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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Draft Council Directive restructuring the Union framework for the taxation of energy products and electricity (recast)
-Presidency compromise text

With a view to the meeting of the Working Party on Tax Questions (Indirect Taxation – Excise duties / Energy taxation) on 20 May 2025, delegations will find in the Annex a compromise text prepared by the Presidency. Changes to the previous compromise text (ST 7234/25 REV 1) are set out in **bold underlined** and ~~strikethrough~~ for deletions.

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

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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/EC¹ has been substantially amended several times². Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (2) Directive 2003/96/EC was adopted in order to ensure the proper functioning of the internal market as regards the taxation of energy products and electricity. That Directive also integrated environmental protection requirements, in particular, in the light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change.
- (3) It is necessary to ensure that clear taxation rules for energy products and electricity continue to contribute to the smooth functioning of the internal market. The proper functioning of the internal market requires common rules on energy taxation.
- (4) Common rules for taxation of energy products and electricity can also help tackle the climate and environmental-related challenges in the context of the Communication from the Commission, entitled ‘The European Green Deal’³. 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 principle ‘polluter pays’, by

¹ 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 Part A of Annex IV.

³ COM(2019) 640 final of 11 December 2019.

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 in its conclusions of 5 December 2019 on the EU energy taxation framework.

- (4a) Under the current geopolitical and socioeconomic situation, together with the rise in energy prices and the rate of inflation, it is essential to consider social costs of energy taxation and the different starting points of Member States and provide them with adequate flexibility with regard to the fiscal measures to be taken to respond to the social impact of energy taxation.
- (4b) Taking into account the recommendations of the European Commission expressed, for example in the documents as A Competitiveness Compass for the EU, Action Plan for Affordable Energy and The Clean Industrial Deal, a European Steel and Metals Action Plan, special treatment should be given to sensitive sectors of the EU economy, such as mineralogical, metallurgical and energy-intensive industries, which are affected by the taxation introduced on the basis of this Directive.
- (5) 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 can also help achieve the Paris Agreement objectives.
- (6) 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 relating to the reduction of greenhouse gases.
- (7) Appreciable differences in the national levels of energy taxation applied by Member States could prove detrimental to the proper functioning of the internal market.
- (8) The establishment of appropriate Union minimum levels of taxation could enable the reduction of existing differences in the national levels of taxation.
- (9) Rules should be laid down to base energy taxation on the energy content of energy products and electricity, coupled with their environmental performances. 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.
- (10) In the interest of fiscal neutrality, the same minimum levels of taxation should apply for each category, to all energy products put to a given use.
- (11) 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 single use in order to ensure an environmentally tailored structure of rates. Member States can achieve this vertical ranking within a transitional period of eight 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 level of rate harmonisation and reduce the volatility stemming from energy and food prices.
- (12) In the 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.
- (13) In order to ensure a smooth implementation of certain provisions relating to some products or uses, transitional periods of application are needed.

- (14) As a general principle, Member States should apply to energy products and electricity levels of taxation not less than the minimum levels of taxation set out by this 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).
- (15) It is a responsibility of the Member States to put in place the fiscal arrangements necessary for the implementation of this Directive with regard to the taxation of energy products and electricity. In that regard, Member States might decide not to increase the overall tax burden if they consider that the implementation of the principle of tax neutrality could contribute to the restructuring and the modernisation of their tax systems by encouraging behaviour which is conducive to greater protection of the environment and increased labour use.
- (16) Energy prices are key elements of energy, transport and environment policies in the Union.
- (17) As heat is only subject to very limited intra-Union trade, output taxation of heat should remain outside the scope of this Directive.
- (18) Waste should be outside the scope of this Directive. The inclusion of such waste could imply a deviation of waste from waste incineration installations towards landfills in the Union, which create methane emissions, and towards exports to third countries, with a potential hazardous impact on the environment.
- (19) Energy products should essentially be subject to this Directive when used as heating fuel or motor fuel which is understood as their single use. 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 for the purposes of chemical reduction and in electrolytic, mineralogical and metallurgical processes should be treated on an equal footing.
- (19a) Taxation of the energy products and electricity used in a way that brings them within the scope of this Directive should be equal or superior to the minimum level of taxation set out in this Directive with the exception of special uses of energy products and electricity for which it should be possible for the Member State to determine the level of taxation on the basis of provisions which allow for different treatment in justified cases. In such special cases, it should be possible for the level of taxation determined by the Member State to differ from the minimum level of taxation that would be normally applied pursuant to this Directive.
- (19b) In view of the financial, economic and environmental situation in each Member State, it is necessary to ~~adopt implementing acts to change the category of energy product when its category is inconsistent with its environmental performance~~ **require the Commission to monitor the environmental performance of the energy products falling within the scope of this Directive and, in case their categorisation under this Directive becomes inconsistent with their actual environmental impact, the Commission should propose to the Council, as appropriate, a targeted amendment to this Directive.**

~~Although the scope of the implementing measures may be limited, those measures would have a budgetary impact which for one or more Member States could be significant. Accordingly, the Council is justified in reserving itself the right to exercise implementing powers.~~

- (20) The fact that certain products and their uses are outside the scope of this Directive does not prevent Member States from subjecting those products and uses to taxation at national level.
- (21) It is necessary to establish different Union minimum levels of taxation according to the use of energy products and electricity.
- (22) 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. It is important that electricity is amongst the least taxed energy sources with a view to fostering its use, in particular in the transport sector.
- (23) Different national circumstances may justify optional distinguishing between commercial and non-commercial use of energy products used as propellant, as well as between tax rates that are directly linked to product quality, business and non-business use or depending on quantitative consumption levels for heating fuels and electricity.
- (24) The taxation under fiscal control of energy products and electricity used to produce and to maintain the ability to produce electricity should be exempted.
- (25) While respecting the existing international obligations and in order to maintain the competitive position of Union companies, it is advisable to continue to apply the exemption of energy products and electricity supplied for air navigation and waterborne navigation, except for aircrafts used for the carriage of passengers and having maximum 19 seats and private pleasure waterborne navigation. Furthermore, regardless of the number of seats, the tax exemption should also be applied to scheduled commercial flights, armed forces, other national security forces, search and rescue services and public authorities. By [31 December 2034], the Commission should examine the possibility of taxation of air navigation and waterborne navigation and propose legislative amendments to this Directive, as appropriate. The examination should primarily focus on the availability of sustainable alternative fuels and electricity and on the international developments.
- (26) Highly efficient combined heat and power generation and, for the purposes of promoting the use of alternative energy sources, renewable forms of energy, electricity of renewable origin and pilot projects may qualify for preferential treatment.
- (26a) Member States may provide reductions or exemptions in the level of taxation to the agricultural, horticultural, aquaculture and forestry sector.
- (27) In order to promote and enhance the use of local public passenger transport and other public services, Member States may apply targeted reductions in the levels of taxation.
- (28) Targeted reductions or exemptions in the level of taxation may prove necessary to incentivise the achievement of environmental protection objectives and improvements in energy efficiency of the Union productive sector.
- (29) Targeted reductions or exemptions in the level of taxation may prove necessary to tackle the social impact of energy taxes. Different levels of taxation may temporarily prove necessary to protect households.
- (30) In view of the financial, economic and environmental situation in each Member State, 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. Such authorisation, following a justified request by a Member States and on a proposal from the Commission, should be adopted

by means of a Council implementing decision in accordance with Article 291 TFEU. Such measures should be kept under regular review.

Although the scope of the implementing measures may be limited, those measures would have a budgetary impact which for one or more Member States could be significant. Accordingly, the Council is justified in reserving to itself the right to exercise implementing powers.

