply to electricity falling within CN code 2716.

3. Energy products used as fuel in fuel cells installed on board vehicles, vessels and aircraft shall be considered to be used as motor fuels. Energy products used as fuel in stationary fuel cells shall be considered to be used as heating fuels.

4. ~~For the purposes of this Directive,~~ The following definitions **shall** apply:

- (a) ‘biomass’ means the biodegradable fraction of products, waste and residues from biological origin from agriculture, including vegetal and animal substances, from forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of waste, including industrial and municipal waste of biological origin;
- (b) ‘biofuels’ means liquid energy products used as motor fuels and produced from biomass;
- (c) ‘biogas’ means gaseous energy products used as motor and heating fuels and produced from biomass;
- (d) ‘bioliquids’ means liquid energy products used as heating fuels and produced from biomass;
- (e) ‘sustainable biofuels, bioliquids and biogas’ means energy products used as motor and heating fuels, and produced from biomass, fulfilling the sustainability and greenhouse gas saving criteria as laid down in paragraph 4a;
- (f) ‘non-sustainable biofuels, bioliquids and biogas’ means energy products used as motor and heating fuels and produced from biomass, not fulfilling the sustainability and greenhouse gas saving criteria as laid down in paragraph 4a;
- (g) ‘sustainable food and feed crop biofuels, bioliquids and biogas’ means energy products used as motor and heating fuels and produced from starch-rich crops, sugar crops or oil crops produced on agricultural land as a main crop excluding residues, waste or ligno-cellulosic material and intermediate crops, such as catch crops and cover crops, provided that the use of such intermediate crops does not trigger demand for additional land, fulfilling the sustainability and greenhouse gas saving criteria as laid down in paragraph 4a;
- (h) ‘advanced biofuels, bioliquids and biogas’ means biofuels, bioliquids and biogas that are produced from the feedstock listed in Annex III.

4a. For the purposes of points (e), (f) and (g) of paragraph 4 ‘sustainability and greenhouse gas **emissions** saving criteria’ means the criteria set out in Article 29 of Directive (EU) 2018/2001, excluding high indirect land-use change-risk products set out in Article 26(2) of that Directive.

4b. In case of future amendments of the sustainability and greenhouse gas **emissions** saving criteria mentioned in points (e), (f) and (g) of paragraph 4 and by way of derogation from the relevant provisions concerning their applicability in time, the Commission is empowered to adopt delegated acts in accordance with Article ~~26~~27 in order to set the date of application of the sustainability and greenhouse gas **emissions** saving criteria under this Directive.

4c. In case of future amendments of Annex IX of Directive (EU) 2018/2001, the Commission is empowered to adopt delegated acts in accordance with Article ~~26~~27 in order to change Annex III mentioned in point (h) of paragraph 4.

5. ~~For the purposes of this Directive,~~ The following definitions apply:

- (a) ‘renewable fuels of non-biological origin’ means energy products used as motor and heating fuels other than biofuels, bioliquids or biogas, the energy content of which is derived from renewable sources other than biomass;
- (b) ‘low-carbon fuels’ means low-carbon hydrogen and synthetic gaseous and liquid fuels the

energy content of which is derived from low-carbon hydrogen, as well as any fossil-based fuels, whose manufacturing meets the technical screening criteria as laid down in paragraph 5a; ‘recycled carbon fuels’ shall be included in this category.

For the purposes of the first subparagraph, ‘recycled carbon fuels’ means liquid and gaseous fuels that are produced from liquid or solid waste streams of non-renewable origin which are not suitable for material recovery, or from waste processing gas and exhaust gas of non-renewable origin which are produced as an unavoidable and unintentional consequence of the production process in industrial installations.

(c) ‘level of taxation’ is the total charge levied in respect of all indirect taxes in compliance with conditions set by this Directive applied by the Member State, calculated **directly or indirectly** on the quantity of energy products and electricity at the time of the tax chargeability, excluding VAT;

Presidency note:

The words “directly and indirectly” have been added to make the text compliant with the text of the currently applicable ETD.

(d) ‘business entity’ means an entity which complies with the criteria under paragraph 5c, which independently carries out, in any place, the supply of goods and services, whatever is the purpose or results of such economic activities.

The economic activities comprise all activities of producers, traders and persons supplying services, including mining and agricultural activities and activities of the professions.

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, if they engage in such activities or transactions, they shall be considered as business entities in respect of those activities or transactions where treatment as non-business entities would lead to significant distortions of competition.

5a. For the purpose of paragraph 5, point (b) ‘technical screening criteria’ means criteria determining the conditions under which a specific economic activity qualifies as contributing substantially to climate change mitigation according to Article 10 of Regulation (EU) 2020/852 of the European Parliament and of the Council and Annex I to Commission Delegated Regulation (EU) 2021/2139¹².

By way of derogation from Article 10(6) of Regulation (EU) 2020/852 and from Article 3 of Commission Delegated Regulation (EU) 2021/2139, technical screening criteria shall be applicable to this Directive as from [1 January ~~2026~~2023].

¹² Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (OJ L 442, 9.12.2021, p. 1).

5b. In case of future amendments of the technical screening criteria within the meaning of paragraph 5a and by way of derogation from the relevant provisions concerning their applicability in time, the Commission is empowered to adopt delegated acts in accordance with Article ~~262~~²⁶⁷ in order to set the date of application of the technical screening criteria under this Directive.

5c. ~~F~~^EFor the purposes of paragraph 5, point (d) a business entity shall not be considered to be smaller than a part of an enterprise or a legal body that from an organisational point of view constitutes an independent business, that is to say an entity capable of functioning by its own means.

In cases of mixed use, different levels of taxation shall apply in proportion to each type of use, although where either the business or non-business use is insignificant, it may be treated as nil.

6. Where an energy product consists of one or more energy products,

- (a) taxation of those components shall be determined accordingly based on this Directive, independently from the CN code under which the energy product falls as a whole; or
- (b) taxation of the energy product as a whole shall be determined in accordance with the category applicable for the main component; or
- (c) Member States may assess the content of all or some energy products on an average basis, in which case Member States shall define the scope of such an average in a coherent, transparent and non-discriminatory manner; or
- (d) Member States may tax the whole energy product in accordance with the rate of the component falling in the highest rate category, and Member States may reimburse the difference when the person liable to pay the excise duty proves the composition of the products released for consumption.

7. ~~For the purposes of this Directive, e~~^EEnergy products destined for supply shall be considered to be intended for use as heating fuel or motor fuel when the supplier is aware, or should reasonably be aware, that the recipient intends to use the energy products as heating fuel or motor fuel. Energy products referred to in paragraph 1, point (a) of this Article and Article ~~189~~(1), point (a) shall not be considered to be intended for use as heating fuel or motor fuel if they are supplied to a producer of goods referred to in paragraph 1, point (p) of this Article and Article ~~189~~(1), point (p).

8. References in this Directive to codes of the Combined Nomenclature shall be understood as references to the codes of Combined Nomenclature in Council Regulation (EEC) No 2658/87¹³ as amended by [Commission Implementing Regulation (EU) 2020/1577¹⁴].

Where the Regulation referred to in the first subparagraph is replaced or where an amendment to the Combined Nomenclature necessitates a modification of the codes referred to in this Directive, the Commission is empowered to adopt delegated acts in accordance with Article ~~262~~²⁶⁷ in order to update the codes of the Combined Nomenclature of the products referred to in this Directive or in order to update the reference provided for in the first subparagraph so as to align it to the applicable version of the Combined Nomenclature.

¹³ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

¹⁴ Commission Implementing Regulation (EU) 2020/1577 of 21 September 2020 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 361, 30.10.2020, p. 1).

Those delegated acts shall not result in any changes in the minimum tax rates set in this Directive or in the addition or removal of any energy products and electricity.

Article 3

1. This Directive shall not apply to the following:

- (a) output taxation of heat;
- (b) taxation of products falling within CN codes 4401 and 4402;
- (c) taxation of hazardous waste or municipal waste, within the meaning of Directive 2008/98/EC¹⁵, used as fuel;
- (d) the following uses of energy products and electricity:
 - (i) energy products used for purposes other than as motor fuel or as heating fuel;
 - (ii) dual use of energy products;
 - (iii) electricity used for the purposes of chemical reduction and in electrolytic and metallurgical processes, where electricity is used directly in or to provide a direct energy input to the process;
 - (iv) mineralogical processes;

For the purposes of point (d), an energy product has a dual use where it is used both as heating fuel and for purposes other than as motor fuel and heating fuel. The use of energy products for chemical reduction and in electrolytic and metallurgical processes, where energy products are used directly in or to provide a direct energy input to the process, shall be regarded as dual use.

For the purposes of point (d), ‘metallurgical processes’ means the processes classified in the NACE nomenclature under codes C 24.1, 24.4, 24.5 and powder metallurgy under code C 25.5 in Annex I of Council Regulation (EC) No 1893/2006¹⁶, regardless of the code under which the main manufacturing activity of the business entity is classified.

