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**NOTE**

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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

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With a view to the meeting of the Working Party on Tax Questions (Indirect Taxation – Excise duties / Energy taxation) on 26 September 2025, delegations will find in the Annex a compromise text prepared by the Presidency.

**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/EC<sup>1</sup> has been substantially amended several times<sup>2</sup>. Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (2) Directive 2003/96/EC was adopted to ensure the proper functioning of the internal market in regard to the taxation of energy products and electricity. The Directive also integrated

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<sup>1</sup> 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).

<sup>2</sup> See ~~Part A of Annex IV~~ **Article 30**.

environmental protection requirements, in particular, in light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change<sup>3</sup>.

- (3) It is necessary to ensure legal certainty in relation to 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 contribute to tackle challenges related to the climate and environment, as laid out in the communication from the Commission, entitled ‘The European Green Deal’<sup>4</sup>. Energy taxation can contribute to the Union’s ambition of at least a 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 ensuring that the taxation of motor fuels, heating fuels and electricity better reflects the impact those products have on the environment and on health. The contribution of energy taxation to these objectives has been endorsed by the Council in its conclusions of 5 December 2019 on the EU framework for energy taxation.
- (5) Under the current geopolitical and socioeconomic circumstances, together with the rise in energy prices and the rate of inflation, it is essential to take into consideration the 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.
- (6) Taking into account the communications of the Commission entitled ‘A Competitiveness Compass for the EU’, ‘Action Plan for Affordable Energy’, ‘The Clean Industrial Deal’ and ‘A European Steel and Metals Action Plan’, special treatment should be given to sensitive sectors of the Union economy, such as mineralogical, metallurgical and energy-intensive industries, which are affected by the taxation introduced on the basis of this Directive.

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<sup>3</sup> Council Decision (EU) 2002/358 of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.05.2002, p. 1-3. ELI: <http://data.europa.eu/eli/dec/2002/358/oj>).

<sup>4</sup> COM(2019) 640 final of 11 December 2019.

- (7) As a Party to the United Nations Framework Convention on Climate Change, the Union has ratified the Paris Agreement<sup>5</sup>. The taxation of energy products and, where appropriate, electricity can ~~also~~ help achieve the objectives of the Paris Agreement.
- (8) Member States should, however, be able to use the energy taxation of motor fuels, heating fuels and electricity for a variety of purposes and not necessarily nor specifically or exclusively relating to the reduction of greenhouse gases.
- (9) Appreciable differences in the national levels of energy taxation applied by Member States could prove detrimental to the proper functioning of the internal market.
- (10) The establishment of appropriate Union minimum levels of taxation could enable the reduction of existing differences in national levels of taxation.
- (11) Rules should be established 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.
- (12) 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.
- (13) 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 should achieve the vertical ranking within a transitional period of eight years in order to provide for a gradual introduction of the ranking.
- (14) The minimum levels of energy taxation should be regularly and automatically updated following a harmonised procedure to ensure ~~the stability of~~ their real value over time and to preserve the level of rate harmonisation across Member States. The index used for this update should not include the energy and food prices to reduce the volatility.

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<sup>5</sup> Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1, ELI: <http://data.europa.eu/eli/dec/2016/1841/oj>).

- (15) In the case of an energy product composed of one or more energy products, specific provisions should be laid down to ensure an effective implementation of the environmentally tailored structure of rates.
- (16) In order to ensure a smooth implementation of certain provisions relating to some products or uses, transitional periods of application are needed.
- (17) As a general principle, Member States should not apply levels of taxation on energy products and electricity lower than the minimum levels of taxation laid down in this Directive. For the purposes of complying with Union minimum taxation levels, Member States should be allowed to take into account the total charge levied in respect of all indirect taxes which they have chosen to apply (excluding Value Added Tax).
- (18) 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. Member States should lay down conditions to ensure the correct and straightforward application of this Directive and the prevention of any evasion, avoidance or abuse.
- (19) Energy prices are key elements of energy, transport and environment policies in the Union.
- (20) Output taxation of heat should be outside the scope of this Directive, as heat is only subject to very limited intra-Union trade.
- (21) Waste used as heating fuel should be outside the scope of this Directive. However, listed energy products including other products used as motor fuel and other hydrocarbon-containing products used as heating fuel should be covered by the Directive and fall within its scope.
- (22) This Directive should only cover energy products used as heating fuel or motor fuel and electricity. Non-fuel uses of energy products should therefore fall outside the scope of this Directive. Dual uses of energy products, covering chemical reduction and in electrolytic and metallurgical processes, and use of energy products for mineralogical processes should also

fall outside the scope of this Directive. Electricity used for these purposes should be treated on an equal footing and therefore fall outside the scope of this Directive.

Energy products used in fuel cells installed on board vehicles, vessels and aircraft should be considered to be used as motor fuels. Energy products used as fuel in stationary fuel cells should be considered to be used as heating fuels, thereby also falling under the possibility to tax those products as used to produce electricity.

- (23) Taxation of 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.

In special cases, the level of taxation can differ from the minimum level of taxation that would normally be applied pursuant to this Directive.

- (24) Energy products should be divided into different tax categories depending on the environmental performance of the energy product. In view of the aim to give preferential tax treatment to more environmentally friendly energy products the Commission should monitor the technological development and changes in relevant legal frameworks. In case categorisation of the energy products 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. The development of other Union measures such as the Union Database for biofuels, including advanced biofuels, renewable fuels, and low-carbon fuels should support the administration of component-based taxation.
- (25) 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.
- (26) It is necessary to establish different Union minimum levels of taxation according to the use of energy products and electricity. Where the Directive allows for differentiated tax rates, this should be understood as single use. Single use should be the legal ground after the Directive to differentiate for example between tax level of electricity used for charging vehicles and for heating purposes.

- (27) 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 **Taxing** is important that~~ electricity is amongst the least taxed energy sources ~~can with a view to fostering~~ its use, in particular in the transport sector.

Presidency note:

A delegation has commented on the recital, stating that it does not reflect the content of the Directive, where electricity now has its own table instead of being incorporated into the other tables at as the always lowest taxed product (the original COM proposal). The Presidency proposes to adjust the recital.

- (28) Different national circumstances may justify a distinction 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.
- (29) The use of energy products and electricity used to produce and to maintain the ability to produce electricity should be exempted from taxation. The consumption of energy products and electricity to produce energy products should not be taxed. However, Member States should have the option to pursue more ambitious environmental policy, including climate policy, by taxing these products. Electricity produced on board a vehicle, vessel or aircraft should always be exempt, since energy products used to produce this electricity should be taxed.
- (30) While respecting existing international obligations and to maintain the competitive position of Union companies, Member States should apply an exemption of energy products and electricity supplied for air navigation and waterborne navigation in Union waters. It should still be possible for Member States to limit the exemptions to international or intra-Union transport or in accordance with bilateral agreements for air and sea transport between parties to the agreement.
- (31) The exemption for air navigation should not apply to aircraft used for the carriage of passengers and having a maximum of 19 seats, unless these are scheduled commercial flights, armed forces, other national security forces, search and rescue services and public authorities.

- (32) The exemption for waterborne navigation in Union waters should not be applied for private pleasure waterborne navigation.
- (33) The exemption should not apply for waterborne navigation in inland waterways. However, Member States should be able to exempt or reduce the level of taxation for navigation on inland waterways.
- (34) In [2035], the Commission should examine the possibility of taxation of air navigation and waterborne navigation and propose amendments to this Directive, where appropriate. That examination should primarily focus on the availability of sustainable alternative fuels and electricity and on international developments.
- (35) It should be possible for 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 to qualify for preferential treatment. Most of these measures are retained from Directive 96/2003. For advanced and intermediate biofuels, bioliquids, biogas, and renewable fuels of non-biological origin, it is relevant to account for their potential role for decarbonisation, as well as the fact that they are in pre-commercial phase and deserve support. For those reasons and to support more ambitious national environmental policies, it should be possible for Member States to apply a more favourable tax treatment to those energy products.
- (36) Member States should be allowed to provide for reductions in the level of taxation or exemptions of taxation for the agricultural, horticultural, aquaculture and forestry sector until the end of 2037.
- (37) In order to promote and enhance the use of local public passenger transport and other public services, Member States should be allowed to apply targeted reductions in the levels of taxation.
- (38) Targeted reductions in the level of taxation or exemptions of taxation might prove necessary to incentivise the achievement of environmental protection objectives and improvements in energy efficiency of the Union productive sector.
- (39) Targeted reductions in the level of taxation or exemptions of taxation might prove necessary to tackle the social impact of energy taxes. Different levels of taxation may temporarily prove necessary to protect households.