- (31) 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 for a limited period of time.
- (32) Due to the special treatment of certain products, different chargeability rules should apply for electricity, gaseous products transported by pipelines and coal.
- (32a) Provision should be made for the Member States to apply different chargeability rules for small installations, where electricity is produced and not fed into a public network. However, with a view to limiting administrative burden, it should be made possible for the Member States to differentiate the threshold for identifying such small installations, depending on the energy sources used.
- (33) The list of energy products subject to the control and movement provisions of Council Directive (EU) 2020/262⁴ 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.
- (34) 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 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 Council⁵.
- (35) In order to ensure free movement while 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.
- (36) Member States should inform the Commission of those national measures such as tax exemptions, tax reductions, tax differentiations and tax refunds which have the effect of lowering the rate for energy product below the corresponding minimum level of taxation laid down in Annex I. Such information does not release Member States from the obligation to examine the compatibility of such measures with regulations adopted by the Commission on the basis of Article 108(4) TFEU and from the obligation to notify certain national measures laid down in Article 108 (3) TFEU.
- (37) In order to ensure that the references to Combined Nomenclature (CN) codes in this Directive, references made to the greenhouse gas emissions saving criteria set out in Article 29 of Directive (EU) 2018/2001 and references to the products in Annex IX to that Directive are updated

⁴ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

⁵ 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).

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 TFEU should be delegated to the Commission. 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 these experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (38) Five years after the entry into force of this Directive and every five years thereafter, 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.
- (39) 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.
- (40) 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, Part B,

Presidency note:

In recital 19b the Presidency clarifies why a review clause is introduced in Article 2(6) (previously Article 5(10)) in case there is a need to change the category of the product(s) listed in the Directive and grouped into one (of the three) tax category on the basis of Article 5(2) and Annex II. The review clause replaces the previous compromise text which enabled the adoption of implementing acts by the Council. The reasons for this change are of legal nature, as an implementing act could not amend a core element of the Directive.

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

1. This Directive applies to energy products defined in Article 3(1) and to electricity defined in Article 3(2).
2. This Directive, with the exception of Article 18, does not apply to the following uses of energy products defined in Article 3(1) and electricity defined in Article 3(2):
 - (a) energy products used for purposes other than as motor fuel or as heating fuel;
 - (b) dual use of energy products;
 - (c) electricity used for the purposes of chemical reduction and in electrolytic, mineralogical and metallurgical processes, where electricity is used directly in or to provide a direct energy input to the process;
 - (d) energy products used for mineralogical processes, where energy products are used directly in or to provide a direct energy input to the process.**
3. For the purposes of paragraph 2, point (b), ‘dual use’ means an energy product that 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.
4. For the purposes of paragraph 2, point (c), ‘mineralogical processes’ means the processes classified in the NACE nomenclature under code C 23 in Annex I of Regulation (EC) No 1893/2006, regardless of the code under which the main manufacturing activity of the business entity is classified.
5. For the purposes of paragraph 2, point (c), ‘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 1893/2006⁶, regardless of the code under which the main manufacturing activity of the business entity is classified.
6. This Directive does not apply to the following:
 - (a) output taxation of heat;
 - (b) taxation of products falling within CN codes 4401 and 4402;
 - (c) taxation of waste, ~~other than fossil waste oils~~, used as heating fuel;

⁶ 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)

Presidency note:

Taking into account the demands of delegations that energy-intensive industries should receive support in the form of an exclusion from the scope of the Directive not only as regards electricity but also as regards energy products used in mineralogical processes, the Presidency has introduced the relevant changes to Article 1(2). Accordingly, the Presidency proposes to maintain the current *status quo* in this regard. Such an approach appears justified due to the decline in the competitiveness of the EU industry and the lack of alternative solutions that could, in the near future, improve the situation of those sectors of the EU economy that are crucial for its overall performance.

In paragraph 6(c) the Presidency has deleted the section that included fossil waste oils within the scope of the Directive. As a result, all waste used for heating purposes will not be subject to the taxation provided for in the proposed Directive.

Article 2

Subject matter and units

1. Member States shall impose taxation on the energy products defined in Article 3(1) and on electricity as defined in Article 3(2) in accordance with this Directive.
2. Taxation shall be calculated in Euro/Gigajoule (EUR/GJ) on the basis of net calorific value as set out in Annex II.

Member States may use different specific values based on measured values in the case of products falling within CN codes 2701, 2702 and 2714 10. Member States shall inform the Commission of such different specific values before they are used.

3. Member States may express their national levels of taxation in other units provided that the corresponding levels of taxation, following conversion into those units, are not below the Union minimum levels of taxation. 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.
4. The Commission is empowered to adopt delegated acts in accordance with Article 26 to amend or supplement Annex II in order to update the list of products, the conversion factors and the product categories.

For that purpose, with regard to the conversion factors, 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, 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 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).

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

6. Every [3 years] the Commission shall assess the environmental performance of the energy products listed in the different categories set out in Article 5 paragraph 2 and Annex II on the basis of the available data. In case of inconsistency between an energy product and its category, the Commission shall present a legislative proposal according to paragraph 4 to amend this Directive by changing the category of the energy product whose category became inconsistent with its environmental performance.

Presidency note:

The Presidency decided to transfer the existing provision of Article 5(10) to Article 2, as these are related provisions that concern the same subject matter in one area – i.e. the change of the category of products. Due to that it is reasonable to comply these two provisions in one editorial unit.

Article 2 indicates that the Commission has the power to update Annex II of the Directive with regard to the list of products, conversion factors and product categories. The update is to be carried out through the issuance of amending delegated acts.

Article 5(10), according to the previous compromise text, predicted that the Council was entitled to adopt an implementing act. The Presidency replaced this with an assessment and review clause, by virtue of which the Commission will be obliged to regularly assess the correct categorization of the energy products falling within the scope of this Directive and, if appropriate, to propose a targeted legislative amendment to the Directive if it notices that the tax category established for a given product(s) (as defined in Article 5(2) and in Annex II of the Directive) no longer adequately reflects its environmental impact. The amendment of the Directive proposed in this way by the Commission in a legislative act will be subject to an unanimity vote within the Council. Due to this change, this provision, which is marked now as Article 2(6), indicates that the Commission should review [every 3 years] the categories of products specified in the Directive, due to the fact that their environmental impact may change over time, which may make it necessary to change their categories, e.g. from the current classification as "advanced fuels" (cat. 3) to "sustainable fuels" (cat. 2).

Article 2 did not provide for a review clause such as that set out in previous Article 5(10). It focuses only on the rules for determining conversion factors for products that will be subject to taxation under the Directive. Now this provision seems to be more coherent.

Article 3

Key definitions

1. For the purposes of this Directive, ‘energy products’ means:

- (a) products falling within CN codes 1507 to 1518, if those products are intended for use as heating fuel or motor fuel;
- (b) products falling within CN codes 2207 20, if those products 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 Council Directive 92/83/EC⁷;
- (c) products falling within CN codes 2701 and 2702;

⁷ 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)

- (d) products falling within CN code 2703, if those products 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 those products are intended for use as heating fuel or motor fuel;
- (g) products falling within CN code 2814, if those products 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 those products are intended for use as heating fuel or motor fuel;
- (j) products falling within CN code 2909 19 10 and, if intended for use as heating fuel or motor fuel, products falling within 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 those products 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 those products 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 those products are intended for use as heating fuel or motor fuel;
- (q) products other than those referred to in points (a) to (p), including additives and extenders to motor fuels, if those products are intended for use, offered for sale or used as motor fuel;
- (r) hydrocarbon-containing products other than those referred to in points (a) to (p) if those products are intended for use, offered for sale or used as heating fuel.

2. For the purposes of this Directive, 'electricity' means electricity falling within CN code 2716.

3. For the purposes of this Directive, 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 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 5;
- (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 5;
- (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 5;
- (h) ‘advanced biofuels, bioliquids and biogas’ means biofuels, bioliquids and biogas that are produced from the feedstock listed in Annex III;
- (i) ‘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;
- (j) ‘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 8; ‘recycled carbon fuels’ shall be included in this category;
- (k) ‘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.