For the purposes of point (d), ‘mineralogical processes’ means the processes classified in the NACE nomenclature under code C 23 in Annex I of Regulation (EC) No 1893/2006⁶, regardless of the code under which the main manufacturing activity of the business entity is classified.

2. This Directive shall apply to mineralogical processes within the meaning of Regulation (EC) 1893/2006 as from [1 January ~~2036~~2033].

¹⁵ **Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3)**

¹⁶ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1)

3. Article ~~18~~¹⁹ shall apply to energy products used as provided for in paragraph 1, point (d), of this Article.

Article 4

The levels of taxation which Member States apply to the energy products and to electricity shall be compliant with Article 5(3).

Article 5

1. Energy products falling under each of the following uses shall be taxed independently from each other as a single use:

- (a) products used as motor fuels other than those referred to in points (b) and (d);
- (b) products used as motor fuels for the purposes laid down in Article 8(2) other than those referred to in point (d);
- (c) products used as heating fuels, other than those referred to in point (d);
- (d) products used for any other single use specified in this Directive. For that purpose, uses referred to in **paragraphs 4b and 4c of this Article**, Article **8(2)**, Article 12(3); **and (7)**, Articles **13(1) and (6)**, Article **14(1), (5), (6), (7) and (8)**^{14 and 15}, **Article 15(1)**, Article 16(1) **and (3)**; and Article **22**¹⁷ shall be considered as different single uses.

2. For each of the single uses laid down in paragraph 1, energy products shall be classified into the following categories depending on their environmental performance:

- (a) category 1 shall include products which do not fall into category 2 or category 3;
- (b) category 2 shall include the following products when they do not fall into category 3:
 - (i) when used as motor fuels, low-carbon fuels and sustainable biofuels and biogas other than food and feed crop biofuels and biogas;
 - (ii) when used as heating fuels, low-carbon fuels and sustainable bioliquids and biogas other than food and feed crop bioliquids and biogas;
- (c) category 3 shall include renewable fuels of non-biological origin, advanced sustainable biofuels, bioliquids and biogas.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for natural gas and liquefied petroleum gas, when used as motor fuel, shall be fixed as set out in Table E1 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State, for products in accordance with category 2 in Table A of Annex I.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for natural gas and liquefied petroleum gas, when used as motor fuel for purposes of Article 8(2), shall be fixed as set out in Table E2 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State for products in accordance with category 2 in Table B of Annex I.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for natural gas and liquefied petroleum gas, when used as heating fuel, shall be fixed as set out in Table E3 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State for products in accordance with category 2 in Table C of Annex I.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for sustainable food and feed crop biofuels and biogas, when used as motor fuel, shall be fixed as set out in Table F1 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State for products in accordance with category 2 in Table A of Annex I.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for sustainable food and feed crop biofuels and biogas, when used as motor fuel for purposes of Article 8(2), shall be fixed as set out in Table F2 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State for products in accordance with category 2 in Table B of Annex I.

By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), the minimum levels of taxation for sustainable food and feed crop bioliquids and biogas, when used as heating fuel, shall be fixed as set out in Table F3 of Annex I. However, the applied tax rate shall not be lower than the rate applied by the Member State for products in accordance with category 2 in Table C of Annex I.

By way of derogation from paragraph 2, point (b), Member States may decide, from [1 January ~~2026~~²⁰²³ to 31 December ~~2035~~²⁰³²], to include low-carbon fuels and sustainable biofuels, bioliquids and biogas other than food and feed crop biofuels, bioliquids and biogas, when used as motor or heating fuels, in ~~the~~ category 3.

The Council, acting unanimously on a proposal from the Commission, may adopt implementing acts to change the category of any energy product when its category is inconsistent with its environmental performance. Those implementing acts shall not result in adding more categories, in changing any of the uses listed in this paragraph or in derogating from the rules set out in paragraph 3.

3. Unless otherwise specified in this Directive, for each of the uses laid down in paragraph 1, the following rules shall apply:

- (a) The rate for each energy product in the category shall be equal or superior to the corresponding minimum level of taxation laid down in Annex I in relation to this use.
- (b) The rate for each energy product in category 1 shall be superior to the rate for each energy product in category 2 and the rate for each energy product in category 2 shall be superior to the rate for each energy product in category 3.
- (c) For single uses referred to in paragraph 1, point (d), the applicable minimum level of taxation is that set out in the provisions referred to in that point.

4. The use of electricity shall be taxed independently as a single use, without any reference to other fuels. The use of electricity for any other single use as referred to in paragraphs 4a ~~and~~ ^{4b} and 4b of this Article, Article 12(3) ~~and (7), Article 13(1), (5) and (6),~~ Articles ~~13 and~~ ^{14(1), (4), (5), (6), (7) and (8)} ~~15,~~ ^{15(1),} Article 16(1) and ~~(3) and Article 22~~ ^{Article 17} shall be considered as different single uses.

4a. By way of derogation from paragraph 4, Member States may apply under fiscal control specific levels of taxation, which shall not go below the minimum levels of taxation set out in Table D of Annex I, to electricity used for charging electric vehicles, vessels and aircraft or for heating purposes, taxing such uses independently as single uses. Member States may limit the scope of this paragraph based on the characteristics of the recharging points or specific heating systems.

For the purpose of this paragraph, ‘electric vehicle’ means a motor vehicle equipped with a powertrain containing at least one non-peripheral electric machine as an energy converter with an electric rechargeable energy storage system, which can be recharged externally.

4b. By way of derogation from paragraphs 1 and 4 and respecting the minimum levels of taxation set out in Annex I, Member States may apply, as a single use, under fiscal control, differentiated tax rates:

- (a) that are directly linked to product quality;
- (b) for heating fuels and electricity:
 - (i) depending on quantitative consumption levels;
 - (ii) for business and non-business use.

Member States may limit the scope of the differentiated levels of taxation.

For the purposes of this paragraph, ‘business use’ means the use by a business entity.

4c. From [1 January 2026~~23~~ to 31 December 2040~~32~~] Member States may apply, as a single use, different levels of taxation to commercial and non-commercial use of energy products used as propellant, which shall not go below the minimum levels of taxation set out in Table A, E1 and F1.

For the purpose of this paragraph, ‘commercial use of an energy product used as propellant’ means an energy product used as propellant for the following purposes:

- (a) the carriage of goods for hire or reward, or on own account, by motor vehicles or articulated vehicle combinations intended exclusively for the carriage of goods by road and with a maximum permissible gross laden weight of 7,5 tonnes or above;
- (b) the carriage of passengers, whether by regular or occasional service, by a motor vehicle of category M2 or category M3, as defined in Regulation (EU) 2018/858 of the European Parliament and of the Council.¹⁷

Presidency note:

The transitional period has been adapted in order to accommodate some delegations indicating their concerns during the HLWP of 26 March 2024.

¹⁷ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) 595/2009 and repealing Directive 2007/46/EC, OJ L 151/1, 14.6.2018, p. 1.

5. From [1 January ~~2026~~2023 to 31 December ~~2033~~2030], where the rule referred to in paragraph 3, point (b), is not fulfilled on [1 January ~~2026~~2023] for two products of different categories, the superiority of tax rates of those products shall be gradually achieved at least every second year.

6. The minimum levels of taxation laid down in this Directive shall be adapted every three years starting from [1 January 2036] to take into account the cumulative changes in the harmonised index of consumer prices excluding energy and unprocessed food as published by the Commission (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 three calendar years preceding the year in which the delegated act as referred to in paragraph 7 is adopted.

In any case, that adaptation shall not exceed 10%.

7. The Commission is empowered to adopt by 31 March every third year a delegated act in accordance with Article ~~26~~27 to amend the minimum levels of taxation as referred to in paragraph 6. Member States shall apply the new minimum levels of taxation from 1 January of the year following the year of adoption of the respective delegated act. The first delegated act shall be adopted by [31 March of 2035].

Article 6

Member States shall be free to give effect, under fiscal control, to the exemptions or reductions in the level of taxation prescribed by this Directive either:

- (a) directly;
- (b) by means of a differentiated rate; or
- (c) by refunding all or part of the amount of taxation.

Article 7

The minimum levels of taxation applicable to energy products used as motor fuels referred to in Article 5(1), point (a), shall be fixed as set out in Table A, Table E1 and Table F1 of Annex I as from [1 January ~~2026~~2023], as from [1 January ~~2031~~2028] and as from [1 January ~~2036~~2033], respectively.

Article 8

1. Notwithstanding Article 7, the minimum levels of taxation applicable to energy products, other than petrol, used as motor fuels for the purposes set out in paragraph 2 of this Article and referred to in Article 5(1), point (b), shall be fixed as set out in Table B, Table E2 and Table F2 of Annex I as from [1 January ~~2026~~2023], as from [1 January ~~2031~~2028] and as from [1 January ~~2036~~2033], respectively.

2. Paragraph 1 shall apply to the following purposes:

- ~~(a) agricultural, horticultural or aquaculture works, and in forestry;~~
- (a) stationary motors;

(~~b~~e) plant and machinery used in construction, civil engineering and public works;

(~~c~~d) vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

3. By way of derogation from Article 5(1), each of the purposes specified in paragraph 2 may be considered to be a single use.