- (40) Member States should have the option to apply exemptions or reductions in the level of taxation for electricity provided to aircraft stationed at gates and vessels berthed in ports used for other purposes than navigation. In so far as such use avoids emissions of air pollutants originating from the burning of fuels in vessels or aircraft, it contributes to an improvement in the local air quality in cities and to noise reduction. The exemption is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.
- (41) 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, because of the sensitive implications that these exemptions or reductions may have on national budgetary issues, be adopted by means of a Council Implementing Decision in accordance with Article 291 TFEU. Such measures should be kept under regular review to ensure that they continue to be of sustainable nature taking into account the proper functioning of the internal market, the need to ensure fair competition and Union health, environment, energy and transport policies.

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.

- (42) 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 could go below the minimum rates for a limited period of time.
- (43) Due to the special treatment of certain products, different chargeability rules should apply to electricity, to gaseous products transported by pipelines and to coal.
- (44) It should be possible for the Member States to apply different chargeability rules to small installations, where electricity is produced and not fed into a public network. However, with a view to limiting the administrative burden, it should be possible for the Member States to

differentiate the threshold for identifying such small installations, depending on the energy sources used.

- (45) The list of energy products subject to the control and movement provisions of Council Directive (EU) 2020/262<sup>6</sup> 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.
- (46) 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 Council<sup>7</sup>.
- (47) 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.
- (48) Member States should inform the Commission of national measures such as tax exemptions, tax reductions, tax differentiations and tax refunds which have the effect of lowering the rate for energy products below the corresponding minimum level of taxation laid down in Annex I to this Directive. Such information does not release Member States from the obligation to examine the compatibility of those 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.
- (49) 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

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<sup>6</sup> 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).

<sup>7</sup> 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).

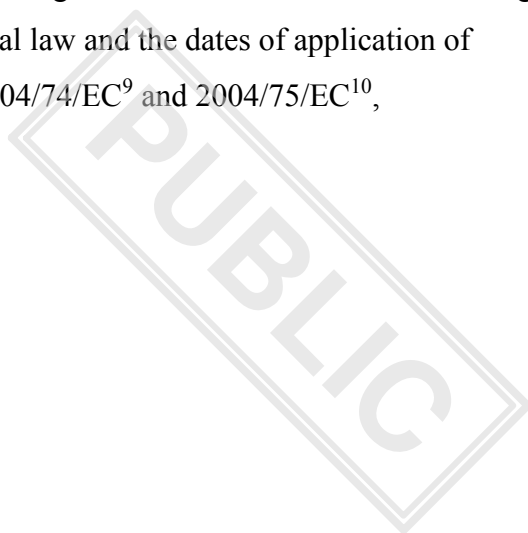
are updated whenever necessary, that Annex II of this Directive reflects the commonly used energy products, and that the minimum rates of taxation reflect prices evolution, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance 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<sup>8</sup>. 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.

- (50) 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.
- (51) 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.

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<sup>8</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1-14, ELI: [http://data.europa.eu/eli/agree\\_interinstit/2016/512/oj](http://data.europa.eu/eli/agree_interinstit/2016/512/oj)).

- (52) 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 Directive 2003/96/EC, and Council Directives 2004/74/EC<sup>9</sup> and 2004/75/EC<sup>10</sup>,



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<sup>9</sup> Council Directive (EU) 2004/74 of 29 April 2004 amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation (OJ L 157, 30.4.2004, p. 87-99, ELI: <http://data.europa.eu/eli/dir/2004/74/oj>).

<sup>10</sup> Council Directive (EU) 2004/75 of 29 April 2004 amending Directive 2003/96/EC as regards the possibility for Cyprus to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation (OJ L 157, 30.4.2004, p. 100-105, ELI: <http://data.europa.eu/eli/dir/2004/75/oj>).

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

Presidency note:

A delegation has asked if hydrogen should be specifically mentioned along with ‘energy products’ and ‘electricity’, as hydrogen is not a typical energy product, but rather an energy carrier.

In Article 3(1) hydrogen is defined as an energy product in this Directive. Therefore, the Presidency finds that it is not necessary to specifically mention hydrogen alongside ‘energy products’ and ‘electricity’ in the title or elsewhere in the Directive.

Article 3(2).

2. However, this Directive, with the exception of Article 18, does not apply to the following uses of such energy products and electricity:
  - (a) energy products used for purposes other than as motor fuel or as heating fuel;
  - (b) dual use of energy products;
  - (c) energy products used for mineralogical processes, where energy products are used directly in or to provide a direct energy input to the process;
  - (d) electricity used for the purposes of chemical reduction or in electrolytic, mineralogical and metallurgical processes, where electricity is 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, points (c) and (d), ‘mineralogical processes’ means the processes classified in the NACE nomenclature under code C 23 in Annex I to 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, points (d), and paragraph 3 ‘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 to Council Regulation (EC) No 1893/2006<sup>11</sup>, 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 used as heating fuel except for taxation of energy products mentioned in article 3, paragraph 1, (a) to (p), when those energy products are recovered from waste.

Presidency note:

The need for a definition of waste was discussed at the last WPTQ on 5 September 2025. The Presidency can conclude that only a few Member States were in favor of such a definition while others agreed to the provision as it was presented in that version of the compromise text. As discussed at the last meeting, waste is defined in Directive 2008/98/EC (so-called waste Directive) and Directive 2008/98/EC (Renewable Energy Directive), and the definition in the latter is highly based on the definition in the first. The Presidency does therefore not see a technical reason to propose a definition of waste.

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<sup>11</sup> 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)

## Article 2

### *Subject matter and units*

1. Member States shall impose taxation on the energy products as 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~~can use ~~different specific~~ values based on **Annex II, other standard values acknowledged by the Member State or on measured values** ~~in the ease 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. Where 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~~ **Paragraph 1**.

Presidency note:

A delegation has raised concerns about the current wording of Article 2 and the connection between Article 2 and Annex II. This interconnection has been discussed several times however the Presidency finds that new information has been brought up.

The content of the last compromise text was that the energy content shall be the basis of the taxation. The energy content shall be the net calorific values in Annex II. Those net calorific values are found in delegated or implementing acts under RED. These net calorific values are standard values and does not reflect the actual energy content of energy products, which can differ. The example of coal has been discussed in the WPTQ, and the outcome of this discussion was to allow for measured net calorific values to be used for these products when calculating the tax.

However, a delegation has raised the question of whether it makes sense to use these standard calorific values that are not linked to the actual energy content in the energy product. The energy content can vary significantly. In addition to coal, also the Presidency is aware that the net calorific value of gas in the gas network can vary throughout a month. A gas distributor normally has an overview of the energy content, including the measured energy content, delivered throughout the month, and are therefore able to calculate a tax based on the actual energy content.

The Presidency have looked into why the current compromise text refers to the standard net calorific values in Annex VI to Commission Implementing Regulation (EU) 2018/2066 and Annex III to Directive (EU) 2018/2001, and why the standard net calorific values from Annex III to Directive (EU) 2018/2001 shall be used in case they are not corresponding.

*The use of standard net calorific values in Commission Implementing Regulation (EU) 2018/2066*

Commission Implementing Regulation (EU) 2018/2066 is adopted pursuant to Directive (EU) 2003/87 regarding the EU ETS. The Implementing Regulation sets out methods on how those covered by EU ETS shall monitor and report their emissions, e.g. from the use of energy products. To calculate the emissions from energy products, net calorific values are used.

According to Article 30, it is optional whether to use standard values or to use values based on analysis. Article 31 sets rules on which values can be used as standard values. Standard values will often be higher than measured values, as they have to be set high enough to cover different products containing different net calorific values. It is both the standard factors listed in Annex VI, but also a set of other values, which are not reflected in the compromise text. Article 32 sets rules for calculation factors based on analysis, which have to live up to certain standards explained in the Act. This option is also not reflected in the compromise text.