5. For the purposes of points (e), (f) and (g) of paragraph 4 of this Article ‘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.

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

7. In the case of future amendments of Annex IX to Directive (EU) 2018/2001, the Commission is empowered to adopt delegated acts in accordance with Article 26 in order to amend Annex III of this Directive in order to bring it in line with the revised version of Directive (EU) 2018/2001.

8. For the purposes of point (j) of paragraph 4 of this Article, ‘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)

2021/2139⁸.

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 apply to this Directive as from [1 January 2028].

9. In the event of future amendments of the technical screening criteria within the meaning of paragraph 8 and by way of derogation from the provisions concerning their applicability in time, the Commission is empowered to adopt delegated acts in accordance with Article 26 to amend this Directive by setting the date of application of the technical screening criteria under this Directive.

10. Energy 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 18(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 18(1), point (p).

11. 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 2658/87⁹ as amended by [Commission Implementing Regulation (EU) 2020/1577¹⁰].

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 26 to amend this Directive by updating the codes of the Combined Nomenclature of the products referred to in this Directive or by updating the reference provided for in the first subparagraph so as to align it to the applicable version of the Combined Nomenclature.

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.

CHAPTER II COMPUTATION OF EXCISE DUTIES

⁸ 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).

⁹ 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).

¹⁰ 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).

Section 1

General computation provisions

Article 4

Levels of taxation

1. The levels of taxation which Member States apply to the energy products and to electricity shall be in accordance with Article 5(3).
2. For the purposes of paragraph 1, the ‘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.
3. The minimum levels of taxation laid down in this Directive shall be adapted every three years starting from [1 January 2038] 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 4 is adopted.

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

4. The Commission is empowered to adopt by 31 March every third year a delegated act in accordance with Article 26 to amend the minimum levels of taxation as referred to in paragraph 3. 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 2037].

Article 5

Fiscal categories and their exceptions

1. Energy products falling under each of the following uses shall be taxed independently from each other:
 - (a) products used as motor fuels other than those referred to in points (b) and (d);
 - (b) products used as motor fuels for **each of** 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~~ **each of the** other specific purposes as referred to in **paragraph 8 of this Article**, Article 8(2), Article 12(3) and (7), Article 14(3), Article 15(1), Article 16 and Article 22.The independent taxation of the different uses listed in points (a) to (d) shall be referred to as ‘single use’.
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;

(e) category 3 shall include renewable fuels of non-biological origin, advanced ~~sustainable~~-biofuels, bioliquids and biogas.

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

(a) the rate applied to each energy product in the same category shall be equal or superior to the corresponding minimum level of taxation laid down in Annex I in relation to this use, except in the case of the specific purposes referred to in paragraph 1, point (d);

(b) the rate applied to 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;

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 specific purposes as referred to in paragraphs 8 and 10, Article 12(3) and (7), Article 13(1), Article 14(1), Article 15(1), Article 16(1), (3), (4) and (5) and Article 22 shall also be considered as single uses.

5. From [1 January 2028 to 31 December 2035], where the rule referred to in paragraph 3, point (b), is not fulfilled on [1 January 2028] for two products of different categories, the superiority of tax rates of those products shall be gradually achieved at least every second year.

6. By way of derogation from paragraph 2, point (a), and paragraph 3, point (b), and paragraph 5, 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), and paragraph 5, the minimum levels of taxation for natural gas and liquefied petroleum gas, when used as motor fuel for the 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), and paragraph 5, 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), and paragraph 5, 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), and paragraph 5, the minimum levels of taxation for sustainable food and feed crop biofuels and biogas, when used as motor fuel for the 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), and paragraph 5, 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.

7. By way of derogation from paragraph 2, point (b), Member States may decide, from [1 January 2028 to 31 December 2037], 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 category 3.

8. 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, **other than those covered by Articles 13 and 14**, 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 purposes 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.

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

~~(a)~~ taxation of those components shall be determined accordingly on the basis of this Directive, independently from the CN code under which the energy product falls as a whole. **Alternatively**,

~~(b)~~ Member States may:

(a) tax the whole energy product in accordance with the rate of the main component **or**;

~~(b)~~ 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**;

~~(c)~~ 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.

10. ~~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.~~

Presidency note:

~~-Article 5(1)(b) and (d):~~ In the previous compromise text the reference to “single use” was removed in several parts of the text (i.e. Article 8(3), Article 15(2), Article 16(2); Article 12(3), (7), Article 14(3), Article 16(1)(a) second subparagraph, (2)(a), (3), (5), (9) and Article 22 (see document 7234/25 REV 1)). However, following this removal, some delegations expressed doubts regarding this change. They wondered whether after the change, each case/purpose listed in these parts of the text will be considered as “single use”.

In order to eliminate these doubts, the Presidency proposes to add the wording “each of” in Article 5(1)(b) and (d).

-Article 5(8): In paragraph 8, the Presidency crossed out the words “taxing such uses independently as single uses” and added a reference to this paragraph in Article 5(1)(d).

Additionally, the Presidency would like to clarify that the exemptions for electricity used by aircrafts and ships are regulated by the following provisions of the compromise text: Article 5(8), Article 13(1), Article 14(1), (2) and (5) and Article 16(3).

Article 5(8) allows Member States to apply reduced rates on electricity used to charge electric vehicles, ships and aircrafts. According to this provision, Member States will be able to reduce excise duty, but only to the EU minimum, on energy used by these vehicles for both private and commercial purposes.

In Article 5(8), an “electric vehicle” is defined as “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”.

Hybrid cars therefore also fall within the scope of this definition.

The Presidency informs that the definitions of “electric vehicle” and “hybrid vehicle” can be found in pieces of EU law such as Regulation 168/2013 and Regulation 2024/1257.

In brief, a hybrid vehicle is one that is powered by at least two different energy sources – most often an internal combustion engine and an electric motor. In practice, this means that such a vehicle combines a traditional drive system (e.g. gasoline or diesel) with an electric drive.

In order to be considered to be a hybrid vehicle, a vehicle needs to have the following elements:

- Internal combustion engine
- Electric motor
- Energy management system (allowing the use of both drive sources)
- Traction battery – charged by recuperation, internal combustion engine, or from a socket (in the case of PHEV)

Article 13(1) introduces a general rule requiring the exemption of electricity used for air navigation purposes (other than private = currently understood in the compromise text as flights of aircraft with 19 or fewer seats, which are not scheduled flights, or military flights, as well as state flights of rescue services and authorities). Therefore, on the basis of this provision, it is not possible to exempt electricity for private aircrafts.

Article 13(1) refers to the exemption of electricity for air navigation purposes.

Article 5(8) refers to the exemption of electricity for charging vehicles, ships and aircrafts without indicating the propulsion purpose, as well as to the exemption of electricity for heating purposes.

To some extent, the provisions of Article 5(8) overlap with the provisions of Article 13(1).

Article 14(1) introduces a general rule requiring the exemption of electricity used for EU water navigation (other than private) and fishing (also not private).

Article 14(3) allows for the exemption of electricity used for inland waterway transport, combined with fisheries, other than private navigation.

Article 16(3), on the other hand, allows for the possibility of total or partial exemptions or reductions in taxation to electricity: (a) delivered via a standardised fixed or mobile interface to aircraft when they are immobilised at a gate or on an aerodrome stand; (b) delivered directly to ships moored in ports. It can be assumed that the intention of this provision was to exempt electricity, which will also be used for purposes other than propulsion of ships and aircrafts. When planes are parked at the airport or ships are berthed in ports, other activities are also performed in these vehicles that can use the energy necessary for this purpose (e.g. repairs or cleaning of these vehicles with the use of electricity-powered devices). At the same time, the provision does not specify that it is about the use of this energy for purposes other than propulsion. As a result, the provision may also be interpreted broadly, taking into account the driving purposes that are already covered by the provisions of Articles 13 and 14.