Presidency note:

Modifications are made following the request of some delegations during the HLWP of 26 March 2024.

The possibility to exempt the energy products and electricity used for agricultural, horticultural or aquaculture works, and in forestry has been added to Article 15.

Article 9

The minimum levels of taxation applicable to energy products used as heating fuels referred to in Article 5(1), point (c), shall be fixed as set out in Table C, Table E3 and Table F3 of Annex I as from [1 January ~~2026~~2023], as from [1 January ~~2031~~2028] and as from [1 January ~~2036~~2033], respectively.

Article 10

The minimum levels of taxation applicable to electricity shall be fixed as set out in Table D of Annex I as from [1 January ~~2026~~2023], as from [1 January ~~2031~~2028] and as from [1 January ~~2036~~2033], respectively.

Article 11

1. For Member States that have not adopted the euro, the value of the euro in national currencies to be applied to the value of the levels of taxation shall be fixed once a year. The rates to be applied shall be calculated as the average exchange rate of the business days between 1 January and 30 June. Those averages exchange rates shall be published by the European Commission in the *Official Journal of the European Union* and shall have effect from 1 January of the following calendar year.

2. Member States may maintain the amounts of taxation in force at the time of the annual adjustment provided for in paragraph 1 if the conversion of the amounts of the level of taxation expressed in euro would result in an increase of less than 5%₇ in the level of taxation expressed in national currency.

Article 12

1. Member States shall exempt from taxation under fiscal control:

- (a) energy products and electricity used to produce electricity; and,
- (b) electricity used to maintain the ability to produce electricity.

2. The tax exemption referred to in paragraph 1 shall not apply to consumption of products not used directly in, or to provide a direct energy input to, the process of production of electricity and maintaining the ability to produce electricity, including the propulsion of vehicles, the general functioning of the installation used for production or storage of electricity or other processes that take place in that installation.

When the process of production or storage of electricity leads to the production of other products than electricity from which economic value can be derived, the tax exemption shall not apply to the part of the consumption leading to the production of such products.

3. By way of derogation from paragraph 1, Member States may, for reasons of environmental policy including climate policy, tax as a single use energy products and electricity referred to in paragraph 1 without having to respect the minimum levels of taxation laid down in this Directive. In such a case, the taxation of energy products shall comply with Article 5(3), point (b).

The taxation according to the first subparagraph of products classified within category 1 shall be considered as justified for reasons of environmental policy, including climate policy.

4. With the exception of products that are fully exempted under Article 13 or 14, paragraphs 1, 2 and 3 shall not apply to products referred to in Articles 2(1) and Article 2(3) when used to produce electricity in vehicles, vessels and aircraft where that electricity is used on board vehicles. Member states shall exempt electricity produced and consumed on board vehicles, vessels and aircraft.

5. The consumption of energy products and electricity within the curtilage of an establishment producing energy products shall not be considered as a chargeable event giving rise to taxation, if the consumption consists of those products produced within the curtilage of the establishment.

Member States may also consider the consumption of energy products and electricity not produced within the curtilage of such an establishment as not giving rise to a chargeable event.

6. The consumption of energy products and electricity referred to in paragraph 5, first subparagraph shall be considered as a chargeable event giving rise to taxation only if those products are not used directly in, or to provide a direct energy input to, the process of production of energy products. That shall include the propulsion of vehicles, the general functioning of the installation used for production or storage, or other processes that take place in that installation.

The consumption of energy products and electricity referred to in paragraph 5, second subparagraph may be considered as a non-chargeable event not giving rise to taxation only if those products are used directly in, or to provide a direct energy input to, the process of production of energy products.

When the process of production or storage leads to the production of non-energy products from which economic value can be derived, the chargeable event shall apply to the part of the consumption leading to the production of such products.

7. By way of derogation from paragraph 5, Member States may, for reasons of environmental policy including climate policy, consider consumption of energy products and electricity referred to in paragraph 6, first subparagraph, as a chargeable event giving rise to taxation as a single use, without having to respect the minimum levels of taxation laid down in this Directive. In such a case, the taxation of energy products shall comply with Article 5(3), point (b).

The taxation according to the first subparagraph of products classified within category 1 shall be considered as justified for reasons of environmental policy, including climate policy.

Article 13

1. Without prejudice to international obligations and to Article 5 of this Directive, Member States shall apply, as a single use, under fiscal control, not less than the minimum levels of taxation prescribed in this Directive to energy products supplied for use as fuel to aircraft, and to electricity used directly for charging electric aircraft, where **those aircraft are** such fuel or electricity is used for the purposes of intra-Union air navigation of flights other than private pleasure **navigation flights**.

As from [1 January ~~2036~~2033], the minimum levels of taxation referred to in Article 5(3) shall be fixed as set out in Tables A and D of Annex I.

For energy products falling into category 1, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] and to [6,14 EUR/GJ] from [1 January ~~2031~~2028 to 31 December ~~2035~~2032].

By way of derogation from the second and third subparagraph, energy products falling into category 1 used for intra-Union air navigation of flights to or from aerodromes located on islands, the minimum level of taxation shall be set to 0 EUR/GJ from [1 January ~~2026~~2023 to 31 December ~~2035~~2032], to [4,09 EUR/GJ] from [1 January ~~2036~~2033 to 31 December ~~2038~~2035], to [8,18 EUR/GJ] from [1 January ~~2039~~2036 to 31 December ~~2040~~2037] and at the same level as for other motor fuels according to Table A of Annex I from [1 January ~~2041~~2038].

For the purpose of the previous paragraph the derogation only applies to aerodromes located on islands with no road or rail link with the main continental landmass of the European Union.

For energy products falling into categories 2 and 3 and electricity, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2035~~2032].

2. For the purposes of this Article:

(a) ‘intra-Union air navigation’ means:

(i) flights between two aerodromes located in the territory to which Directive (EU) 2020/262 applies, including domestic flights;

(ii) flights from one aerodrome located in the territory to which Directive (EU) 2020/262 applies, to the same aerodrome, without landing in another aerodrome;

(b) air navigation to or from aerodromes in the autonomous regions of the Azores and Madeira are not considered intra-Union air navigation;

(c) ‘private pleasure **navigation flight**’ means the use of an aircraft by the holder of an aircraft where the use is for other than commercial purposes;

(d) ‘holder of an aircraft’ means the owner or one of the owners of an aircraft, or the natural or legal person who enjoys the use of the aircraft either through hire or through any other means;

(e) the use of an aircraft ‘for commercial purposes’ means its use:

(i) for the carriage of passengers or goods or for the supply of services;

(ii) for adequate consideration in respect of the individual flight;

(iii) in the course of an independent lasting economic activity with profit-making intentions;
and

(iv) that is available to the general public.

Flights for the purposes of public authorities are deemed to fulfil the conditions set out in points (i) to (iv).

The condition set out in point (i) is not fulfilled in case of the carriage of passengers who are employed by the holder of an aircraft or by a company that belongs to the same group as the holder of an aircraft or who perform functions for the holder of an aircraft or such a company, or who are owners of a company holding an aircraft.

For the purposes of this Article, a Member State may ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine having regard to all relevant facts and circumstances. An arrangement may compromise more than one step or part. An arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not put into place for valid commercial reasons which reflect economic reality.

3. Member States may apply, as a single use, under fiscal control total or partial exemptions or reductions in the level of taxation for ~~E~~energy products supplied for use as fuel to aircraft and electricity used directly for charging electric aircraft, for the purposes of intra-Union air navigation of cargo-only flights ~~shall be exempted~~.

~~By way of derogation from the first subparagraph, Member States may apply the same level of taxation as laid down in paragraph 1 to energy products and electricity used for cargo-only domestic flights. Where a A Member State **may** has entered into an agreement with one or several Member States, they may also **to** apply the same level of taxation as laid down in paragraph 1 for energy products and electricity used for intra-Union air navigation of cargo-only flights.~~

Presidency note:

As requested by a delegation, the exemption foreseen for cargo-only flights should be optional for Member States. Paragraph 3 is changed accordingly.

For the purposes of this paragraph, ‘cargo-only flight’ means 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.

4. Without prejudice to international obligations, Member States may exempt or apply the same levels of taxation as laid down in paragraph 1 to energy products used for extra-Union air navigation according to the type of flight, and to electricity used directly for charging electric aircrafts for the purposes of such air navigation.

That rule is not applicable to private pleasure navigation flights.

5. Member States may apply, as a single use, under fiscal control total or partial exemptions or reductions in the level of taxation to electricity supplied through a standardised fixed or mobile interface to aircraft when those aircraft are stationed at the gate or at an airport outfield position.

6. Member States may ~~from 1 January 2023 to 31 December 2032~~ apply under fiscal control, as a single use, total or partial exemptions or reductions in the level of taxation to energy products supplied for use as fuel to aircrafts and electricity used directly for charging electric aircrafts for the purposes of:

- (a) armed forces,
- (b) other national security forces,
- (c) search and rescue services and
- (d) public authorities.