The methods set out in the Commission Implementing Regulation (EU) 2018/2066 are methods already used and known by fuel suppliers, businesses etc., also those that are based on analysis. In some Member States the applied net calorific values will have to be shown on the invoice.

### *The use of standard net calorific values in Directive (EU) 2018/2001*

The RED uses net calorific values to calculate the output energy from renewable fuels etc. and to ensure that the renewable energy goals are met. The idea of those calorific values in RED is however not to use them as a basis for a price or a tax being calculated.

Annex III to Directive (EU) 2018/2001 establishes a common framework for the promotion of energy from renewable sources. It sets a binding Union target for the overall share of energy from renewable sources in the Union's gross final consumption of energy in 2030. It also lays down rules on the use of energy from renewable sources in the heating and cooling sector and in the transport sector, on guarantees of origin. It also establishes sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels. Annex III to the Directive sets out standard values regarding the energy content. These are used to calculate the share of energy from the renewable sources on the Member State level, cf. Article 7, and the minimum shares of renewable energy in the transport sector, cf. Article 27. However, the Presidency is not aware that these net calorific values are used in a way that puts an economic price on the outcome as with the EU ETS.

### *Discussion points and Presidency proposal*

1. The Presidency proposes to let this Directive reflect that such different ways of measuring energy content are valid, and it should be possible to use those values. For example, by making this adjustment, companies covered by the EU ETS who calculate their energy use based on analysis and not on standard values, should not be treated differently under the Energy Taxation Directive. The Presidency proposes to add possibilities for Member States to use standard values according to Annex II or other standard values recognised in the Member State or measured values. This will allow fuel suppliers etc. to use the net calorific values that they are using anyway for example according to other EU legislative acts or recognised measures of net calorific value. This supports the EU agenda on simplification for businesses in the EU and will also future proof the Directive.

2. The Presidency proposes to align paragraph 2 to the proposed changes in paragraph 1. One solution could be, that the conversion factors used to ensure that national levels of taxation are not below the minimum levels shall be those laid down in paragraph 1. This approach will still ensure that all Member States apply tax rates that fulfil the minimum levels laid down in the Directive.

### *References to the history of this interconnection in the revision:*

- Commissions proposal of 14 June 2021 (connection to Annex IV of Directive 2012/27/EU and Annex III to Directive (EU) 2018/2001 for bio),
- WK 3148 of 9 March 2022 and WK 9461 of 30 June 2022 (introduction of reference to Annex VI to the Commission Implementing Regulation 2018/2066/EU and Annex III of Directive (EU) 2018/2001),
- WK 10101 of 11 July 2022 ('the latter shall be used' is added),
- WK 13041 of 5 October 2022 (Presidency note on measured values)
- WK 14524 of 3 November 2022 (deletion of reference to Annex II),
- WK 03137 of 15 March 2023 (both measured and standard factors),
- WK 05659 of 3 May 2023 (closed connection to Annex II),
- WK 3734 of 8 March 2024 (discussion on option to use measured values),
- WK 9510 of 2 July 2024 (measured values for CN code 2701 and 2702),
- WK 12885 of 16 October 2024 (adding CN code 2714 10)

4. The Commission is empowered to adopt delegated acts in accordance with Article 27 to amend or supplement Annex II in order to update the list of products, the conversion factors and the product categories.

For the purposes of amending or supplementing the conversion factors, the following rules shall apply in respect of 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 those 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 in Annex III to Directive (EU) 2018/2001, the conversion factor laid down in Annex III to Directive (EU) 2018/2001 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; or
- (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 concerned, Member States shall **determine** use the conversion factor ~~determined~~ **according to** ~~in~~ paragraph 4. Member States shall inform the Commission without delay of the conversion factor used.

### 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/EC<sup>12</sup>;
  - (c) products falling within CN codes 2701 and 2702;
  - (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;

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<sup>12</sup> 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)

- (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. Without prejudice to Article 12, 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) ‘advanced **and intermediate** biofuels, bioliquids and biogas’ means biofuels, bioliquids and biogas that are produced from feedstock listed in Annex III, part A **and B**;

Presidency note:

The definition of advanced biofuels, bioliquids and biogas has been merged with the definition of intermediate biofuels, bioliquids and biogas in Article 3(4)(f) as these products fall within the same category. This change has been requested by several delegations.

- (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) ‘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;
- (f) ~~‘intermediate biofuels, bioliquids and biogas’ means biofuels, bioliquids and biogas that are produced from feedstock listed in Annex III, part B;~~

Presidency note:

Please see the presidency note under Article 3(4)(a).

- (gf) ‘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 laid down in paragraph 8;

Presidency note:

Some delegations asked in the last WPTQ for further definition of low-carbon fuels, especially in relation to points (g) and (h) in this paragraph. The Presidency expects to return on this point in the next compromise text.

‘recycled carbon fuels’ shall be included in this definition;

- (hg) ‘Non-fossil low-carbon hydrogen’ means hydrogen **of which** ~~with~~ the energy content of ~~which~~ is derived from ~~non-fossil~~ non-renewable sources, which meets **greenhouse gas emission reduction** ~~lifecycle emissions savings~~ threshold of 70% **according to** ~~and~~ the methodologies for assessing **greenhouse gas emissions savings from low-carbon fuels**, **adopted** ~~such lifecycle emissions savings~~ pursuant to **Article 9(5) of Directive (EU)**

2024/1788the Delegated Regulation (EU) 2025/4674;

(~~ih~~) ‘Non-fossil synthetic low-carbon fuels’ means fuels that are of non-biological origin, the energy content of which is derived from non-fossil low-carbon hydrogen, which meets **the greenhouse gas** lifecycle-emissions **reduction** savings threshold of 70% **according to** and the methodologies for assessing **greenhouse gas** such lifecycle-emissions savings **from low-carbon fuels, adopted** pursuant **to Article 9(5) of Directive (EU) 2024/1788** to relevant Union law;

(~~ij~~) ‘non-sustainable biofuels, bioliquids and biogas’ means energy products used as motor and heating fuels and produced from biomass, which do not fulfil the sustainability and greenhouse gas saving criteria as laid down in paragraph 5;

(~~ki~~) ‘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;

(~~lk~~) ‘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;

**(l) ‘single use’ means the independent taxation of the different uses according to the Directive;**

(m) ‘sustainable biofuels, bioliquids and biogas’ means energy products used as motor and heating fuels; and produced from biomass, which fulfil the sustainability and greenhouse gas saving criteria as laid down in paragraph 5;

(~~ne~~) ‘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, which fulfil the sustainability and greenhouse gas saving criteria as laid down in paragraph 5.

**(o) ‘sustainable biomass or from products produced from sustainable biomass’ means biomass, which fulfil the sustainability and greenhouse gas saving criteria as laid down in paragraph 5 and products covered in point (m) of this paragraph.**

Presidency note:

Some delegations thought it redundant to have a separate definition for advanced biofuels etc. and intermediate biofuels etc. as it would not be treated separately. The Presidency finds it necessary to reflect correctly the content of Annex III and proposes to write one combined definition of advanced and intermediate biofuels etc.

Delegations are quite split regarding the need to introduce ‘single use’ as a concept in the Directive. As no Member States raised comments regarding recital 26 mentioning single use, the Presidency now proposes to add a definition of single use similar to the recital.

A delegation has commented on the exemption for electricity generated from sustainable biomass or from products produced from sustainable biomass or from products produced from sustainable biomass in Article 15. The delegation has noticed that there is not a definition in Article 3 of those kinds of energy products. The Presidency proposes to add a definition of ‘sustainable biomass or from products produced from sustainable biomass or from products produced from sustainable biomass’ which is aligned with the definitions in point (m) and (n) of paragraph 4.

5. For the purposes of points **(i)**, (m), ~~(j)~~ and ~~(n)~~ 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 referred to in Article 26(2), first subparagraph, of that Directive.
6. In the case of future amendments to the sustainability and greenhouse gas emissions saving criteria referred to in points **(i)**, (m), ~~(j)~~ and ~~(n)~~ of paragraph 4 of this Article, and by way of derogation from the entry into force of such amendments, the Commission is empowered to adopt delegated acts in accordance with Article 27 to amend this Directive by setting the date of entry into force of application of the sustainability and greenhouse gas emissions saving criteria for the purposes of 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 27 of this Directive in order to amend Annex III of this Directive in order to bring Annex III in line with the amended Directive (EU) 2018/2001.