In view of the above, possible partial overlap between the scope of Articles 13 and 14 on the one hand and Articles 5(8) and 16(3) on the other hand occurs. Therefore, the Presidency proposed the changes in Article 5(8) and Article 16(3):

(i) Article 5(8) should be supplemented with a provision that these are vehicles other than those referred to in Articles 13 and 14 “to electricity used for charging electric vehicles, vessels and aircraft, **other than those covered by Articles 13 and 14**”;

(ii) in the provision of Article 16(3) a clarification should be added that it is about energy other than for propulsion purposes “to electricity **used for purposes other than navigation**”.

-Article 5(9): In paragraph 9 the Presidency tried to clarify how Member States should apply this provision. The Presidency is of the view that letter (a) contains the main rule according to which mixed products should be taxed taking into account all the components from which they are made of. Now, following the Presidency’s modifications, this rule is expressed in an introductory sentence. However, as Member States preferred to have more flexibility in taxing mixed products, the proposal also included other additional rules. It was agreed that Member States should be free to apply all these rules (the main one or the additional ones). In order to make sure that there is no doubt as to how the provision is interpreted, the Presidency has proposed a slight modification of the wording of the provision.

-Article 5(10): for more explanation, please see the Presidency note on Article 2.

Article 6

Application of exemptions and reductions

1. 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.

2. Where an energy product consists of one or more energy products, Member States may determine the refundable amount of taxation 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.

Section 2

Special provisions for general uses

Article 7

Products used as motor fuels

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 2028], as from [1 January 2033] and as from [1 January 2038], respectively.

Article 8

Products used as motor fuels for specific purposes

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 2028], as from [1 January 2033] and as from [1 January 2038], respectively.

2. Paragraph 1 shall apply to the following purposes:

- (a) agricultural, horticultural or aquaculture works, and in forestry;
- (b) stationary motor;
- (c) plant and machinery used in construction, civil engineering and public works;
- (d) vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

Article 9

Products used as heating fuels

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 2028], as from [1 January 2033] and as from [1 January 2038], respectively.

Article 10

Electricity

The minimum levels of taxation applicable to electricity shall be fixed as set out in Table D of Annex I as from [1 January 2028], as from [1 January 2033] and as from [1 January 2038], respectively.

Article 11

National currency

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% in the level of taxation expressed in national currency.

Section 3

Special provisions for special uses and reduced rates

Article 12

Products used in the energy sector

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 products other 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. In case Member States wish to pursue more ambitious environmental policy including climate policy, they may tax the energy products and electricity referred to in paragraph 1 without having to respect the minimum levels of taxation laid down in this Directive. The taxation of energy products shall comply with Article 5(3), point (b).

Taxation pursuant 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 of this Article shall not apply to the products referred to in Article 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. In case Member States wish to pursue more ambitious environmental policy including climate policy, they may consider the consumption of energy products and electricity referred to in paragraph 5, first subparagraph, as a chargeable event giving rise to taxation, without having to respect the minimum levels of taxation laid down in this Directive. The taxation of energy products shall comply with Article 5(3), point (b).

Taxation pursuant 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

Energy products and electricity used for air navigation

1. In addition to the general provisions set out in Directive (EU) 2020/262 on exempt uses of taxable products, and without prejudice to other Union provisions, Member States shall exempt from taxation under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such an exemption and of preventing any evasion, avoidance or abuse, energy products supplied for use as fuel, and electricity used directly for charging electric or hybrid aircraft for the purpose of air navigation other than when those aircraft are used for the carriage of passengers and have 19 or less seats, with the exception of scheduled commercial flights, armed forces, other national security forces, search and rescue services and public authorities.

2. For the purposes of this Article ‘seat’ means the maximum operational passenger seating configuration (MOPSC) as defined in Commission Regulation (EU) N° 965/2012.

3. Member States may limit the scope of the exemptions provided for in paragraph 1 to international and intra-Union transport. In addition, where a Member State has entered into a bilateral agreement with another Member State, it may also waive the exemptions provided for in paragraph 1. In such cases, Member States may apply a level of taxation below the minimum level set out in this Directive.

4. In [2035], the Commission shall assess the option of amending this Directive in order to include the taxation of energy products supplied for use as fuel used for air navigation and of electricity used directly for charging aircraft and, if appropriate, submit a legislative proposal to that effect.

Article 14

Energy products and electricity used for waterborne navigation

1. In addition to the general provisions set out in Directive (EU) 2020/262 on exempt uses of taxable products, and without prejudice to other Union provisions, Member States shall exempt from taxation under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such an exemption and of preventing any evasion, avoidance or abuse, energy products supplied for use as fuel, and ~~to~~ electricity used directly for charging electric or hybrid vessels for the purposes of navigation within Union waters (including fishing), other than private pleasure craft.
2. Member States may limit the scope of the exemptions provided for in paragraph 1 to international and intra-Union transport. In addition, where a Member State has entered into a bilateral agreement with another Member State, it may also waive the exemptions provided for in paragraph 1. In such cases, Member States may apply a level of taxation below the minimum level set out in this Directive.
3. Without prejudice to other Union provisions, Member States may apply, under fiscal control total or partial exemptions or reductions in the level of taxation to energy products supplied for use as fuel, and to electricity used directly for charging electric or hybrid vessels for navigation on inland waterways (including fishing) other than in private pleasure craft.
4. For the purposes of this Article ‘private pleasure craft’ means any craft used by its owner or by the natural or legal person that enjoys its use either through hire or through any other means, for other than commercial purposes and, in particular, other than for the carriage of passengers or goods, for the supply of services for consideration or for the purposes of public authorities.
5. In [2035], the Commission shall assess the option of amending this Directive in order to include the taxation of energy products supplied for use as fuel used for waterborne navigation and of electricity used directly for charging electric or hybrid vessels and, if appropriate, submit a legislative proposal to that effect.

Article 15

Exemptions and reduced rates depending on the origin of the product

1. 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/EU¹¹;
- (d) renewable fuels of non-biological origin, advanced biofuels, bioliquids and biogas;
- (e) products falling within CN code 2705 used as heating fuels.

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

Article 16

Exemptions and reduced rates depending on the end user and on other features of the product

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 2028 to 31 December 2032] to energy products and electricity used for combined heat and power generation, provided that 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 chain linked volumes of real gross domestic product measured in euro per inhabitant of less than 60 % of the EU-27 average may be, exempt or subject to reductions in the level of taxation from [1 January 2028 to 31 December 2048]; the chain linked volumes of real gross domestic product measured in euro per inhabitant and the EU-27 average taken into consideration will be those for [the penultimate year before the entry into force of this Directive];

~~(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:

i) the carriage of goods and passengers by rail, metro, tram and trolley bus or for local or collective public passenger transport,

ii) waste collection, armed forces and public administration,

~~iv~~iii) disabled people and ambulances, regardless of the 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 2028 to 31 December 2032];

¹¹ 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)

(e) 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 purposes 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 2028 to 31 December 2032] and to [0,52 EUR/GJ] from [1 January 2033 to 31 December 2037];

(ii) for energy products falling into category 2, the minimum level of taxation shall be set to [0 EUR/GJ] from [1 January 2028 to 31 December 2032] and to [0,26 EUR/GJ] from [1 January 2033 to 31 December 2037];

(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 2028 to 31 December 2032] and to [0,09 EUR/GJ] from [1 January 2033 to 31 December 2037];

(iv) for the purposes of this point, energy products and electricity used by households that are recognised as vulnerable may be exempt from [1 January 2028 to 31 December 2048]; 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 chain linked volumes of real gross domestic product measured in euro per inhabitant of less than 60 % of the EU-27 average may be exempt or subject to reductions in the level of taxation from [1 January 2028 to 31 December 2048]; the chain linked volumes of real gross domestic product measured in euro per inhabitant and the EU-27 average taken into consideration will be those for [the penultimate year before the entry into force of this Directive].