Presidency note:

As asked by some delegations during the HLWP of 26 March 2024.

Article 14

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 this Directive to energy products supplied for use as fuel to vessels, and to electricity used directly for charging electric vessels, where those vessels are used for the purposes of intra-Union waterborne navigation (including fishing) other than private pleasure navigation.

~~By way of derogation from the first subparagraph, energy products used for fishing may be exempted from taxation from 1 January 2023 to 31 December 2032.~~

As from [1 January ~~2036~~2033], the minimum levels of taxation referred to in Article 5(3) shall be fixed as set out in Tables B and D of Annex I.

For energy products falling into category 1, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] and to [0,52 EUR/GJ] from [1 January ~~2031~~2028 to 31 December ~~2035~~2032].

For energy products falling into categories 2 and 3 and electricity, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2035~~2032].

Presidency note:

As asked by some delegations during the HLWP of 26 March 2024.

The exemption for fishing has been made a permanent exemption and has been moved to paragraph 6.

2. For the purposes of this Article

(a) ‘intra-Union waterborne navigation’ means:

(i) navigation between two ports located in the territory to which Directive (EU) 2020/262 applies, including domestic navigation;

(ii) navigation from one port located in the territory to which Directive (EU) 2020/262 applies, to the same port, without mooring elsewhere;

(b) waterborne navigation to or from ports in the autonomous regions of the Azores and Madeira are not considered intra-Union waterborne navigation;

(c) ‘private pleasure navigation’ means the use of a vessel by the holder of a vessel, where the use is for other than commercial purposes;

(d) ‘holder of a vessel’ means the owner or one of the owners of a vessel or the natural or legal person who enjoys its use either through hire or through any other means;

(e) the use of a vessel ‘for commercial purposes’ means its use:

(i) for the carriage of passengers or goods or for the supply of services;

(ii) for adequate consideration in respect of the individual trip;

(iii) in the course of an independent lasting economic activity with profit-making intentions;
and

(iv) that is available to the general public.

Navigation for the purposes of public authorities is deemed to fulfil the conditions set out in points (i) to (iv).

The condition set out in point (i) is not deemed to be fulfilled in case of the carriage of passengers who are employed by the holder of a vessel or by a company that belongs to the same group as the holder of a vessel or who perform management functions for the holder of a vessel or for such a company or who are owners of a company which is a holder of a vessel.

For the purposes of this Article, a Member State may ignore an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine having regard to all relevant facts and circumstances. An arrangement may compromise more than one step or part. An arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not put into place for valid commercial reasons which reflect economic reality.

3. Member States may exempt or apply the same levels of taxation as laid down in paragraph 1 to energy products used for extra-Union waterborne navigation according to the type of activity, and to electricity used directly for charging electric vessels for the purposes of such navigation.

That rule is not applicable to private pleasure **navigation flights**.

4. Member States may apply, as a single use, under fiscal control total or partial exemptions or reductions in the level of taxation ~~reduced rates~~ to electricity directly supplied to vessels berthed at ports.

5. Member States may ~~from 1 January 2023 to 31 December 2062~~ apply under fiscal control, as a single use, total or partial exemptions or reductions in the level of taxation to energy products supplied for use as fuel to vessels and electricity used directly for charging electric vessels for the purposes of:

- (a) armed forces,
- (b) other national security forces,
- (c) search and rescue services and
- (d) public authorities.

Presidency note:

As asked by some delegations during the HLWP of 26 March 2024.

6. Member States may ~~from [1 January 2033 to 31 December 2062]~~ apply under fiscal control, as a single use, total or partial exemptions or reductions in the level of taxation to energy products supplied for use as fuel to vessels and electricity used directly for charging electric vessels for the purposes of coastal fishing, carried out by fishing vessels of an overall length of less than 24 metres.

7. Member States may ~~from [1 January 2023 to 31 December 2062]~~ apply under fiscal control, as a single use, total or partial exemptions or reductions in the level of taxation to energy products supplied for use as fuel to vessels and electricity used directly for charging electric vessels used to provide maritime transport services within a Member State. For the purpose of this paragraph ‘maritime transport services within a Member State’ means services normally provided for a consideration for the carriage of passengers or goods by regular passengers and ferry services by sea between:

- a) ports situated on the mainland of the Member State concerned and on one or more of the islands of one and the same Member State; or
- b) ports situated on the islands of one and the same Member State.

For the purpose of the previous paragraph the derogation only applies to ports located on islands with no road or rail link with the mainland of the Member State concerned.

However, for specific reasons, Member States may choose to apply the derogation to ports located on islands with a road or rail link with the mainland of the Member State concerned.

Presidency note:

As asked by some delegations during the HLWP of 26 March 2024.

8. Island Member States may ~~from [1 January 2023 to 31 December 2062]~~ apply under fiscal control, as a single use, total or partial exemptions **or reductions in the level of taxation** to energy products supplied for use as fuel to vessels and electricity used directly for charging electric vessels used to provide maritime transport services. For the purposes of the paragraph ‘maritime transport services’ means services normally provided for a consideration for the carriage of passengers or goods by regular passengers and ferry services by sea.

For the purpose of this paragraph, island Member States means Cyprus, Ireland and Malta.

Article 15

1. By way of derogation from Article 5 and without prejudice to other Union **law** provisions, Member States may apply under fiscal control total or partial exemptions or reductions in the level of taxation to any of the following:

- (a) energy products and electricity used in the field of pilot projects for the technological development of more environmentally-friendly products or in relation to fuels from renewable resources;
- (b) electricity:
 - (i) of solar, wind, wave, tidal or geothermal origin;
 - (ii) of hydraulic origin produced in hydroelectric installations;
 - (iii) generated from sustainable biomass or from products produced from sustainable biomass;
 - (iv) generated from methane emitted by coalmines;
 - (v) generated from fuel cells;
- (c) electricity produced from combined heat and power generation, provided that cogeneration by the combined generators is high-efficiency cogeneration as defined in Article 2, point (34), of Directive 2012/27/EU¹⁸;
- (d) renewable fuels of non-biological origin, advanced sustainable biofuels, bioliquids and biogas;
- (e) products falling within CN code 2705 used as heating fuels;
- (f) energy products and electricity used for agricultural, horticultural or aquaculture works, and in forestry.**

2. By way of derogation from Article 5(1), each of the purposes specified in paragraph 1 may be considered to be a single use.

Presidency note:

As asked by some delegations during the HLWP of 26 March 2024.

~~3.2.~~ Member States may also refund to the producer some or all of the amount of tax paid by the consumer on electricity produced from products specified in paragraph 1, point (b).

¹⁸ **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. 1-56)**

Article 16

1. Without prejudice to Article 5(3), points (a) and (b), Member States may apply under fiscal control:

(a) reductions in the level of taxation, which shall not go below the minimum levels of taxation as set out in Tables C, E3, F3 and D of Annex I, to energy products and electricity used for combined heat and power generation, without prejudice to Article 12; however, the minimum level of taxation shall be set to 0 EUR/GJ from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] to energy products and electricity used for combined heat and power generation, provided the cogeneration is high-efficient as defined in Article 2, point (34), of Directive 2012/27/EU;

for the purposes of this point, energy products and electricity used for combined heat and power generation for households in Member States which have a real gross domestic product per inhabitant of less than 60 % of the European average may be, as a single use, exempt or subject to reductions in the level of taxation up until [20 years after the entry into force of this Directive];

Presidency note:

As requested by a delegation during the HLWP of 26 March 2024.

(b) reductions in the level of taxation, which shall not go below the minimum levels of taxation as set out in Tables B, E2, F2 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 or for local public passenger transport, waste collection, armed forces and public administration, disabled people and ambulances, regardless of means of transport; however, for the purposes of carriage of goods and passengers by rail, metro, tram and trolley bus, the minimum level of taxation of electricity shall be set to 0 EUR/GJ from [1 January ~~2026~~2023 to 31 December ~~2030~~2027];

(c) reductions in the level of taxation, which shall not go below the minimum levels of taxation as set out in Tables C, E3, F3 and D of Annex I, to energy products used as heating fuel and electricity where those energy products are 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 limit the application of reductions to energy products used for the purpose of non-business activities; in cases of mixed use different levels of taxation shall apply in proportion to each type of use; if a business use is insignificant, it may be treated as nil;

(i) for energy products falling into category 1, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] and to [0,52 EUR/GJ] from [1 January ~~2031~~2028 to 31 December ~~2035~~2032];

(ii) for energy products falling into category 2, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] and to [0,26 EUR/GJ] from [1 January ~~2031~~2028 to 31 December ~~2035~~2032];

(iii) for energy products falling into category 3 and electricity, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January ~~2026~~2023 to 31 December ~~2030~~2027] and to [0,09 EUR/GJ] from [1 January ~~2031~~2028 to 31 December ~~2035~~2032];

(iv) for the purposes of this point, energy products and electricity used by households that are recognised as vulnerable may be exempt up until [20 years after the entry into force of this Directive]; for that purpose, Member States shall set down a definition of ‘vulnerable households’ taking into account a wide set of economic and social variables, such as, but not limited to, personal income, energy prices or cost of transport; Member States shall inform the Commission of the relevant criteria without delay;

(v) for the purposes of this point, energy products and electricity used by households in Member States which have a real gross domestic product per inhabitant of less than ~~60~~ 50 % of the European average may be, **as a single use, exempt or subject to reductions in the level of taxation** up until [20 years after the entry into force of this Directive]; the assessment of the gross domestic product per inhabitant shall be made on [entry into force of this Directive] and thereafter every five years on 1 January; the real gross domestic product per inhabitant and the European average taken into consideration will be those for the penultimate year.