**8. In case of future amendments to the greenhouse gas emission reduction threshold in Directive (EU) 2024/1788 referred to in points (g) and (h) of paragraph 4 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 27 of this Directive in order to amend the greenhouse gas emission reduction threshold of points (g) and (h) in order to bring these points in line with the amended Directive (EU) 2024/1788.**

Presidency note:

The definitions used for ‘non-fossil low-carbon hydrogen’ and ‘non-fossil synthetic low-carbon fuels’ originates from Directive (EU) 2024/1788. If the greenhouse gas emission threshold for those types of hydrogen and fuels in that Directive is amended, it will be necessary to also amend the definitions in this Directive to align the definitions.

The Presidency therefore proposes to insert a provision delegating this power to the Commission as already done for other terms relevant for the definitions in paragraph 4 of Article 3.

**8.9.** For the purposes of point (gf) 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<sup>13</sup> and Annex I to Commission Delegated Regulation (EU) 2021/2139<sup>14</sup>.

By way of derogation from Article 10(6) of Regulation (EU) 2020/852 and from Article 3 of Commission Delegated Regulation (EU) 2021/2139, the technical screening criteria shall apply to this Directive from [1 January 2028].

**9.10.** If future amendments to Regulation (EU) 2020/852 or Annex I to Commission Delegated Regulation (EU) 2021/2139 affect the definition of the technical screening criteria in paragraph 8 of this Article, the Commission is empowered to adopt delegated acts in

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<sup>13</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance) (OJ L 198, 22.6.2020, p. 13-43).

<sup>14</sup> 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).

accordance with Article 27 to amend this Directive and set the application date for the revised definition, regardless of when those amendments have taken effect **according to those Regulations.**

~~10~~**11.** 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, also for the purposes of 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, also for the purposes of Article 18(1), point (p).

~~11~~**12.** 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 2658/87<sup>15</sup> ~~as amended by [Commission Implementing Regulation (EU) 2020/1577<sup>16</sup>].~~

Presidency note:

A delegation has asked if there should be the reference to the latest version of the Combined Nomenclature.

The Combined Nomenclature is laid down in Council Regulation (EEC) No 2658/87. It is amended annually by Commission Implementing Regulations (i.e. there is every year a new Commission Implementing Regulation reproducing the whole Combined Nomenclature). Therefore, it is not recommended to refer to the latest version of the Combined Nomenclature as laid down in the latest Commission Regulation.

Where the Regulation referred to in the first subparagraph of this paragraph 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 27 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

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<sup>15</sup> 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).

<sup>16</sup> ~~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).~~

provided for in the first subparagraph of this paragraph 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 out in this Directive or in the addition or removal of any energy products and electricity.

## CHAPTER II

### COMPUTATION OF EXCISE DUTIES

#### 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’ means 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 Value Added Tax.
3. The minimum levels of taxation laid down in this Directive shall be adapted every three years starting from [1 January 2038~~2041~~] 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). Those 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. **The change in percentage shall be calculated with one decimal. The amended tax rates after the calculated percentage are rounded to two decimals.**  
**In any case,** ~~E~~each of the three-year adaptations shall not exceed 10%.

Presidency note:

The Presidency has been made aware by a delegation that the indexation year has not been changed in line with changes in Annex I.

In WK 2659 from 6 February 2024, following was stated ‘Annex I concerning the minimum rates provides tax rates until the 1st of January of 2033, so the first year that the indexation will take place is 2036. No indexation will take place during the transitional period (until 2035).’ The Presidency has not found another compromise text stating a change in that intention.

In WK 5373 from 17 April 2024 the transitional period in Annex I was updated from 2026-2036 to 2028 to 2038. Similar changes to Article 4 in line with this update was not made, however it does not look like it was an active choice. To align with the previous timeline, the Presidency proposes to change ‘2038’ to ‘2041’ in Article 4(3).

The Presidency finds that it would be useful to clarify the amount of decimals being used in the indexation. The Presidency has found inspiration in this regard from their national legislation. To align the amount of decimals being used in the indexation, the Presidency also suggests ensuring that all tax rates in Annex I has two decimals. Therefore, extra decimals are added to tables B, E1 and F1 in Annex I.

4. The Commission is empowered to adopt every three years by 31 March a delegated act in accordance with Article 27 to amend the minimum levels of taxation as referred to in paragraph 3 **according to the automatic adaption mechanism laid down thereto**. 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 20~~40~~<sup>37</sup>].

Presidency note:

A delegation has requested to clarify the Commissions power to adopt a delegated act in accordance with Article 4(4). The Presidency therefore proposes to add ‘according to the automatic adaption mechanism laid down thereto’.

The Presidency proposes to change ‘2037’ to ‘2040’ due to the changes in Article 4(3). Please see the Presidency Note under Article 4(3).

## Article 5

### *Fiscal categories*

1. Energy products with the following uses shall be taxed independently from each other **as single use**:
  - (a) products used as motor fuels other than those referred to in points (b) and (d);
  - (b) products used as motor fuels for 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 each of the other specific purposes as referred to in paragraph 8~~5~~ of this Article, Article 12(3) and (7), Article 14(3), Article 15(1), Article 16 to Article 16e and Article 22.

~~The independent taxation of the different uses listed in points (a) to (d) shall be referred to as 'single use'.~~

#### Presidency note:

The Presidency proposes to delete the sentence 'The independent taxation of the different uses listed in points (a) to (d) shall be referred to as 'single use', as the Presidency has introduced a new definition of 'single use' in Article 3(4)(l).

The Presidency proposes to delete the last sentence in Article 5(1) regarding single use, as the Presidency has introduced a new definition of 'single use' in Article 3(4)(l).

The Presidency has not proposed to include 'single use' in the articles stated in Article 5(1), where an energy product is taxed as single use, as this is covered by Article 5(1).

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 under category 2 or category 3;
  - (b) category 2 shall include the following products where they do not fall under category 3:
    - (i) when used as motor fuels, low-carbon fuels and sustainable biofuels and biogas other than food and feed crop biofuels and biogas;
    - (ii) when used as heating fuels, low-carbon fuels and sustainable bioliquids and biogas other than food and feed crop bioliquids and biogas;
  - (c) category 3 shall include renewable fuels of non-biological origin, advanced and intermediate 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 within the same category shall be equal or superior to the corresponding minimum level of taxation laid down in Annex I in relation to that use, except in the case of the specific purposes referred to in paragraph 1, point (d);
  - (b) the rate applied to each energy product within 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 paragraph ~~85~~ of this Article, Article 12(3) and (7), Article 13(1), Article 14(1), Article 15(1), Article 16-16(c) and 16(e) and Article 22 shall ~~also~~ be considered as single use.
5. Member States may apply specific levels of taxation, which shall not be set below the minimum levels of taxation set out in Table D of Annex I, to **the following single uses** electricity used for charging electric vehicles, and electric or hybrid electric vessels and aircraft, or for heating purposes. Member States may limit the scope of this paragraph based on the characteristics of the recharging points or specific heating systems.

Presidency note:

The term ‘other than those covered by Articles 13 and 14’ has been taken in and out of the compromise text and delegations has raised objections to both. All agree that it should be clear what is taxed and what is exempted.

Article 5 concerns fiscal categories and general tax rates etc. are reflected in this Article. Article 5(5) therefore covers both vehicles, vessels and aircraft and heating purposes. The aim of the Article is to allow differentiated taxes on electricity for certain purposes.

Article 13 and 14 concerns specifically energy products and electricity used for air and waterborne navigation and lays out certain uses exempt from taxation or that can be subject to reductions in the level of taxation.

The Presidency finds that it is sufficiently clear that when a use is exempted according to e.g. Articles 13 and 14, there will not be an obligation for Member States to apply electricity tax according to Article 5(5). When a Member State applies exemptions according to Article 16c, the content of Article 5(5) will also be indifferent for those specific uses covered by the exemption.

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.

6. From [1 January 2028 to 31 December 2035], where the rules referred to in paragraph 3, point (b), are not applied 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.