2. Without prejudice to Article 5, Member States may apply:

(a) 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) and (b), and on electricity, in the following cases:

(i) in favour of energy-intensive business;

(ii) 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;

(b) total or partial exemptions on electricity, in favour of energy-intensive business which concluded agreements or implemented tradable permit schemes or equivalent measures that lead to the achievement of environmental protection objectives or to improvements in energy efficiency.

For the purposes of points (a) **and (b)**, an ‘energy-intensive business’ means a business entity, as referred to in ~~Article 5(11)~~ **paragraph 6**, where the purchases of energy products and electricity amount to at

least 3,0 % of the production value or where 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) and (b), 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 ~~(ba)~~, **subpoint (ii)**, ‘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 Council ¹².

3. Member States may apply under fiscal control total or partial exemptions or reductions in the level of taxation to electricity **used for purposes other than navigation**:

~~(a)~~ supplied through a standardised fixed or mobile interface to aircraft when those aircraft are stationed at the gate or at an airport outfield position;

~~(b)~~ directly supplied to vessels berthed at ports.

4. Member States may apply under fiscal control total or partial exemptions or reductions in the level of taxation to energy products and electricity used for agricultural, horticultural or aquaculture works, and in forestry.

5. By way of derogation from Article 5 paragraphs 1 and 4 and respecting the minimum levels of taxation set out in Annex I, Member States may apply 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.

6. For the purposes of paragraph 2 and 5, ‘business entity’ means an entity which complies with the criteria under paragraph 13, which independently carries out, in any place, the supply of goods and services, whatever is the purpose or results of such economic activities.

¹² 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).

7. For the purposes of paragraph 6, the economic activities comprise all activities of producers, traders and persons supplying services, including mining and agricultural activities and activities of the professions.

For the purposes of paragraph 6, 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.

8. 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.

9. From [1 January 2028 to 31 December 2042] Member States may apply 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 purposes 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.¹³~~

Presidency note:

- i. For more explanation of changes in Article 16(3) please see the Presidency note on Article 5.
- ii. Article 16(9): After additional analysis of the regulations on preferences for public transport (Article 16(1)(b)(i) as amended and Article 16(9)), the Presidency has come to the conclusion that the regulation of Article 16(9)(b) is superfluous.
According to the latter provision, Member States could differentiate the levels of taxation of energy products used for propulsion purposes depending on whether the use relates to a commercial or non-commercial activity.
Such differentiation would apply among others to energy products used for the transport of passengers as part of regular or occasional services using motor vehicles of category

¹³ ~~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.~~

M2 or M3 (these categories are regulated by Regulation (EU) 2018/858 of the European Parliament and of the Council).

M2 category vehicles are, for example, smaller city buses or school buses.

Vehicles of the M3 category are, for example, typical city buses, intercity buses and tourist coaches.

After the deletion of Article 16(9)(b), all those means of transport (categories M2 and M3) that provide regular public transport will fall within the scope of Article 16(1)(b)(i).

After some delegations doubts the Presidency would like to explain why “collective passenger transport” should be included in provision of Article 16(1)(b)(i) (words “or collective” were inserted into the previous compromise text contained in document 7234/25 REV 1).

The overarching aim is to treat consistently collective urban transport and collective interurban transport, that is, buses in urban areas (“bus”), tramways, trains on the one hand, and long-distance road transport (“coaches”) on the other hand. The previous wording allowed to apply a permanent reduced rate to passenger transport by train or by bus, but not by coach. Such different treatment was not justified since the reason, why the Directive allows to apply reduced rate, is to favour collective alternatives to individual car transport. In addition, a temporary reduced rate would not enable adequately to reach those objectives since the renewal rate of coach fleets is very low and there are only limited electricity-based alternatives at the moment. Therefore, it was proposed to add, in Article 16(1)(b)(i), the words “*or collective*” (in addition to “*local public passenger transport*”).

What is meant by local and collective transport?

Urban (local) transport is a set of means of transport that are used to move people within a city or urban agglomeration. It is an indispensable element of the city's infrastructure, allowing residents to access various points in the city, work, schools, shops or recreational places.

Urban transport includes various types of transport, such as buses, trams, subways, commuter trains, city bikes or taxis.

Urban transport has also many environmental benefits.

It is important that urban transport is available to all residents, regardless of their social status or location in the city.

A distinction is made between local transport:

- individual (e.g. cars, scooters)

- group (taxi, carsharing cars)
- collective (buses, trams, metro).

Public collective transport – commonly available regular passenger transport performed at specified intervals and along a specific line or transport network.

Nowadays, the basic means of public transport include:

1) in land rail transport:

- railroad
- subway
- tram

2) in road land transport:

- bus
- trolleybus

3) transport on inland waterways and sea:

- passenger ship

4) in air transport:

- passenger plane.

However, **there is no rigid definition of which kinds of transport are included, and air travel is often not thought of when discussing public transport**—dictionaries use wording like “buses, trains, etc.”

Public transport is different from individual transport: it is characterised by specific communication conditions and regularity.

EU Transport Regulations are clear on the fact that “collective passenger transport” does not include car-sharing and car-pooling. Nevertheless, the term “public” is used in the provision, which covers transportation services on account of others, so there is certainty that these two kinds of transport are excluded from the scope.

Article 17

Reduced rates and exemptions for specific policy considerations

1. In the context of the implementation of previous Articles, in particular Articles 13 to 16, the Council, acting unanimously on a proposal from the Commission, may adopt implementing acts, authorising, in exceptional cases, Member State to introduce further exemptions or reductions for relevant policy considerations specific to the Member State requesting them.

A Member State wishing to introduce such measures shall inform the Commission and provide 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 justified by the specific situation of the Member State requesting it and shall be granted for a maximum period of six years. Authorisations may be renewed in accordance with the procedure set out in paragraph 1.

3. ~~Authorisations shall be reviewed periodically.~~ If the Commission considers that the measures authorised according to 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, acting unanimously, shall take a decision on those proposals.

4. In cases where the average retail price of an energy product or electricity over a period of three months increases by more than 40 % 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 that can go below the minimum rates.

The maximum time for applying such reductions 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.

Presidency note:

The Presidency considers that the text “Authorisations shall be reviewed periodically” under paragraph 3 creates a potential contradiction between paragraphs 2 and 3 of this Article, leading to ambiguity in their interpretation. Since authorisations are already limited to a maximum period of six years, this implies a review every six years. However, the proposed text introduces uncertainty by suggesting a potentially different review period, as the term “periodically” is not defined. Thus, Presidency believes that this phrase should be deleted.

CHAPTER III SPECIAL PROCEDURAL PROVISIONS

Article 18

Control and movement provisions

1. **Only** ~~the~~ the following energy products shall be subject to 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 to electricity. The Commission shall transmit the communication to the other Member States within one month of its 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(2) of this Directive.

3. Member States may, pursuant to bilateral or multilateral 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, insofar as they are not covered by Articles 7 to 9. Such arrangements shall not affect Member States which are not party to them. All such bilateral or multilateral arrangements shall be notified to the Commission, which shall inform the other Member States thereof.

4. By way of derogation from paragraph 1, points (d) and (l) Member States may, pursuant to bilateral or multilateral agreements, apply the control and movement provisions to commercial movements not in bulk. Such agreements shall not affect Member States which are not party to them. All such bilateral agreements shall be notified to the Commission, which shall inform the other Member States thereof.

Presidency note:

In order to eliminate the concerns raised by some delegations, the Presidency has decided to include the word “only” in the introductory part of paragraph 1. Only the provisions of Directive 2020/262 on the application of the provisions on movement and control will apply to the products listed in this provision. The word “only” is also included in Article 20 of the currently applicable Directive 2003/96/EC.