Presidency note:

As requested by a delegation during the HLWP of 26 March 2024.

~~(d) reductions in the level of taxation, which shall not go below the minimum levels of taxation as set out in Table C, E3, F3 and D of Annex I, to energy products used as heating fuels and to electricity used for agricultural, horticultural or aquaculture works, and in forestry.~~

Presidency note:

Point (d) has been deleted given the introduction in Article 15(1)(f) the possibility for Member States to apply a total or partial exemption for energy products and electricity used for agricultural, horticultural or aquaculture works, and in forestry.

2. By way of derogation from Article 5(1), each of the purposes specified in paragraph 1 may be considered to be a single use.

Article 17

~~3~~4. Without prejudice to Article 5, Member States may apply ~~tax~~ reductions **in the level of taxation**, which shall not go below the relevant minimum levels of taxation set out in Tables B,

E2, F2, C, E3, F3 and D of Annex I, on the consumption of energy products used as heating fuels or as motor fuels in accordance with Article 8(2), points (a**b**) and (b**e**), and on electricity, taxing such uses as single uses, in the following cases:

(a) in favour of energy-intensive business;

(b) where agreements are concluded with business entities, or with associations of such business entities, or where tradable permit schemes or equivalent measures are implemented, in so far as they lead to the achievement of environmental protection objectives or to improvements in energy efficiency.

For the purposes of point (a), an 'energy-intensive business' means a business entity, as referred to in paragraph 2, where either the purchases of energy products and electricity amount to at least 3,0 % of the production value or the national energy tax payable amounts to at least 0,5 % of the added value. Within this definition, Member States may apply more restrictive concepts, including sales value, process and sector definitions.

For the purposes of the second subparagraph, 'purchases of energy products and electricity' means the actual cost of energy purchased or generated within the business. Only electricity, heat and energy products that are used for heating purposes or for the purposes of Article 8(2), points (a**b**) and (b**e**), are included. All taxes are included, except deductible VAT.

For the purposes of the second subparagraph, 'production value' means turnover, including subsidies directly linked to the price of the product, plus or minus the changes in stocks of finished products, work in progress and goods and services purchased for resale, minus the purchases of goods and services for resale.

For the purposes of the second subparagraph, 'added value' means the total turnover liable to VAT including export sales minus the total purchases liable to VAT including imports.

For the purposes of point (b), 'tradable permit schemes' means tradable permit schemes other than the Union scheme within the meaning of Directive 2003/87/EC of the European Parliament and of the Council¹⁹.

Presidency note:

Since Article 16 deals with tax reductions and so does also Article 17, the Presidency has made the choice to put those provisions together in Article 16.

Article 178

1. In addition to the provisions set out in the previous Articles, in particular in Articles 13 to 16, 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.

¹⁹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

A Member State wishing to introduce such measures shall inform the Commission accordingly and shall also provide the Commission with all relevant and necessary information.

The Commission shall examine the request, taking into account, *inter alia*, the proper functioning of the internal market, the need to ensure fair competition and Union health, environment, energy and transport policies.

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.

2. The authorisations referred to in paragraph 1 shall be granted for a maximum period of six years, with the possibility of renewal in accordance with the procedure set out in paragraph 1.

3. If the Commission considers that the measures provided for in paragraph 1 are no longer sustainable, particularly in terms of fair competition or distortion of the operation of the internal market, or in terms of Union policy in the areas of health, protection of the environment, energy and transport, it shall submit appropriate proposals to the Council. The Council shall take a unanimous decision on these proposals.

4. In cases where the average retail price of an energy product or electricity over a period of ~~three~~ **six** months increases by more than ~~70~~ **30** % compared with the average retail price of that energy product or electricity over the previous twelve months, Member States may, after informing the Commission, apply **reductions in the level of taxation** ~~reduced rates of taxation~~ that can go below the minimum rates.

The maximum time for applying such measures shall be six months. This procedure can be used only once during a period of 12 months starting from the first day of application of the **reductions in the level of taxation** ~~reduced rates~~.

Presidency note:

As suggested by a delegation, the threshold has been set to 70% and a period of six months in which the average retail price of an energy product or electricity has been set.

These changes are in line with the conditions set out in Article 66a of the Electricity Market Design Directive (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023PC0148>) in order to have access to affordable energy during an electricity price crisis.

Article ~~1819~~

1. The following energy products shall be subject to provisions provided by chapter III, chapter IV, Articles 33 to 43 and 45 to 46 of Directive (EU) 2020/262 (“the control and movement provisions”):

(a) products falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

- (b) products falling within CN codes 2207 20 if these are intended for use as heating fuel or motor fuel and are exempted from the harmonised excise duty on alcohol and alcoholic beverages in accordance with Article 27(1), point (a) or (b), of Directive 92/83/EC;
- (c) products falling within CN codes 2707 10, 2707 20, 2707 30, 2707 50, and, if intended for use as heating fuel or motor fuel, 2707 99 99;
- (d) products falling within CN codes 2710 12 to 2710 20 90; however, for products falling within CN codes 2710 12 21, 2710 12 25, 2710 19 29, and 2710 19 71 to 2710 19 99 and 2710 20 90, the control and movement provisions shall only apply to bulk commercial movements;
- (e) products falling within CN codes 2711, except when transported by pipelines;
- (f) products falling within CN code 2804 10, if these are intended for use as heating fuel or motor fuel, except when transported by pipelines;
- (g) products falling within CN code 2814, if these are intended for use as heating fuel or motor fuel, except when transported by pipelines;
- (h) products falling within CN code 2901 10;
- (i) products falling within CN codes 2902 20 to 2902 44;
- (j) products falling within CN code 2905 11 00, if these are intended for use as heating fuel or motor fuel;
- (k) products falling within CN codes 2909 19 10 and, if intended for use as heating fuel or motor fuel, 2909 19 90;
- (l) products falling within CN codes 3403; the control and movement provisions shall only apply to bulk commercial movements;
- (m) products falling within CN codes 3811 11 10, 3811 11 90, 3811 19 00 and 3811 90 00;
- (n) products falling within CN code 3814, if these are intended for use as heating fuel or motor fuel; the control and movement provisions shall only apply to bulk commercial movements;
- (o) products falling within CN code 3823 19, if these are intended for use as heating fuel or motor fuel.
- (p) products falling within CN codes 3824 99 86, 3824 99 92 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3824 99 93, 3824 99 96 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3826 00 10 and 3826 00 90 if these are intended for use as heating fuel or motor fuel.

For the purposes of this paragraph, ‘bulk commercial movement’ means transport of unpackaged products or products in packages exceeding 220 litres in volume.

2. If a Member State finds that energy products other than those referred to in paragraph 1 are intended for use, offered for sale or used as heating fuel, motor fuel or are otherwise giving rise to evasion, avoidance or abuse, it shall communicate that fact to the Commission forthwith. This provision shall also apply for electricity. The Commission shall transmit the communication to the other Member States within one month of receipt. Within two months of that communication, the Member States shall communicate to the Commission their views regarding the detected practice of evasion, avoidance or abuse concerning those energy products and electricity. Where the Commission, on the basis of the views received from the Member States, considers that there is a risk to the proper functioning of the internal market or to the environment, the Commission shall adopt implementing acts to determine that the provisions of Directive (EU) 2020/262 referred to in paragraph 1 of this Article are to apply to the products concerned. Those implementing acts shall

be adopted in accordance with the examination procedure referred to in Article ~~25~~26(2) of this Directive.

3. Member States may, pursuant to bilateral arrangements, dispense with some or all of the control measures set out in Directive (EU) 2020/262 in respect of some or all of the energy products referred to in paragraph 1 of this Article, ~~in so far as they are not covered by Articles 7 to 9 of this Directive~~. Such arrangements shall not affect Member States which are not party to them. All such bilateral arrangements shall be notified to the Commission, which shall inform the other Member States.

Presidency note:

As pointed out by a delegation, this provision is no longer correct. Since all energy products are covered by Articles 7 to 9 (minimum rates) this phrase has no meaning. The opinion of the Presidency is that this phrase should be deleted to give the Member States the possibility to conclude bilateral arrangements to dispense the control measures for all energy products listed in paragraph 1.