Presidency note:

Some delegates have requested that the change regarding non-fossil low-carbon hydrogen is reflected in Annex II. However, we do not find that it should be reflected here, as it is an option for Member States and not a part of the categories as such. Some delegates have requested that the change regarding non-fossil low-carbon hydrogen is reflected in Annex II. However, we do not find that it should be reflected here, as it is an option for Member States and not a part of the categories as such.

- 7. By way of derogation from Article 5, paragraph 2, point (b), Member States may decide to include non-fossil low-carbon hydrogen and non-fossil synthetic low-carbon fuels in category 3.** ~~These energy products are based primarily on renewable and clean electricity.~~

Presidency note:

Article 5a(3) has been moved to a new Article 5(7), as the provision does not include a transitional period. The last sentence of the new Article 5(7) has been deleted, as the sentence does not add any value.

#### *Article 5a*

##### ***Fiscal categories during transitional periods***

1. By way of derogation from Article 5, paragraph 2, point (a), ~~and~~ paragraph 3, point (b), and paragraph ~~5~~**6**:
- a) the minimum levels of taxation for natural gas and liquefied petroleum gas:
- i) when used as motor fuel, shall be fixed as set out in Table E1 of Annex I.
  - ii) when used as motor fuel for the purposes of Article 8(2), shall be fixed as set out in Table E2 of Annex I.

- iii) when used as heating fuel, shall be fixed as set out in Table E3 of Annex I.
- b) the minimum levels of taxation for sustainable food and feed crop biofuels and biogas:
  - i) when used as motor fuel, shall be fixed as set out in Table F1 of Annex I.
  - ii) when used as motor fuel for the purposes of Article 8(2), shall be fixed as set out in Table F2 of Annex I.
  - iii) when used as heating fuel, shall be fixed as set out in Table F3 of Annex I.

However, the applied tax rate according to points a) and b) shall not be lower than the rate applied by the Member State for products in accordance with category 2 in respectively Table A, Table B and Table C of Annex I.

- 2. By way of derogation from **Article 5**, paragraph 2, point (b), Member States may decide to include, from [1 January 2028 to 31 December 2037], low-carbon fuels and sustainable biofuels, bioliquids and biogas other than food and feed crop biofuels, bioliquids and biogas, where used as motor or heating fuels, in category 3.
- ~~3. By way of derogation from Article 5, paragraph 2, point (b), Member States may decide to include non fossil low carbon hydrogen and non fossil synthetic low carbon fuels in category 3. These energy products are based primarily on renewable and clean electricity.~~

Presidency note:

Please see the presidency note under Article 5(7).

#### *Article 5b*

#### ***Mixed energy products***

Where an energy product consists of one or more energy products taxation of those components shall be determined accordingly on the basis of this Directive, independently of the CN code under which the energy product falls as a whole. Alternatively, Member States may:

- (a) assess the content of all or some energy products on an average basis, in which case Member States shall define the scope of that average in a coherent, transparent and non-discriminatory manner or;

- (b) tax the whole energy product in accordance with the rate of the component falling within the highest rate category, and Member States may reimburse the difference where the person liable to pay the excise duty proves the composition of the products released for consumption.

Presidency note:

At WPTQ on 5th September a delegation raised a question on the possibility to use both the component-based taxation as well as the average-based taxation in point (a) and the 'highest rate'-taxation in point (b).

It is the Presidency's view that a Member State can choose to use all three options at the same time. Maybe a Member State prefer the component-based taxation for motor fuels but the highest rate-taxation for gas from the gas network.

Another delegation asked if the tax related to a part of a mixed energy product could be reimbursed at the source, e.g. fuel supplier. The Presidency finds that this is possible as the component-based taxation would allow for this.

## *Article 6*

### ***Application of exemptions and reductions***

1. Member States shall be free to give effect to the exemptions or reductions in the level of taxation prescribed by this Directive as follows:
  - (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 that 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 of [1 January 2028], [1 January 2033] and [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 as 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 of [1 January 2028], [1 January 2033] and [1 January 2038], respectively.

2. Paragraph 1 shall apply to the following purposes:
- (a) agricultural, horticultural or aquaculture works and forestry;
  - (b) stationary motors;
  - (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 fuel as 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 of [1 January 2028], [1 January 2033] and [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 of [1 January 2028], [1 January 2033] and [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 average 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 the national currency.

### Section 3

#### Special provisions for ~~certain~~ specific uses and reduced rates

##### Article 12

##### *Products used in the energy sector*

1. Member States shall exempt from taxation:
  - (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.

Where 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 those products.

3. For reason of environmental policy including climate policy, Member States 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. Notwithstanding paragraphs 1, 2 and 3 of this Article, Member States shall in accordance with Articles 13 and 14 tax the products referred to in Article ~~32~~(1) and (3) used on board vehicles,

vessels and aircraft and exempt from taxation 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 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.

Where 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. For reason of environmental policy including climate policy, Member States may consider the consumption of energy products and electricity referred to in paragraph 5, first subparagraph, 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.

8. 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.

***Energy products and electricity used for air navigation***

1. Member States shall exempt the following products from taxation for the purpose of air navigation:

(a) energy products supplied for use as fuel, and

(b) electricity used directly for charging electric or hybrid aircraft.

This exemption does not apply when those aircraft ~~primarily~~ are used for the carriage of ~~passengers~~ **persons, including empty flights**, and have 19 **seats** or less ~~seats~~, with the exception of those used ~~by~~ **for** ~~scheduled commercial flights~~ **air service**, armed forces, other national security forces, search and rescue services and public authorities.

Presidency note:

In the last WPTQ several delegations raised concerns about the added 'primarily'. The Presidency therefore proposes to delete it again.

However, to tackle the concern of some delegations, the Presidency proposes to adjust from 'passengers' to 'persons' and specifying that such aircraft used for carriage of person and have 19 seats or less would be covered also when flying without persons. With the change from 'passengers' to 'persons' the aim is to ensure that the tax not only covers flights with persons who have bought a ticket, but also flights where the persons onboard has not bought a ticket.

A delegation has proposed to change in the exemption from taxation 'scheduled commercial flights' to 'scheduled air service'. 'Scheduled commercial flights' is to the knowledge of the Presidency not defined in EU acts, whereas 'scheduled air service' is defined in Article 2 (16) of Regulation 1008/2008.

In that provision, 'scheduled air service' is defined as a series of flights possessing all the following characteristics: (a) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents); (b) it is operated so as to serve traffic between the same two or more airports, either according to a published timetable, or with flights so regular or frequent that they constitute a recognisably systematic series.

The Presidency finds, that including 'scheduled air service' in the exemption will ensure legal clarity of what is exempted from taxation and what is covered by taxation.

2. For the purposes of the second subparagraph of paragraph 1 of this Article, ‘seat’ means the maximum operational passenger seating configuration (MOPSC) as defined in point (7447) of Annex I to Commission Regulation (EU) No 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 **or multilateral** agreement with another Member State **or third country**, 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.

Presidency note:

A delegation has requested in Article 13(3) and 14(2) to add that a Member State may waive the exemptions in paragraph 1 of those Articles, also when entering into multilateral agreements and that those bilateral or multilateral agreements can be made also with third countries.

A delegation has asked if paragraph 3 narrows the scope of the exemption in paragraph 1. The scope is narrowed in the same way as in the current Directive, which means that a Member State may decide to narrow the scope of the exemptions. However, it has no effect on the exemption from tax on fuel supplied in other Member States. It is the same for Article 14.

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

#### *Article 14*

##### ***Energy products and electricity used for waterborne navigation***

1. Member States shall exempt the following products from taxation for the purposes of navigation within Union waters (including fishing):
  - (a) energy products supplied for use as fuel, and
  - (b) electricity used directly for charging electric or hybrid vessels.

The exemption does not apply for 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 **or multilateral** agreement with another Member State **or third country**, 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.

Presidency note:

For the changes in paragraph 2, please see the Presidency note to Article 13.

3. Without prejudice to other provisions of Union law, Member States may apply total or partial exemptions from, 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 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 for the purpose of waterborne navigation and, where appropriate, submit a legislative proposal to that effect.