Article 19

Taxable event and chargeability for specific products

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(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 purposes of a reduced level of taxation, specific rate or exemption is not, or is no longer, fulfilled.

3. Articles 1 to 5, 11, and 52 of Directive (EU) 2020/262 shall apply to products referred to in paragraphs 4 to 9 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 in accordance with 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 shall be considered to be a distributor.

5. 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:

a) where electricity is produced from an energy source not taxed under this Directive, an installation whose electricity production is not expected to exceed ceilings specified in national law and in any case is not expected to exceed 850 MWh per year or 500 kW of installed production power.

b) where electricity is produced from an energy source taxed under this Directive, an installation whose expected electricity production or installed production power do not exceed ceilings-specified in national law.

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

6. 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 in accordance with procedures laid down by each Member State.

Notwithstanding the first subparagraph, Member States may 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 shall be considered to be a distributor.

7. 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 pursuant to this paragraph.

8. 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 in accordance with 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.

9. 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 in accordance with procedures laid down by each Member State.

10. Member States may exclude the following from the concept of '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.

Point (c)(i) of the first subparagraph shall not apply where the mixture is exempted for a specific use.

Article 20

Contaminated products, accidents and stocks

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

Products contained in standard tanks

1. Energy products released for consumption in a Member State that are contained in the standard tanks of commercial motor vehicles and are intended to be used as fuel by those same vehicles, as well as those contained in special containers and that are 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' means:
 - (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 22

Specific exceptions

The Portuguese Republic may apply 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 those regions.

CHAPTER IV MISCELLANEOUS PROVISIONS

Article 23

Information to be submitted to the Commission

1. Member States shall inform the Commission of the levels of taxation which they apply to the products listed in Article 3 following any change in national law and, in any case, by 1 January each year.
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. By [30 September] each year, Member States shall inform the Commission of the available information from the previous calendar year 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. Those quantities shall be expressed in Gigajoules.

Article 24

Information about measures considered State aid

1. Member States shall inform the Commission of measures taken pursuant to Articles 12 to 16.
2. Measures such as tax exemptions, tax reductions, tax differentiations and tax refunds within the meaning of this Directive might constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union when such measures have the effect of lowering the rate for energy product or electricity below the corresponding minimum level of taxation laid down in Annex I. In such cases, those measures shall comply with the regulations adopted by the Commission pursuant to Article 108(4) of the Treaty on the Functioning of the European Union, or shall be notified to the Commission pursuant to Article 108(3) of the Treaty on the Functioning of the European Union.
3. Information provided to the Commission in accordance with this Directive does not exonerate Member States from the notification obligation pursuant to the applicable State aid rules.

Article 25

Committee procedure

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) 182/2011¹⁴ shall apply.

Article 26

Exercise of the delegation

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 2(4), Article 3(6), Article 3(7), Article 3(9), Article 3(11) and Article 4(4) shall be conferred on the Commission for an indeterminate period of time from [1 January 2028].
3. The delegation of power referred to in Article 2(4), Article 3(6), Article 3(7), Article 3(9), Article 3(11) and Article 4(4) 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-Making¹⁵.
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 2(4), Article 3(6), Article 3(7), Article 3(9), Article 3(11) or Article 4(4) 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.
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.

CHAPTER V FINAL PROVISIONS

¹⁴ 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).

¹⁵ OJ L 123, 12.5.2016, p. 1.

Article 27

Transposition

1. Member States shall adopt and publish by [1 June 2026], the laws, regulations and administrative provisions necessary to comply with Article 1(1) point (c), Article 2(2), Article 3(1), points (b) to (r), Article 3(3) to (11), Articles 4(3) and (4), Article 5(1) point (d) and (2) to (9), Article 7, Article 8(1), Article 9, Article 10 to 14, Article 15(1), point (c) to (e), Article 15 (2) to (3), Articles 16 and 17, Article 18(1), points (b) to (g), (i) and (k) to (p), Article 18(2) and (4), Article 19(1) and (3) to (10), Article 21(2), Article 23(1) and (3), Article 24, Article 27, Articles 29 to 31 and Annex I to III and shall immediately communicate the text of those measures to the Commission.
2. They shall apply those measures from [1 January 2028].
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

Reporting

By [5 years after [1 January 2028]] 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.

Article 29

Repeal

Directive 2003/96/EC as amended by the acts listed in [Annex IV], Part A, is repealed with effect from [1 January 2028], 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, 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].

Article 30

Entry into force

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 3(1), point (a), Article 3(2), Article 6(1), Article 8(2), Article 15(1), points (a) and (b), Article 18(1), point (a), (h) and (j), Article 18(3), Article 19(2), Article 20, Article 21(1) and Article 23(2), which are unchanged by comparison with the repealed Directive, shall apply from [1 January 2028].

Article 31

Addressees

This Directive is addressed to the Member States.

Done at...,

For the Council

The President

ANNEX I
MINIMUM LEVELS OF TAXATION

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	1.1.2028	1.1.2033	1.1.2038
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	1.1.2028	1.1.2033	1.1.2038
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. 1.2028	1.1.2033	1.1.2038
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. 1.2028	1.1.2033	1.1.2038
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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038
Natural gas, LPG	[5,38]	[5,77]	[9]

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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038

Natural gas, LPG	[0,45]	[0,48]	[0,75]
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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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038
Natural gas, LPG	[0,45]	[0,48]	[0,75]

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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038
Sustainable food and feed crop biofuels and biogas	[5,38]	[5,77]	[9]

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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038
Sustainable food and feed crop biofuels and biogas	[0,45]	[0,48]	[0,75]

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 2028 to 31 December 2042

	1. 1.2028	1.1.2033	1.1.2038
Sustainable food and feed crop bioliquids and biogas	[0,45]	[0,48]	[0,75]

ANNEX II
CONVERSION TABLE OF NET CALORIFIC VALUES

No	Combined Nomenclature Code	Product name	Category	Net calorific value
1	ex.1507 to ex.1515	Pure vegetable oil (oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified) if it is intended for use as heating fuel or motor fuel	1	37 GJ/1000 kg 34 GJ/1000 l
2	ex.1515 60, ex.1516 to ex.1518	Mixtures or preparations, microbial fats and oils, or vegetable or microbial or animal fats and oils that have been chemically modified if these are intended for use as heating fuel or motor fuel, excluding items 3 and 4	1	27,4 GJ/1000 kg
3		Sustainable, mixtures or preparations, microbial fats and oils, or vegetable or microbial or animal fats and oils that have been chemically modified if these are intended for use as heating fuel or motor fuel	2	
4		Mixtures or preparations, microbial fats and oils, or vegetable or microbial or animal fats and oils that have been chemically modified (advanced sustainable) if these are intended for use as heating fuel or motor fuel	3	
5	ex 2207 20	Ethanol denatured if it is 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/EC, excluding items 6 and 7	1	27 GJ/1000 kg 21,3 GJ/1000 l
6		Sustainable, other than food and feed crop Bio-Ethanol denatured if it is 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/EC	2	

7		Advanced Sustainable or renewable of non-biological origin Ethanol denatured if it is 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/EC	3	
8	2701 11 00	Anthracite	1	26,7 GJ/1000 kg
9	2701 12 10	Coking coal	1	28,2 GJ/1000 kg
10	2701 12 90	Other bituminous coal	1	25,8 GJ/1000 kg
11	ex.2701 19 00	Sub-bituminous coal	1	18,9 GJ/1000 kg
12	ex.2701 20 00	Patent fuel	1	20,7 GJ/1000 kg
13	2702	Lignite	1	11,9 GJ/1000 kg
14	ex 2703 00 00	Peat if it is used as heating fuel in installations with a total rated thermal input equal to or exceeding 7,5 MW	1	9,8 GJ/1000 kg
15	ex.2704 00	Coke oven and lignite coke	1	28,2 GJ/1000 kg
16		Coke oven gas	1	38,7 GJ/1000 kg
17	ex.2705 00 00	Gas coke	1	28,2 GJ/1000 kg
18		Oxygen steel furnace gas	1	7,1 GJ/1000 kg
19		Blast furnace gas	1	2,5 GJ/1000 kg
20		ex.2706 00 00	Coal tar	1