Article ~~19~~20

1. In addition to the general provisions defining the chargeable event and the provisions for payment set out in Directive (EU) 2020/262, the amount of taxation on energy products not referred to in Article ~~18~~19(1) of this Directive shall also become due at the time they are intended for use, offered for sale or used as motor or heating fuels.

2. Member States may also provide that taxation on energy products and electricity become due when it is established that a final use condition laid down in national rules for the purpose of a reduced level of taxation, specific rate or exemption is not, or is no longer, fulfilled.

3. Only Articles 1 to 5, 11, and 52 of Directive (EU) 2020/262 shall apply to products referred to in paragraphs 4 to 7 of this Article.

4. Electricity shall be subject to taxation and shall become chargeable at the time of supply or use by the distributor or redistributor. Where the delivery to consumption takes place in a Member State where the distributor or redistributor is not established, the tax of the Member States of delivery shall be chargeable to that distributor or redistributor or a company which has to be registered in the Member State of delivery. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

For the purposes of the first subparagraph, electricity storage facilities and electricity transformers may be considered as redistributors when they supply electricity.

Any natural or legal person producing electricity for its own use is regarded as a distributor.

4a. Member States may decide that the supply or use of electricity does not give rise to a chargeable event if the electricity is produced in a small installation and not fed into a public network.

For the purposes of this paragraph, 'small installation' means installation with a production of electricity not expected to exceed 850 MWh annually or 500 KW of installed production power. In defining 'small installation', Member States may apply limits below those expressed in the second subparagraph.

Article 12(1), (2) and (3) shall not apply to energy products and electricity used to produce electricity exempted according to this paragraph.

5. Products falling within CN codes 2711, 2804 10 and 2814, when transported by pipelines, as well as other gaseous products transported by pipelines, shall be subject to taxation and shall become chargeable at the time of supply or use by the distributor or redistributor. Where the delivery to consumption takes place in a Member State where the distributor or redistributor is not established, the tax of the Member States of delivery shall be chargeable to that distributor or redistributor or a company which has to be registered in the Member State of delivery. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

Notwithstanding the first subparagraph, Member States have the right to determine the chargeable event, in the case where there are no connections between their pipelines and those of other Member States.

Any natural or legal person producing the products referred to in this paragraph for its own use is regarded as a distributor.

5a. Member States may decide that the supply or use of biogas does not give rise to a chargeable event if the biogas is produced in a small installation and not fed into a public network.

For the purposes of this paragraph, 'small installation' means installation with a production of biogas not expected to exceed 3 000 GJ annually or 500 KW of installed production power.

In defining 'small installation', Member States may apply limits below those expressed in the second subparagraph.

Article 12(1), (2) and (3) shall not apply to energy products and electricity used to produce biogas exempted according to this paragraph.

6. Products falling within CN codes 2701, 2702, 2704 and 2714 10 shall be subject to taxation and shall become chargeable at the time of delivery or use by companies, which have to be registered for that purpose by the relevant authorities. Those authorities may allow the producer, trader, importer, or fiscal representative to substitute the registered company for the fiscal obligations imposed upon it. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

Any natural or legal person producing the products referred to in this paragraph for its own use shall be tax liable and the tax becomes chargeable at the time of use.

7. Products falling within CN codes 2703 be subject to taxation at the time they are used as heating fuel within the curtilage of the installation with a total rated thermal input equal to or exceeding [7,5 MW].

The tax shall be chargeable to the operator of that installation. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

8. Member States need not treat as ‘production of energy products’:

- (a) operations during which small quantities of energy products are obtained incidentally;
- (b) operations by which the user of an energy product makes its reuse possible in his own undertaking provided that the taxation already paid on such product is not less than the taxation which would be due if the reused energy product were again to be liable to taxation;
- (c) an operation consisting of mixing, outside a production establishment or a tax warehouse, energy products with other energy products or other materials, provided that:
 - (i) taxation on the components has been paid previously; and
 - (ii) the amount paid is not less than the amount of the tax which would be chargeable on the mixture.

The condition under point (c), (i) of the first subparagraph shall not apply where the mixture is exempted for a specific use.

Article ~~20~~²¹

1. Member States may refund the amounts of taxation already paid on contaminated or accidentally mixed energy products sent back to a tax warehouse for recycling.
2. When taxation rates are changed, stocks of energy products already released for consumption may be subject to an increase in, or a reduction of, the tax.

Article ~~21~~²²

1. Energy products released for consumption in a Member State, contained in the standard tanks of commercial motor vehicles and intended to be used as fuel by those same vehicles, as well as in special containers, and intended to be used for the operation, during the course of transport, of the systems equipping those same containers shall not be subject to taxation in any other Member State.
2. For the purposes of this Article, ‘standard tanks’ mean:
 - (a) the tanks permanently fixed to a motor vehicle by the manufacturer or by a third party and which, according to the registration documents or the certificate of roadworthiness of the vehicle, comply with the applicable technical and security requirements, and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems, including gas tanks fitted to motor vehicles designed for the direct use of gas as a fuel and tanks fitted to the other systems with which the vehicle may be equipped;
 - (b) the tanks permanently fixed to a special container by the manufacturer or a third party which, according to the registration documents of the container, comply with the applicable technical and security requirements, and whose permanent fitting enables fuel to be used directly for the operation, during transport, of the refrigeration systems and other systems with which special containers are equipped.

For the purposes of this Article, 'special container' means any container fitted with specially designed apparatus for refrigeration systems, oxygenation systems, thermal insulation systems or other systems.

Article ~~2223~~

The Portuguese Republic may ~~from 1 January 2023 to 31 December 2062~~ apply, **as a single use**, levels of taxation on energy products and electricity consumed in the Autonomous Regions of the Azores and Madeira lower than the minimum levels of taxation laid down in this Directive in order to compensate for the transport costs incurred as a result of the insular and dispersed nature of these regions.

Presidency note:

As requested by a delegation during the HLWP of 26 March 2024.

Article ~~2324~~

1. Member States shall inform the Commission of the levels of taxation which they apply to the products listed in Article 2 on 1 January each year and following each change in national law.
2. Where the levels of taxation applied by the Member States are expressed in units other than Euro/Gigajoule, Member States shall also inform the Commission of the corresponding levels of taxation following conversion into those units.
3. Before [30 ~~September~~ **June**] each year, and in reference to the previous calendar year, Member States shall inform the Commission of the available information concerning quantities subject to different tax rates and the available information concerning quantities of products to which the exemptions outlined in national legislation have been applied. These quantities shall be expressed in Gigajoules.

Presidency note:

As suggested by some delegations at the WPTQ on 13 March 2024.

Article ~~2425~~

1. Member States shall inform the Commission of measures taken pursuant to Article 5 and Articles 12 to ~~16~~**7**.
2. Measures such as tax exemptions, tax reductions, tax differentiation and tax refunds within the meaning of this Directive might constitute State aid, and in those cases have to be notified to the Commission pursuant to Article 108(3) of the Treaty on the Functioning of the European Union.

Information provided to the Commission on the basis of this Directive does not free Member States from the notification obligation pursuant to Article 108(3) of the Treaty on the Functioning of the European Union.

Article ~~25~~²⁶

1. The Commission shall be assisted by the Committee on Excise Duties set up by Article 52 of Directive (EU) 2020/262. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011²⁰ shall apply.

Article ~~26~~²⁷

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt the delegated acts referred to in Article 1(3), Article 2(4b), Article 2(4c), Article 2(5b), Article 2(8) and Article 5(7) shall be conferred on the Commission for an indeterminate period of time from [1 January ~~2026~~²⁰²³].
3. The delegation of power referred to in Article 1(3), Article 2(4b), Article 2(4c), Article 2(5b), Article 2(8) and Article 5(7) 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 European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making²¹.
5. As soon as it adopts a delegated act, the Commission shall notify it to the Council.
6. A delegated act adopted pursuant to Article 1(3), Article 2(4b), Article 2(4c), Article 2(5b), Article 2(8) or Article 5(7) 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 has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

²¹ OJ L 123, 12.5.2016, p. 1.

7. The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

Article ~~27~~²⁸

1. Member States shall adopt and publish by [31 December ~~2025~~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), Articles 3, 5 and 7, Article 8(1), Articles 9(1), 13, to 15, Article 16, point (b), last sentence, Article 16, points (c), (d) and (e), Articles 17 and 18, 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) and (3), Article 25(2), Article 26(1), Articles 28 to 31 and Annex I and shall immediately communicate the text of those measures to the Commission.

Presidency note:

This Article will be adapted at a later stage because numbering may still change.

2. They shall apply those measures from [1 January ~~2026~~²⁰²³].

3. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

4. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article ~~28~~²⁹

By [5 years after [1 January ~~2026~~²⁰²³]] and thereafter every five years, the Commission shall submit to the Council a report on the application of this Directive.

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 of the Treaties.

~~2. On the basis of a proposal from the Commission, the Council shall before [1 January 2033] examine if biomass should stay out of scope of this Directive.~~

Presidency note:

As requested by a delegation during the HLWP on 26 March 2024.