#### *Article 15*

##### ***Exemptions and reduced rates depending on the product***

1. Member States may apply total or partial exemptions from, 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 abandoned 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/EU of the European Parliament and of the Council<sup>17</sup>;
- (d) renewable fuels of non-biological origin, advanced and intermediate 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 of electricity referred to in paragraph 1, point (b).

*Article 16*  
**General differentiations**

1. By way of derogation from Article 5(1) and (4) and respecting the minimum levels of taxation set out in Annex I, Member States may apply differentiated tax rates **as single uses**:
- (a) that are directly linked to product quality;
- (b) for heating fuels and electricity:
- (i) depending on quantitative consumption levels;

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<sup>17</sup> 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)

(ii) for business and non-business use.

Member States may also limit the scope of the differentiated levels of taxation for subcategories (a), ~~and~~ (b) **(i) and (ii)** above.

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

Presidency note:

A delegation asked for it to be clearer that the option to limit the scope of the differentiation in paragraph 1 is applicable for also (i) and (ii). The text is adjusted to reflect that.

A delegation has asked what a differentiation could be linked to product quality mentioned in paragraph 1(a)). It could be for example a differentiation based on the amount of lead in petrol.

2. For the purposes of paragraph 1 and Article 16 d, ‘business entity’ means an entity which complies with the criteria under paragraph 4, which independently carries out, in any place, the supply of goods and services, ~~whatever~~ **regardless of** the purpose or results of such economic activities.

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

States, regional and local government authorities and other bodies governed by public law shall not be considered business entities in respect of the activities or transactions in which they engage as public authorities. However, where 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.

4. A business entity shall not be considered smaller than a part of an enterprise or a legal entity that from an organisational point of view constitutes an independent business, meaning 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.

*Article 16a*

***Reductions for transport***

1. Without prejudice to Article 5(3), Member States may apply reductions in the level of taxation, which shall not go below the minimum levels of taxation as set out in Tables B, E2, F2 and D of Annex I, to energy products and electricity used for:
- the carriage of goods and passengers by rail, metro, tram and trolley bus and for other regular public **or special regular** passenger road transport,
  - waste collection, armed forces and public administration,
  - 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 and for other regular public **or special regular** passenger road transport, the minimum level of taxation of electricity shall be set to 0 EUR/GJ from [1 January 2028 to 31 December 2032].

Presidency note:

In the last WPTQ several delegations highlighted that it was important to include school busses in the scope of the exemption for public transport.

As stated in the compromise text from 30 July 2025, 'regular service' is transport available for general public use, following a set schedule and route. 'Special regular services' is limited to carry specific categories of passengers and covers e.g. the transport of workers or schoolchildren. The Presidency therefore proposes that the scope of the exemption for public transport should be both regular public and special regular passenger road transport.

- 2. Member States may apply reductions in the level of taxation of energy products and electricity used for taxis which shall not go below the minimum levels of taxation as set out in Tables A, E1, F1 and D of Annex I.**

Presidency note:

In WPTQ several delegations highlighted that it was important that Member States was able to apply a lower tax rate for taxis than for private road transport.

The Presidency suggests adding an option to differentiate the tax on energy products and electricity for taxis as a single use. This will pass on the option from the current Directive, where a differentiated tax rate which shall respect the rates in Tabel A can apply for taxis.

- ~~23.~~ 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 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.

#### *Article 16b*

##### ***Exemption and reduced rates for combined heat and power production and households***

1. Without prejudice to Article 5(3), Member States may apply 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 this Directive:

- (a) to energy products and electricity used for combined heat and power generation, without prejudice to Article 12 of this Directive.

However, the minimum level of taxation shall be set ~~to~~at 0 EUR/GJ from [1 January 2028 to 31 December 2032] ~~to~~for 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.

- (b) 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.

2. For the purpose of paragraph 1, b) the following minimum levels of taxation shall apply:
  - a) for energy products falling within category 1, the minimum level of taxation shall be set at [0 EUR/GJ] from [1 January 2028 to 31 December 2032] and at [0,52 EUR/GJ] from [1 January 2033 to 31 December 2037];

- b) for energy products falling within category 2, the minimum level of taxation shall be set at [0 EUR/GJ] from [1 January 2028 to 31 December 2032] and at [0,26 EUR/GJ] from [1 January 2033 to 31 December 2037];
- c) for energy products falling within category 3 and electricity, the minimum level of taxation shall be set at [0 EUR/GJ] from [1 January 2028 to 31 December 2032] and at [0,09 EUR/GJ] from [1 January 2033 to 31 December 2037];
3. Energy products and electricity used by households that are recognised as vulnerable may be exempt from taxation from [1 January 2028 to 31 December 2047~~8~~].
4. For the purposes of paragraph 3, Member States shall lay 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.

Presidency note:

A delegation has raised a question regarding the length of the transitional period for the exemption in Article 16b(3) and in Article 16c(1).

The text was originally implemented into the compromise text stating that such exemptions or reductions could be applied” up until [20 years after the entry into force of this Directive.], which was changed to dates in WK 9510 of 2 July 2024. However, it seems that these changes by mistake was made to 21 years when the period was translated to definite years for both what is currently Article 16b(3) and 16c(1).

The Presidency proposes to align the transitional period with the intention by changing it back to 20 years, thereby ending the transitional period by the end of 2047 instead of 2048.

*Article 16c*

***Exemptions and reduced rates for households in certain Member States***

1. Without prejudice to Article 5(3), Member States which have a chain linked volume of real gross domestic product measured in euro per capita of less than 60% of the EU-27 average may apply exemptions and reductions in the level of taxation of energy products and electricity without prejudice to the minimum levels of taxation as set out in Tables C, E3, F3 and D of Annex I to this Directive from [1 January 2028 to 31 December 2047~~8~~] when:

- a) used by households in those Member States;
- b) used for combined heat and power generation for households in those Member States.

Presidency note:

The Presidency proposes to change '2048' to '2047' to align with the agreed transitional period of 20 years. Please see further explanation in the Presidency note under Article 16b.

- 2. The chain linked volume of real gross domestic product measured in euro per capita and the EU-27 average taken into consideration will be those for [the penultimate year before the entry into force of this Directive].

#### *Article 16d*

##### ***Exemptions and reductions for businesses***

- 1. 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 (b) and (c), and on electricity, in the following cases:
    - (i) in favour of energy-intensive business; or
    - (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 for 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.

~~(c) total or partial exemptions or reductions in the level of taxation to energy products and electricity used for agricultural, horticultural or aquaculture works and forestry until 31 December 2037.~~

2. For the purposes of the first paragraph, ‘energy-intensive business’ means a business entity 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. ~~For the purpose of this definition,~~ Member States may apply more restrictive concepts **for this definition**, including sales value, process and sector definitions.
3. For the purposes of the second paragraph, ‘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 **(ba)** and **(cb)**, are included. All taxes are included, except deductible **VAT Value Added Tax**.

Presidency note:

Article 16d(3) has been modified to correctly refer to Article 8(2), points (b) and (c), instead of points (a) and (b).

4. For the purposes of the second paragraph, ‘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.
5. For the purposes of the second paragraph, ‘added value’ means the total turnover liable to **VAT Value Added Tax** including export sales minus the total purchases liable to Value Added Tax including imports.

6. For the purposes of the first paragraph ‘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<sup>18</sup>.

**7. Member States may apply total or partial exemptions or reductions in the level of taxation to energy products and electricity used for agricultural, horticultural or aquaculture works and forestry until 31 December 2037.**

Presidency note:

A delegation found some unclarity about the connection between Article 8 and the transitional period for agriculture etc.

The Presidency suggests writing the provision in its own paragraph. In the Presidency’s view energy products and electricity used in agriculture etc. can be totally or partially exempt until the end of 2037. From 1 January 2038, the regular tax rates in Articles 8-10 applies for energy products and electricity used in agriculture etc. The Presidency does not see a need to clarify it further in the provision.

*Article 16e*

***Exemptions and reductions for electricity in aircraft and vessels used for other purposes than navigation***

Member States may apply total or partial exemptions from, or reductions in the level of taxation, ~~to~~ **for** electricity used for purposes other than navigation:

- (a) supplied through a standardised fixed or mobile interface to aircraft where those aircraft are stationed at the gate or at an airport outfield position.
- (b) directly supplied to vessels berthed at ports.