21	2707 10, 2707 20, 2707 30	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents benzol (benzene, toluol (toluene), xylol (xylenes))	1	40,2 GJ/1000 kg
22	2707 50	Other aromatic hydrocarbon mixtures of which 65 % or more by volume (including losses) distils at 250°C by the ISO 3405 method (equivalent to the ASTM D 86 method)	1	40,2 GJ/1000 kg
23	ex.2707 99 99	Heavy aromatic hydrocarbon mixtures other than other aromatic hydrocarbon mixtures of which 65 % or more by volume (including losses) distils at 250°C by the ISO 3405 method (equivalent to the ASTM D 86 method)	1	40,4 GJ/1000 kg
24	2708 20 00	Pitch coke	1	32,5 GJ/1000 kg
25	2709 00 10	Natural gas condensates	1	44,2 GJ/1000 kg
26	2710 12 21 and ex.2710 12 25	White spirit and Special spirits excluding item 37	1	40,2 GJ/1000 kg
27	ex.2710 12 31 to ex.2710 12 70	Motor spirit and spirit type jet fuel excluding items 28 to 36	1	44,3 GJ/1000 kg 33 GJ/1000 l
28	ex.2710 12 31 to ex.2710 12 90	Hydrotreated oil of biomass origin to be used for replacement of petrol excluding items 29 and 30	1	45 GJ/1000 kg 30 GJ/1000 l
29		Hydrotreated oil of biomass origin to be used for replacement of petrol (sustainable, other than food and feed crop)	2	
30		Hydrotreated oil of biomass origin to be used for replacement of petrol (advanced sustainable)	3	
31		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of petrol excluding items 32 and 33	1	44 GJ/1000 kg
32		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of petrol	2	32 GJ/1000 l

		(sustainable, other than food and feed crop)		
33		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of petrol (advanced sustainable)	3	
34		Fischer-Tropsch petrol excluding items 35 and 36	1	44 GJ/1000 kg 33 GJ/1000 l
35		Fischer-Tropsch petrol (sustainable, other than food and feed crop)	2	
36		Fischer-Tropsch petrol (advanced sustainable or renewable of non-biological origin)	3	
37	ex.2710 12 25 and ex.2710 12 90	Light oils and preparations for other purposes excluding items 28 to 36	1	44,5 GJ/1000 kg
38		Kerosene-type jet fuel excluding items 39 to 47	1	43 GJ/1000 kg 34 GJ/1000 l
39		Hydrotreated oil of biomass origin to be used for replacement of jet fuel excluding items 40 and 41	1	44 GJ/1000 kg 34 GJ/1000 l
40		Hydrotreated oil of biomass origin to be used for replacement of jet fuel (sustainable, other than food and feed crop)	2	
41		Hydrotreated oil of biomass origin to be used for replacement of jet fuel (advanced sustainable)	3	
42		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of jet fuel	1	43 GJ/1000 kg 33 GJ/1000 l
43	ex.2710 19 21	Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of jet fuel (sustainable, other than food and feed crop)	2	
44		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of jet fuel (advanced sustainable)	3	
45		Fischer-Tropsch jet fuel excluding items 46 and 47	1	44 GJ/1000 kg
46		Fischer-Tropsch jet fuel (sustainable, other than food and feed crop)	2	33 GJ/1000 l

47		Fischer-Tropsch jet fuel (advanced sustainable or renewable of non-biological origin)	3	
48	ex.2710 19 25	Kerosene - other than jet type	1	43,8 GJ/1000 kg 35,3 GJ/1000 l
49	ex.2710 19 42 to ex.2710 19 48, 2710 20 11 to 2710 20 19	Gas oils excluding items 50 to 58	1	43 GJ/1000 kg 36 GJ/1000 l
50		Hydrotreated oil of biomass origin to be used for replacement of diesel excluding items 51 and 52	1	
51		Hydrotreated oil of biomass origin to be used for replacement of diesel (sustainable, other than food and feed crop)	2	44 GJ/1000 kg 34 GJ/1000 l
52		Hydrotreated oil of biomass origin to be used for replacement of diesel (advanced sustainable)	3	
53		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of diesel excluding items 54 and 55	1	
54		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of diesel (sustainable, other than food and feed crop)	2	43 GJ/1000 kg 36 GJ/1000 l
55		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of diesel (advanced sustainable)	3	
56		Fischer-Tropsch diesel excluding items 57 and 58	1	44 GJ/1000 kg
57		Fischer-Tropsch diesel (sustainable, other than food and feed crop)	2	34 GJ/1000 l
58		Fischer-Tropsch diesel (advanced sustainable or renewable of non-biological origin)	3	

59	2710 19 62 to	Fuel oil excluding item 60	1	40,4 GJ/1000 kg
60	2710 19 67, 2710 20 32, 2710 20 38	Shale-derived fuel oil	1	38,1 GJ/1000 kg
61	2710 19 81 to 2710 19 99	Lubricating oils	1	40,2 GJ/1000 kg
62	2710 91 to 2710 99 00	Waste oil	1	40,2 GJ/1000 kg
63	2711 11 00 and 2711 21 00	Liquefied natural gas and natural gas in gaseous state	1	48,0 GJ/1000 kg
64	ex.2711 19 00	Methane liquefied	1	50,0 GJ/1000 kg
65	ex.2711 12 to ex.2711 19	Liquefied petroleum gases - propane, butanes, ethylene, propylene, butylene and butadiene and others (LPG) excluding items 66 to 81	1	47,3 GJ/1000 kg
66	ex.2711 12	Bio-Propane liquefied excluding items 73 to 81	2	46 GJ/1000 kg 24 GJ/1000 l
67	ex.2711 19 00	Liquified raw biogas excluding items 68 and 69	1	30,0 GJ/1000 kg
68		Liquified raw biogas (sustainable other than food and feed crop)	2	
69		Liquified raw biogas (advanced sustainable)	3	
70		Liquified biogas excluding items 71 and 72	1	50 GJ/1000 kg
71		Liquified biogas (sustainable other than food and feed crop)	2	
72		Liquified biogas (advanced sustainable)	3	
73	ex.2711 12 to	Hydrotreated oil of biomass origin to be used for replacement of LPG excluding items 74 and 75	1	46 GJ/1000 kg

74	ex.2711 19	Hydrotreated oil of biomass origin to be used for replacement of LPG (sustainable other than food and feed crop)	2	24 GJ/1000 l
75		Hydrotreated oil of biomass origin to be used for replacement of LPG (advanced sustainable)	3	
76		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG excluding items 77 and 78	1	
77		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG (sustainable other than food and feed crop)	2	46 GJ/1000 kg 23 GJ/1000 l
78		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG (advanced sustainable)	3	
79		Fischer-Tropsch LPG excluding items 80 and 81	1	
80		Fischer-Tropsch LPG (sustainable other than food and feed crop)	2	46 GJ/1000 kg 24 GJ/1000 l
81		Fischer-Tropsch LPG (advanced sustainable or renewable of non-biological origin)	3	
82		ex 2711 29 00	Gaseous hydrocarbons in gaseous state excluding items 83 to 86	1
83	Biogas in gaseous state (low-carbon fuels, sustainable other than food and feed crop)		2	