Article ~~29~~³⁰

Directive 2003/96/EC as amended by the acts listed in [Annex ~~IV~~^H], Part A, is repealed with effect from [1 January ~~2026~~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 ~~IV~~^H, Part B].

References to the repealed directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in [Annex ~~V~~^H].

Article ~~30~~³¹

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 1(1), Article 2(1), point (a), Article 2(2), Article 2(3), first subparagraph, Articles 4 and 6, Article 8(2), Articles 10 to 12, Article 16, points (a) and (b), Article 20, Article 21(1), point (a), (c), (e) to (h) and (n), Article 21(3), Article 22(2) and (4), 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 ~~2026~~²⁰²³].

Presidency note:

This Article will be adapted at a later stage because numbering may still change.

Article ~~31~~³²

This Directive is addressed to the Member States.

Done at...

For the Council

The President

ANNEX I

Table A. — Minimum levels of taxation applicable to energy products used as motor fuels referred to in Article 5(1) point (a) for the purposes of Article 7 (in EUR/GJ net calorific value)

Category	1.1.20262023	1.1.20312028	1.1.20362033
1	[10,75]	[11,52]	[12,28]
2	[5,38]	[5,77]	[6,15]
3	[0,15]	[0,16]	[0,17]

Table B. — Minimum levels of taxation applicable to energy products used as motor fuels referred to in Article 5(1) point (b) for the purposes of Article 8 (in EUR/GJ net calorific value)

Category	1.1.20262023	1.1.20312028	1.1.20362033
1	[0,9]	[0,97]	[1,03]
2	[0,45]	[0,48]	[0,51]
3	[0,15]	[0,16]	[0,17]

Table C. — Minimum levels of taxation applicable to energy products used as heating fuels (in EUR/GJ net calorific value)

Category	1.1.20262023	1.1.20312028	1.1.20362033
1	[0,9]	[0,97]	[1,03]
2	[0,45]	[0,48]	[0,51]
3	[0,15]	[0,16]	[0,17]

Table D. — Minimum levels of taxation applicable to electricity (in EUR/GJ)

	1.1.20262023	1.1.20312028	1.1.20362033
Electricity	[0,15]	[0,16]	[0,17]

Table E1. — Minimum levels of taxation applicable to natural gas and liquefied petroleum gas used as motor fuels for the purposes of Article 7 (in EUR/GJ net calorific value) from 1 January 20262023 to 31 December 20352032

	1.1.20262023	1.1.20312028
Natural gas, LPG	5,38	5,77

Table E2. — Minimum levels of taxation applicable to natural gas and liquefied petroleum gas used as motor fuels for the purposes of Article 8 (in EUR/GJ net calorific value) from 1 January ~~2026~~2023 to 31 December ~~2035~~2032

	1. 1. 2026 2023	1.1. 2031 2028
Natural gas, LPG	0,45	0,48

Table E3. — Minimum levels of taxation applicable to natural gas and liquefied petroleum gas used as heating fuels for the purposes of Article 9 (in EUR/GJ net calorific value) from 1 January ~~2026~~2023 to 31 December ~~2035~~2032

	1. 1. 2026 2023	1.1. 2031 2028
Natural gas, LPG	0,45	0,48]

Table F1. — Minimum levels of taxation applicable to sustainable food and feed crop biofuels and biogas used as motor fuels for the purposes of Article 7 (in EUR/GJ net calorific value) from 1 January ~~2026~~2023 to 31 December ~~2035~~2032

	1. 1. 2026 2023	1.1. 2031 2028
Sustainable food and feed crop biofuels and biogas	5,38	5,77

Table F2. — Minimum levels of taxation applicable to sustainable food and feed crop biofuels and biogas used as motor fuels for the purposes of Article 8 (in EUR/GJ net calorific value) from 1 January ~~2026~~2023 to 31 December ~~2035~~2032

	1. 1. 2026 2023	1.1. 2031 2028
Sustainable food and feed crop biofuels and biogas	0,45	0,48

Table F3. — Minimum levels of taxation applicable to sustainable food and feed crop bioliquids and biogas used as heating fuels for the purposes of Article 9 (in EUR/GJ net calorific value) from 1 January ~~2026~~2023 to 31 December ~~2035~~2032

	1. 1. 2026 2023	1.1. 2031 2028
Sustainable food and feed crop bioliquids and biogas	0,45	0,48]

ANNEX II
Conversion table of net calorific values

Combined Nomenclature Code	Product name	Net calorific value
1507 to 1518	Vegetable, animal or microbial fats and oils	37,0 GJ/1000 kg
2207 20	Ethanol (denatured)	27,0 GJ/1000 kg 21,3 GJ/1000 l
2701 11 00	Anthracite	26,7 GJ/1000 kg
2701 12 10	Coking coal	28,2 GJ/1000 kg
2701 12 90	Other bituminous coal	25,8 GJ/1000 kg
2701 19 00	Sub-bituminous coal	18,9 GJ/1000 kg
2701 20 00	Patent fuel	20,7 GJ/1000 kg
2702	Lignite	11,9 GJ/1000 kg
2703 00 00	Peat	9,8 GJ/1000 kg
2704 00	Coke oven and lignite coke	28,2 GJ/1000 kg
2705 00 00	Coke oven gas	38,7 GJ/1000 kg
	Gas coke	28,2 GJ/1000 kg
	Oxygen steel furnace gas	7,1 GJ/1000 kg

	Blast furnace gas	2,5 GJ/1000 kg
2706 00 00	Coal tar	28,0 GJ/1000 kg
2707 99 99	Heavy aromatic hydrocarbon mixtures	40,4 GJ/1000 kg
2709 00 10	Natural condensates gas	44,2 GJ/1000 kg
2710 12 21	White spirit	40,2 GJ/1000 kg
2710 12 31 to 2710 12 70	Petrol	43,0 GJ/1000 kg 32 GJ/1000 l
2710 12 25 and 2710 12 90	Naphtha	44,5 GJ/1000 kg
2710 19 21	Kerosene-type jet fuel	43,0 GJ/1000 kg 34 GJ/1000 l
2710 19 25	Kerosene - other than jet type	43,8 GJ/1000 kg
2710 19 43 to 2710 19 48	Gas oil	43,0 GJ/1000 kg 36 GJ/1000 l
2710 19 62 to 2710 19 67	Fuel oil	40,4 GJ/1000 kg
2710 19 81 to 2710 19 99	Lubricating oils	40,2 GJ/1000 kg
2710 91 00 and 2710 99 00	Waste oil	40,2 GJ/1000 kg
2711 11 00 and 2711 21 00	Natural gas	48,0 GJ/1000 kg

2711 19 00	Methane (liquefied)	50,0 GJ/1000 kg
2711 13 to 2711 19	Liquefied petroleum gases (LPG)	47,3 GJ/1000 kg
2711 12	Propane (liquefied)	46,0 GJ/1000 kg
2711 19 00	Liquified biogas	50,0 GJ/1000 kg
2711 29 00	Gaseous hydrocarbons in gaseous state	50,0 GJ/1000 kg
2712 20	Paraffin wax	40,2 GJ/1000 kg
2713 11 00 and 2713 12 00	Petroleum coke	32,5 GJ/1000 kg
2713 20 00	Petroleum bitumen	40,2 GJ/1000 kg
2714 10 00	Oil shale and tar sands	8,9 GJ/1000 kg
2714 90 00	Natural bitumen	40,2 GJ/1000 kg
2804 10 00	Hydrogen	120,0 GJ/1000 kg
2901 10 00	Ethane	46,4 GJ/1000 kg
2905 11 00	Methanol	20,0 GJ/1000 kg
2909 19 10	Ethyl-tertio-butyl-ether produced on the basis of ethanol (ETBE)	36,0 GJ/1000 kg
2909 19 90	Methyl-tertio-butyl-ether produced on the basis of methanol (MTBE)	35,0 GJ/1000 kg

	Tertiary-amyl-ethyl-ether produced on the basis of ethanol (TAEE)	38,0 GJ/1000 kg
	Tertiary-amyl-methyl-ether produced on the basis of methanol (TAME)	36,0 GJ/1000 kg
	Tertiary-hexyl-ethyl-ether produced on the basis of ethanol (THxEE)	38,0 GJ/1000 kg
	Tertiary-hexyl-methyl-ether produced on the basis of methanol (THxME)	38,0 GJ/1000 kg
	Dimethylether (DME)	28,0 GJ/1000 kg
3403	Lubricant	40,2 GJ/1000 kg
3826 00 10	Biodiesel (FAME)	37,0 GJ/1000 kg
	Biodiesel (FAEE)	38,0 GJ/1000 kg

Presidency note:

Given the very technical nature of Annex II the Presidency has not been able to adapt Annex II in this version of the revised compromise text. The Presidency would like to invite the delegations to submit their suggestions to modify Annex II in writing.