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<sup>18</sup> 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).

Article 17

***Reduced rates and exemptions for specific policy considerations***

1. In the context of the implementation of the Directive, the Council, acting by unanimity on a proposal from the Commission, may adopt implementing acts, authorising a Member State to introduce further exemptions or reductions ~~for~~ **in the light of** specific policy considerations.

A Member State wishing to introduce such measures shall inform the Commission and provide it with all the 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 the relevant and necessary information, the Commission shall either present a proposal for the authorisation of ~~that~~ **the** measure by the Council or inform the Council of the reasons why it has not proposed the authorisation of ~~such~~ **the** 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. 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, environmental protection, energy and transport, it shall submit a proposal **for withdrawal of the authorisation** to the Council. The Council, acting by unanimity, 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 may be used only once during a period of twelve months starting from the first day of application of the reductions in the level of taxation.

### CHAPTER III SPECIAL PROCEDURAL PROVISIONS

#### *Article 18*

##### *Control and movement provisions*

1. Only the following energy products shall be subject to Chapter III, Chapter IV, Articles 33 to 43 and Articles 45 ~~to~~ **and** 46 of Directive (EU) 2020/262 (the control and movement provisions):
  - (a) products falling within CN codes 1507 to 1518, where they are intended for use as heating fuel or motor fuel;
  - (b) products falling within CN codes 2207 20, where they 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, where 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 where transported by pipelines;
  - (f) products falling within CN code 2804 10, where they are intended for use as heating fuel or motor fuel, except when transported by pipelines;
  - (g) products falling within CN code 2814, where they 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, where they are intended for use as heating

- fuel or motor fuel;
- (k) products falling within CN codes 2909 19 10 and, where 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, where they 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, where they 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 where they 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. **When CN codes 2711, 2804 10, and 2814 in liquified or compressed form depart from a duty suspension arrangement as described in Article 6(3)(a) of Directive (EU) 2020/262 and thereafter fed into a public gas network in gaseous state, this shall not be regarded as a chargeable event but will instead be covered by Article 19.**

Presidency note:

A delegation has raised a concern regarding the treatment of CN codes 2711, 2804 10, and 2814 in regard to Article 18.

According to Article 18 products falling within CN codes 2711, 2804 10, and 2814 will be covered by the procedural provisions in the Horizontal Directive, except when these products are transported by pipelines. When transported by pipelines, national procedural legislation will be applicable in accordance with Article 19.

Several Member States has already experienced that this may be complicated to administrate. In the current Directive liquefied biogas (CN code 2711 19 00) is covered by the procedural provisions in the Horizontal directive, whilst gaseous biogas (CN Code 2711 29 00) is not. This is difficult to administrate, especially for small operators. In accordance with the current proposal, LNG (and LBG) transported on trucks or ships shall be reported in EMCS, and the storage should take place in tax warehouses etc. When LNG is imported it must be dispatched by registered consignor and so on. This as such should not be more problematic for LNG and LBG than for other liquid fuels.

This also means that as regards LNG and LBG, excise duty shall become chargeable at the time, and in the Member State, of release for consumption. In normal cases this means the departure of excise goods from a duty suspension arrangement. However, it must be clarified in ETD or in the Horizontal Directive that when LNG or LBG is released from a tax warehouse and thereafter fed into a pipeline in gaseous state, this should not be regarded as such departure from the duty suspension arrangement that is a chargeable event in the first place.

In a corresponding manner, when natural gas or biogas that is removed from the pipeline and liquified (or compressed) for a subsequent transport on trucks or ships, the LNG or LBG will again be covered by the Horizontal directive. Hence, in this case tax should not become chargeable when the gas is taken from the pipeline.

The Presidency proposes to introduce in Article 18(2) and 19(7) provisions handling the chargeable event for these specific cases to ensure that tax is only paid when the energy product is actually released for consumption.

23. If a Member State ~~finds~~ **detects** 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~~ **inform** the Commission **of their findings** forthwith. This provision shall also ~~apply~~ **applies** to electricity. The Commission shall ~~transmit~~ **forward the** ~~that communication~~ **information regarding the findings** to the other Member States within one month of ~~its receipt~~ **receiving it**. Within two

months of the Commission's 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~~ **based on** the views ~~received from~~ **of** 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 Chapter III, Chapter IV, Articles 33 to 43 and Articles 45 ~~to~~ **and** 46 of Directive (EU) 2020/262 are to apply to the products concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2) of this Directive.

- 34.** 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 of this Directive. Those 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.

Presidency note:

A delegation has proposed to update the reference to Articles 7 to 9 in Article 18(4). Article 20(3) in the current Directive regarding bilateral and multilateral agreements writes as follows 'insofar as they are not covered by Articles 7 to 9 of this Directive'.

The Presidency agrees on the need for an update and would like to invite delegations to reply to the following question: Which articles do the delegations consider should be covered by the exemption, and – for the delegations with such agreements – which energy products are covered by such bilateral or multilateral agreements today?

- 45.** By way of derogation from paragraph 1 Member States may, pursuant to bilateral or multilateral agreements, apply the control and movement provisions to non-bulk commercial movements of products listed in points (d), ~~and (l)~~ **and (n)**. 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.

Presidency note:

A delegation has requested to include paragraph 1(n) in paragraph 5 (previously paragraph 4) to align the provisions in paragraph 1 concerning bulk commercial movement.

Article 19

***Taxable event and chargeability for specific products***

1. In addition to the general provisions defining the chargeable event set out in Article **6, 8 and 9** of Directive (EU) 2020/262 and the provisions for payment set out in Article ~~7 to 9~~, Article 11 and Article 13 of 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.

Presidency note:

The Presidency proposes to adjust the provisions in Directive (EU) 2020/262 referred to in paragraph 1 to better reflect the most relevant articles defining chargeable event and provisions

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 where they supply electricity.

Any natural or legal person producing electricity for its own use shall be considered a distributor. ~~The distributor or redistributor means the natural or legal person who delivers the electricity and carries out invoicing or arranges for invoicing to be carried out.~~

Presidency note:

The Presidency proposes to remove the definition of distributor and redistributor, as several delegations had different concerns which gave the impression that the definitions has not led to the intended clarity.

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 in accordance with 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 a distributor. ~~The distributor or redistributor means the natural or legal person who delivers the gas and carries out invoicing or arranges for invoicing to be carried out.~~

**7. When CN codes 2711, 2804 10, and 2814 in gaseous form are taken from the public gas network and transformed into liquefied or compressed form, the gas shall not become chargeable but will instead be covered by Article 18.**

See Presidency Note for Article 18(2) and 19(4).

**78.** 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 in accordance with this paragraph.

**89.** 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.

**910.** Products falling within CN codes 2703 shall 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.

*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 that have been sent back to a tax warehouse for recycling.
2. Where 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 of each year.
2. Where the levels of taxation applied by the Member States are expressed in units other than Euro/Gigajoule, Member States shall inform the Commission of the corresponding levels of taxation following conversion into those units.
3. By [30 September] of each year, Member States shall inform the Commission of the available information from the previous calendar year as regards the quantities subject to different tax rates and the available information concerning the quantities of products to which the exemptions laid down in national law have been applied. Those quantities shall be expressed in Gigajoules.

*Article 24*

***Information about measures that are considered State aid***

1. Member States shall inform the Commission of measures taken pursuant to Articles 12 to 17.
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. In such cases, those measures shall

comply with the regulations adopted by the Commission pursuant to Article 108(4) TFEU, or shall be notified to the Commission pursuant to Article 108(3) TFEU.

- Information provided to the Commission in accordance with this Directive does not exonerate Member States from the notification obligation pursuant to Article 108(3) TFEU.

#### *Article 25*

##### ***General implementation***

- In the implementation of the Directive, Member States shall, under fiscal control, ensure the correct and straightforward application of the Directive and prevent any evasion, avoidance or abuse.
- The exemptions provided for in this directive shall apply in addition to those provided for in Directive (EU) 2020/262.** ~~The general provisions set out in Directive (EU) 2020/262 on exempt uses of taxable products shall apply in addition to the exemptions provided for in this Directive.~~

Presidency note:

The Presidency proposes to rewrite Article 25(2) in order to clarify the relation between the ETD proposal and Directive (EU) 2020/262, and to ensure that there is clarity when implementing this Directive.