84		Biogas in gaseous state (advanced sustainable or renewable of non-biological origin)	3	
85	ex.2711 29 00	Landfill and sludge gas (low-carbon fuels, sustainable other than food and feed crop)	2	50,4 GJ/1000 kg
86		Landfill and sludge gas (advanced sustainable)	3	
87	2712 20	Paraffin wax containing by weight less than 0,75 % of oil	1	40,2 GJ/1000 kg
88	2713 11 00 and 2713 12 00	Petroleum coke	1	32,5 GJ/1000 kg
89	2713 20 00	Petroleum bitumen	1	40,2 GJ/1000 kg
90	ex.2714 10 00	Oil shale and tar sands	1	8,9 GJ/1000 kg
91	ex.2714 90 00	Natural bitumen	1	40,2 GJ/1000 kg
92	ex 2804 10 00	Hydrogen if it is intended for use as heating fuel or motor fuel excluding items 93 and 94	1	120 GJ/1000 kg
93		Low-Carbon Hydrogen if it is intended for use as heating fuel or motor fuel	2	
94		Renewable of non-biological origin Hydrogen if it is intended for use as heating fuel or motor fuel	3	
95	ex 2814 10 00	Anhydrous ammonia if it is intended for use as heating fuel or motor fuel excluding items 96 and 97	1	18,6 GJ/1000 kg
96		Low-Carbon anhydrous ammonia if it is intended for use as heating fuel or motor fuel	2	

97		Renewable of non-biological origin anhydrous ammonia if it is intended for use as heating fuel or motor fuel	3	
98	ex.2901 10 00	Ethane	1	46,4 GJ/1000 kg
99	ex.2902	Cyclic hydrocarbons (benzene, toluene, xylenes, mixed xylene isomers, ethylbenzene)	1	40,2 GJ/1000 kg
100	ex 2905 11 00	Methanol if it is intended for use as heating fuel or motor fuel excluding items 101 and 102	1	20 GJ/1000 kg 16 GJ/1000 l
101		Bio-Methanol (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	
102		Bio-Methanol (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	
103	ex 2905 12 00	Propan-1-ol (propyl alcohol) and propan-2-ol (isopropyl alcohol) if these are intended for use as heating fuel or motor fuel, excluding items 104 and 105	1	31 GJ/1000 kg 25 GJ/1000 l
104		Propan-1-ol (propyl alcohol) and propan-2-ol (isopropyl alcohol) (sustainable other than food and feed crop) if these are intended for use as heating fuel or motor fuel,	2	
105		Propan-1-ol (propyl alcohol) and propan-2-ol (isopropyl alcohol) (advanced sustainable or renewable of non-biological origin) if these are intended for use as heating fuel or motor fuel,	3	

106		Butan-1-ol (n-butyl alcohol), other butanols if these are intended for use as heating fuel or motor fuel, excluding items 107 and 108	1		
107	ex 2905 13 00 and ex 2905 14	Butan-1-ol (n-butyl alcohol), other butanols (sustainable other than food and feed crop) if these are intended for use as heating fuel or motor fuel,	2	33 GJ/1000 kg 27 GJ/1000 l	
108		Butan-1-ol (n-butyl alcohol), other butanols (advanced sustainable or renewable of non-biological origin) if these are intended for use as heating fuel or motor fuel,	3		
109		ex 2909 19 10	Ethyl-tertio-butyl-ether (ETBE) if it is intended for use as heating fuel or motor fuel excluding items 110 and 111		1
110	Ethyl-tertio-butyl-ether (ETBE) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel		2	36 GJ/1000 kg 27 GJ/1000 l	
111	Ethyl-tertio-butyl-ether (ETBE) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel		3		
112	ex.2909 90 19	Methyl-tertio-butyl-ether (MTBE) if it is intended for use as heating fuel or motor fuel excluding items 113 and 114	1		35 GJ/1000 kg 26 GJ/1000 l
113		Methyl-tertio-butyl-ether (MTBE) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2		
114		Methyl-tertio-butyl-ether (MTBE) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3		
115		Tertiary-amyl-ethyl-ether (TAEE) if it is intended for use as heating fuel or motor fuel excluding items 116 and 117	1	38 GJ/1000 kg 29 GJ/1000 l	
116		Tertiary-amyl-ethyl-ether (TAEE) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2		

117		Tertiary-amyl-ethyl-ether (TAEE) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	
118		Tertiary-amyl-methyl-ether (TAME) if it is intended for use as heating fuel or motor fuel excluding items 119 and 120	1	
119		Tertiary-amyl-methyl-ether (TAME) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	36 GJ/1000 kg 28 GJ/1000 l
120		Tertiary-amyl-methyl-ether (TAME) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	
121	ex.2909 90	Tertiary-hexyl-ethyl-ether (THxEE) if it is intended for use as heating fuel or motor fuel excluding items 122 and 123	1	38 GJ/1000 kg
122		Tertiary-hexyl-ethyl-ether (THxEE) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	30 GJ/1000 l
123		Tertiary-hexyl-ethyl-ether (THxEE) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	
124		Tertiary-hexyl-methyl-ether (THxME) if it is intended for use as heating fuel or motor fuel excluding items 125 and 126	1	
125		Tertiary-hexyl-methyl-ether (THxME) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	38 GJ/1000 kg 30 GJ/1000 l
126		Tertiary-hexyl-methyl-ether (THxME) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	

127			Dimethylether (DME) if it is intended for use as heating fuel or motor fuel excluding items 128 and 129	1	
128			Dimethylether (DME) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	28 GJ/1000 kg 19 GJ/1000 l
129			Dimethylether (DME) (advanced sustainable or renewable of non-biological origin) if it is intended for use as heating fuel or motor fuel	3	
130	ex.3403 00 to ex.3403 80	11 19	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals	1	40,2 GJ/1000 kg
131	ex.3824 92	99	Chemical products or preparations, predominantly composed of organic compounds, not elsewhere specified or included in the form of a liquid at 20°C if these are intended for use as heating fuel or motor fuel,	2	27,4 GJ/1000 kg
132			Biodiesel - fatty acid methyl esters (FAME) if these are intended for use as heating fuel or motor fuel excluding items 133 and 134	1	
133			Biodiesel - fatty acid methyl esters (FAME) (sustainable other than food and feed crop) if these are intended for use as heating fuel or motor fuel	2	37 GJ/1000 kg 33 GJ/1000 l
134			Biodiesel - fatty acid methyl esters (FAME) (advanced sustainable) if these are intended for use as heating fuel or motor fuel	3	
135			Biodiesel - fatty acid ethyl esters (FAEE) if these are intended for use as heating fuel or motor fuel excluding items 136 and 137	1	38 GJ/1000 kg 34 GJ/1000 l

136	Biodiesel - fatty acid ethyl esters (FAEE) (sustainable other than food and feed crop) if these are intended for use as heating fuel or motor fuel	2
137	Biodiesel - fatty acid ethyl esters (FAEE) (advanced sustainable) if these are intended for use as heating fuel or motor fuel	3

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ANNEX III

FEEDSTOCK FOR THE PRODUCTION OF 'ADVANCED BIOFUELS, BIOLIQUIDS AND BIOGAS' AS REFERRED TO IN ARTICLE 2(4)(H)

Part A

- 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, and excluding feedstocks listed in part B of this Annex;
- Straw;
- Animal manure and sewage sludge;
- Palm oil mill effluent and empty palm fruit bunches;
- 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;
- Other ligno-cellulosic material except saw logs and veneer logs;
- Fusel oils from alcoholic distillation;
- Raw methanol from kraft pulping stemming from the production of wood pulp;
- 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, where used for the production of biofuel for the aviation sector;
- Crops grown on severely degraded land, except food and feed crops, where used for the production of biofuel for the aviation sector;
- Cyanobacteria;

Part B

- Used cooking oil;
- Animal fats classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009;
- 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;

- Crops grown on severely degraded land excluding food and feed crops and feedstocks listed in Part A of this Annex, where not used for the production of biofuel for the aviation sector;
- Intermediate crops, such as catch crops and cover crops, and excluding feedstocks listed in Part A of this Annex, 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, where not used for the production of biofuel for the aviation sector.

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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