ANNEX III

Feedstock for the production of 'advanced biofuels, bioliquids and biogas' as referred to in Article 2(4)(h)

- Algae if cultivated on land in ponds or photobioreactors;
- Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets under point (a) of Article 11(2) of Directive 2008/98/EC;
- Biowaste as defined in point (4) of Article 3 of Directive 2008/98/EC from private households subject to separate collection as defined in point (11) of Article 3 of that Directive;
- Biomass fraction of industrial waste not fit for use in the food or feed chain, including material from retail and wholesale and the agro-food and fish and aquaculture industry, drink waste, fruit / vegetable residues and waste (only tails, leaves, stalks and husks), bean shells, silver skin, and dust: cocoa, coffee, residues and waste from production of hot beverages: spent coffee grounds, spent tea leaves, dairy waste scum, food waste oil: oil extracted from waste food from industry, non-edible cereal residues and waste from grain milling and processing: wheat, corn, barley, rice, olive oil extraction residues and waste: olive stones, other slaughterhouse waste (animal residues (non-fat) Cat. 1), industrial wastewater and derivatives, industrial storage settlings, biogenic fraction of end-of-life tyres, humins, spent bleaching earth;
- Straw;
- Animal manure and sewage sludge;
- Palm oil mill effluent and empty palm fruit bunches, palm sludge oil (PSO);
- Tall oil pitch;
- Crude glycerine;
- Bagasse;
- Grape marcs and wine lees;
- Nut shells;
- Husks;
- Cobs cleaned of kernels of corn;
- Biomass fraction of wastes and residues from forestry and forest-based industries, namely, bark, branches, pre- commercial thinnings, leaves, needles, tree tops, saw dust, cutter shavings, black liquor, brown liquor, fibre sludge, lignin and tall oil;
- Other non-food cellulosic material, Shells/husks and derivatives: soy hulls, agricultural harvesting residues, unused feed/fodder from ley;
- Other ligno-cellulosic material except saw logs and veneer logs, palm fronds, palm trunk; Damaged trees, recycled/waste wood;
- **Alcoholic distillery waste residues and wastes (fusel oils) not fit for use in the food or feed chain;**
- **Raw methanol from kraft pulping stemming from the production of wood pulp;**
- **Non-food crops grown on severely degraded land, not suitable for food or feed crops**
- Used cooking oil;

- Animal fats classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009, waste fish oil classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009;
- **Bakery and confectionary residues and waste not fit for use in the food and feed chain;**
- **Drink production residues and waste not fit for use in the food and feed chain;**
- **Fruit and vegetable residues and waste not fit for use in the food and feed chain, excluding tails, leaves, stalks and husks;**
- **Starchy effluents with less than 20% starch content not fit for use in the food and feed chain;**
- **Brewers' Spent Grain not fit for use in the food and feed chain;**
- **Liquid whey permeate;**
- **Deoiled olive pomace;**
- **Damaged crops that are not fit for use in the food or feed chain, excluding substances that have been intentionally modified or contaminated in order to meet this definition;**
- **Municipal wastewater and derivatives other than sewage sludge;**
- **Brown grease;**
- **Cyanobacteria;**
- **Vinasse excluding thin stillage and sugarbeet vinasse;**
- **Dextrose ultrafiltration retentate from sugar refining;**
- **Intermediate crops, such as catch crops and cover crops that are grown in areas where due to a short vegetation period the production of food and feed crops is limited to one harvest and provided their use does not trigger demand for additional land and provided the soil organic matter content is maintained.**

Presidency note:

Annex IX of RED was recently updated by the Commission Delegated Directive C(2024)1585 final amending the feedstock listed in Annex IX of RED, available at this link:

https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13484-Biofuels-updated-list-of-sustainable-biofuel-feedstocks_en

Presidency note:

Annexes IV and V have been added to the compromise text.

Annex IV is the same as Annex I in the Commission's proposal and Annex V is an updated version of Annex II of the Commission's proposal.

ANNEX IV

Part A

**Repealed Directive with list of the successive amendments thereto
(referred to in Article 29)**

Council Directive 2003/96/EC
(OJ L 283, 31.10.2003, p. 51)

Council Directive 2004/74/EC
(OJ L 157, 30.4.2004, p. 87)

Council Directive 2004/75/EC
(OJ L 157, 30.4.2004, p. 100)

Commission Implementing Decision (EU) 2018/552
(OJ L 91, 9.4.2018, p.27)

Commission Implementing Decision (EU) 2022/2521
(OJ L 326, 21.12.2022, p. 57-58)

Part B

**Time-limits for transposition into national law
(referred to in Article 29)**

Directive	Time-limit for transposition
2003/96/EC	31 December 2003
2004/74/EC	1 May 2004
2004/75/EC	1 May 2004

ANNEX V

CORRELATION TABLE

Directive 2003/96/EC	This Directive
Article 1	Article 1(1)
-	Article 1(2), to (4)
Article 2(1), point (a)	Article 2(1), point (a)
Article 2(1), points (b) to (h)	-
-	Article 2(1), points (b) to (r)
Article 2(2)	Article 2(2)
Article 2(3), first subparagraph	-
Article 2(3), second subparagraph	Article 2(1), point (q)
Article 2(3), third subparagraph	Article 2(1), point (r)
-	Article 2(4) to (7)
Article 2(4)	Article 3(1) and (2)
Article 2(4), point (b), last sentence	Article 3(3)
Article 2(5)	Article 2(8)
Article 3	-
Article 4(1)	Article 4
Article 4(2)	Article 2, 5(c)
-	Article 5(1) to (4a)
Article 5, first indent	Article 5(4b), point (a)
Article 5, second indent	Article 5(4b), point (b, i)
Article 5, third indent	-
Article 5, fourth indent	Article 5(4b), point (b, ii)
-	Article 5(5), (6) and (7)
Article 6	Article 6
Article 7(1)	Article 7
Article 7(2) and (3)	Article 5(4c)
Article 7(4)	-
Article 8(1)	Article 8(1)
Article 8(2), point (a)	-
Article 8(2), point (a) to (d)	Article 8(2)
-	Article 8(3)
Article 9(1)	Article 9
Article 9(2)	-
Article 10(1)	Article 10
Article 10(2)	-
Article 11(1)	Article 2(5), point (c)
Article 11(2) and (3)	Article 2(5c)
Article 11(4)	-
Article 12	Article 1(2a)
Article 13	Article 11

Article 14(1), point (a)	Article 12(1), (2) and (3)
-	Article 12(4)
-	Article 12(7)
Article 14(1), points (b) and (c)	-
Article 14(2)	-
-	Article 13
-	Article 14
Article 15(1), point (a)	Article 15(1), point (a)
Article 15(1), point (b)	Article 15(1), point (b)
Article 15(1), point (c)	Article 16(1), point (a)
Article 15(1), point (d)	Article 15(1), point (c)
Article 15(1), point (e)	Article 16(1), point (b)
Article 15(1), point (f)	-
Article 15(1), point (g)	-
Article 15(1), point (h)	Article 16(1), point (c)
Article 15(1), point (i)	-
Article 15(1), point (j)	-
Article 15(1), point (j)	-
Article 15(1), point (k)	-
Article 15(1), point (l)	Article 15(1), point (e)
-	Article 15(1), point (d)
Article 15(2)	Article 15(2)
Article 15(3)	Article 15(1), point (f)
Article 16	-
-	Article 16(2)
Article 17	Article 16(3)
Article 18(1) to (6)	-
Article 18(7)	Article 22
Article 18(8) to (14)	-
Article 18a	-
Article 18b	-
Article 19	Article 17(1) to (3)
-	Article 17(4)
Article 20(1), point (a)	Article 18(1), point (a)
-	Article 18(1), point (b)
Article 20(1), point (b)	Article 18(1), point (c)
Article 20(1), point (c)	-
-	Article 18(1), point (d)
Article 20(1), point (d)	Article 18(1), point (e)
	Article 18(1), points (f) and (g)
Article 20(1), points (e), (f) and (g)	Article 18(1), points (h), (i) and (j)
-	Article 18(1), points (k) to (o)
Article 20(1), point (h)	Article 18(1), point (p)
-	Article 18(1), second subparagraph
Article 20(2) and (3)	Article 18(2) and (3)

Article 21(1)	Article 19(1)
Article 21(2)	-
Article 21(3)	Article 12(5) and (6)
Article 21(4)	Article 19(2)
Article 21(5), first subparagraph	Article 19(4), first subparagraph
Article 21(5), second subparagraph	-
-	Article 19(4), second subparagraph
Article 21(5), third subparagraph, first sentence	Article 19(4), third subparagraph
Article 21(5), third subparagraph, second sentence	Article 19(4a)
-	Article 19(5) and (5a)
Article 21(5), fourth subparagraph	Article 19(6)
-	Article 19(7)
Article 21(6)	Article 19(8)
Articles 22 and 23	Article 20
Article 24	Article 21
Article 25	Article 23(1) and (2)
-	Article 23(3)
Article 26(1) and (2)	Article 24
Article 26(3)	-
Articles 27 to 31	-
-	Articles 25 to 31
Article 32	Article 32
Annexes I, II and III	-
-	Annexes I to V