#### *Article 26*

##### ***Committee procedure***

- 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 of the European Parliament and of the Council<sup>19</sup>.
- Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

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<sup>19</sup> 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).

## Article 27

### *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 on 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-Making<sup>20</sup>.
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.

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<sup>20</sup> OJ L 123, 12.5.2016, p. 1.

**CHAPTER V**  
**FINAL PROVISIONS**

*Article 28*

***Transposition***

1. Member States shall adopt and publish by [OJ, please insert **1 January** 2 years after adoption], 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(~~23~~) and (~~45~~), Article 19(1) and (3) to (~~40~~**11**), Article 21(2), Article 23(1) and (3), Article 24, Article 28, Articles 30 to 32 and Annex I to III and shall immediately communicate the text of those measures to the Commission.
2. They shall apply those measures from [OJ, please insert **1 January** 4 years after adoption].
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.

Presidency note:

A delegation has requested that it is stated that the dates in Article 28(1) and (2) shall be set to 1 January in any given year. The Presidency proposes these changes.

Adjustments to references in Articles 18 and 19 are proposed to align with these Articles.

## *Article 29*

### ***Reporting***

1. 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.
2. The report by the Commission shall, inter alia, examine:
  - (a) the minimum levels of taxation,
  - (b) the impact of innovation and technological developments, in particular as regards energy efficiency,
  - (c) the use of electricity in transport and
  - (d) the justification for the exemptions, reductions and differentiations laid down in this Directive.
3. 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 30*

### ***Repeal***

1. Directive 2003/96/EC as amended by Directives 2004/74/EC and 2004/75/EC is repealed with effect from [OJ, please insert 4 years after adoption], 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 those Directives.
2. Commission implementing Decisions (EU) 2018/552<sup>21</sup> and (EU) 2022/2521<sup>22</sup> are repealed with the effect from [OJ, please insert 4 years after adoption].
3. References to the Directives 2003/96/EC, 2004/74/EC and 2004/75/EC shall be construed as references to this Directive and shall be read in accordance with the correlation table in [Annex IV].

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<sup>21</sup> (OJ L 91, 9.4.2018, p. 27)

<sup>22</sup> (OJ L 326, 21.12.2022, p. 57-58)

*Article 31*

***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(~~34~~), Article 19(2), Article 20, Article 21(1) and Article 23(2), which are unchanged by comparison with Directive 2003/96/EC, shall apply from [1 January 2028].

*Article 32*

***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	[0,90]	[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 referred to in Article 5(1), point (c), for the purpose of Article 9 (in EUR/GJ net calorific value)

Category	1. 1.2028	1.1.2033	1.1.2038
1	[0,90]	[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 referred to in Article 5(4) for the purpose of Article 10 (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 referred to in Article 5a(16), point (a)(i), 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]	[9,00]

Table E2. — Minimum levels of taxation applicable to natural gas and liquefied petroleum gas used as motor fuels referred to in Article 5a(16), point (a)(ii), 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]

Table E3. — Minimum levels of taxation applicable to natural gas and liquefied petroleum gas used as heating fuels referred to in Article 5a(16), point (a)(iii), 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 referred to in Article 5a(16), point (b)(i), 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]	[9,00]

Table F2. — Minimum levels of taxation applicable to sustainable food and feed crop biofuels and biogas used as motor fuels referred to in Article 5a(16), point (b)(ii), 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 referred to in Article 5a(16), point (b)(iii), 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
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	21,3 GJ/1000 l

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	ex.2705 00 00	Coke oven gas	1	38,7 GJ/1000 kg

17		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	28,0 GJ/1000 kg
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 GJ/1000 l
32		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of petrol  (sustainable, other than food and feed crop)	2	
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	
35		Fischer-Tropsch petrol  (sustainable, other than food and feed crop)	2	33 GJ/1000 l
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	ex.2710 19 21	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		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  33 GJ/1000 l
46		Fischer-Tropsch jet fuel (sustainable, other than food and feed crop)	2	
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	Gas oils excluding items 50 to 58	1	43 GJ/1000 kg

	ex.2710 19 48, 2710 20 11 to 2710 20 19			36 GJ/1000 l
50		Hydrotreated oil of biomass origin to be used for replacement of diesel excluding items 51 and 52	1	44 GJ/1000 kg
51		Hydrotreated oil of biomass origin to be used for replacement of diesel (sustainable, other than food and feed crop)	2	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	43 GJ/1000 kg
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	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	
57		Fischer-Tropsch diesel (sustainable, other than food and feed crop)	2	44 GJ/1000 kg
58		Fischer-Tropsch diesel (advanced sustainable or renewable of non-biological origin)	3	34 GJ/1000 l
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 GJ/1000 kg
64	ex.2711 19 00	Methane liquefied	1	50 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 1
67	ex.2711 19 00	Liquified raw biogas excluding items 68 and 69	1	30 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 ex.2711 19	Hydrotreated oil of biomass origin to be used for replacement of LPG excluding items 74 and 75	1	46 GJ/1000 kg	
74		Hydrotreated oil of biomass origin to be used for replacement of LPG (sustainable other than food and feed crop)	2		
75		Hydrotreated oil of biomass origin to be used for replacement of LPG (advanced sustainable)	3		
76		ex.2711 12 to ex.2711 19	Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG excluding items 77 and 78	1	46 GJ/1000 kg
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	
78			Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG (advanced sustainable)	3	
79		ex.2711 12 to ex.2711 19	Fischer-Tropsch LPG excluding items 80 and 81	1	46 GJ/1000 kg
80			Fischer-Tropsch LPG (sustainable other than food and feed crop)	2	
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	50 GJ/1000 kg	
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	ex 2905 13 00 and ex 2905 14	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	33 GJ/1000 kg  27 GJ/1000 l
107		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	
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	36 GJ/1000 kg  27 GJ/1000 l
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	
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		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	ex.2909 19 90	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	36 GJ/1000 kg  28 GJ/1000 l
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	

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 19 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	38 GJ/1000 kg
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	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	28 GJ/1000 kg
128		Dimethylether (DME) (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	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 11 00 to ex.3403 19 80	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals	1	40,2 GJ/1000 kg

131	ex.3824 99 92	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	ex 3826 00 10	Biodiesel - fatty acid methyl esters (FAME) if these are intended for use as heating fuel or motor fuel excluding items 133 and 134	1	37 GJ/1000 kg
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	
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
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	

### ANNEX III

#### FEEDSTOCK FOR THE PRODUCTION OF 'ADVANCED AND INTERMEDIATE BIOFUELS, BIOLIQUIDS AND BIOGAS' AS REFERRED TO IN ARTICLE ~~32~~(4)(A) ~~AND (F)~~

##### Part A

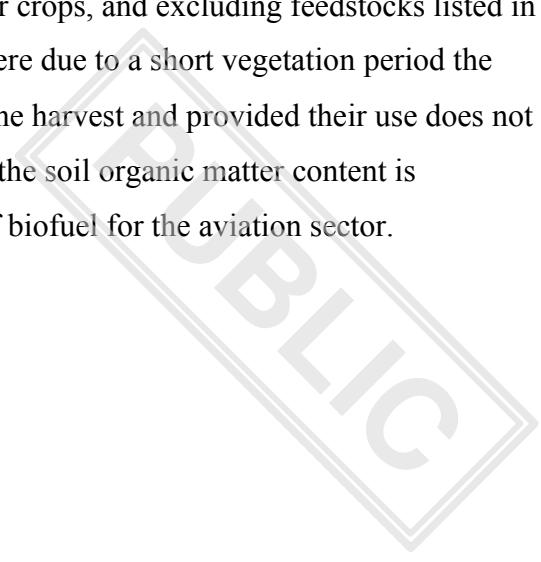
- Algae if cultivated on land in ponds or photobioreactors;
- Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets under point (a) of Article 11(2) of Directive 2008/98/EC;
- Biowaste as defined in point (4) of Article 3 of Directive 2008/98/EC from 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.



**ANNEX IV**  
**CORRELATION TABLE**

<b>Directive 2003/96/EC</b>	<b>This Directive</b>
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

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