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NOTE

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

Delegations will find attached the Presidency's compromise text.

Draft

COUNCIL DIRECTIVE

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

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Parliament,

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

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Directive 2003/96/EC¹ has been substantially amended several times². Since further amendments are to be made, that Directive should be recast in the interests of clarity.

¹ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

² See Article 30.

- (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 environmental protection requirements, in particular, in light of the Kyoto Protocol to the United Nations Framework Convention on Climate Change³.
- (3) It is necessary to ensure that legal certainty in relation to taxation rules for energy products and electricity continues 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’⁴. 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.

³ 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>).

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

- (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.
- (7) As a Party to the United Nations Framework Convention on Climate Change, the Union has ratified the Paris Agreement⁵. The taxation of energy products and, where appropriate, electricity can 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 energy products.

⁵ 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>).

- (12) The energy content used to calculate the minimum levels should be the standard values laid down in Annex II. However, where measured values that more accurately reflect the net calorific value for energy product falling within CN codes 2701, 2702, 2704, 2711 11 00, 2711 12 to 2711 19 00, 2711 21 00, 2711 29 00, and 2714 10 are available, Member States should be allowed to use such different specific values deviating from the values in Annex II. For these listed energy products, it is known that measured values can reflect the net calorific value more accurately. Where the use of such measured values for other energy products would allow for more accurate taxation based on energy content it may be proposed to amend the directive as appropriate.
- (13) 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.
- (14) 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.
- (15) The minimum levels of energy taxation should be regularly and automatically updated following a harmonised procedure to ensure 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.
- (16) 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.

- (17) In order to ensure a smooth implementation of certain provisions relating to some products or uses, transitional periods of application are needed.
- (18) 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).
- (19) 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.
- (20) Energy prices are key elements of energy, transport and environment policies in the Union.
- (21) Output taxation of heat should be outside the scope of this Directive, as heat is only subject to very limited intra-Union trade.
- (22) 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.
- (23) Peat should be outside the scope of this Directive until 31 December 2042. From 1 January 2043 peat will be covered by this Directive, if those products are used as heating fuel in installations with a total rated thermal input equal to or exceeding 7,5 MW.

(24) 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.

(25) 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.

(26) 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.

- (27) 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.
- (28) 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 in the Directive to differentiate for example between tax level of electricity used for charging vehicles and for heating purposes.
- (29) 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. Taxing electricity amongst the least taxed energy sources can foster its use, in particular in the transport sector.
- (30) 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.
- (31) 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.

- (32) 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.
- (33) 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.
- (34) The exemption for waterborne navigation in Union waters should not be applied for private pleasure waterborne navigation.
- (35) 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.
- (36) 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.

- (37) 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 renewable fuels of non-biological origin, biofuels, bioliquids and biogas from waste and residues, and advanced -biofuels, bioliquids, and biogas, 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.
- (38) 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 2042.
- (39) In order to promote and enhance the use of local public passenger transport and other public passenger road transport, Member States should be allowed to apply targeted reductions in the levels of taxation. Such public passenger road transport should be understood as ‘public regular services’ which is transport available for general public use following a set schedule and route, covering e.g. city busses, taxi, school busses and public transport by monorail. Member State should ensure the necessary measures to control public road transport operating as public regular services.
- (40) 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.
- (41) 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.

- (42) 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.
- (43) 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 State 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.

- (44) 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.

- (45) Due to the special treatment of certain products, different chargeability rules should apply to electricity, to gaseous products transported by pipelines and to coal. For certain energy products, it should be possible for Member States to lay down rules to avoid taxing the same product several times when it is transformed, e.g. from liquid to gaseous form.
- (46) 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.
- (47) The list of energy products subject to the control and movement provisions of Council Directive (EU) 2020/262⁶ 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.
- (48) 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 Council⁷.

⁶ 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).

⁷ 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).

- (49) 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.
- (50) 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.
- (51) In order to ensure that the references to Combined Nomenclature (CN) codes in this Directive, references made to the greenhouse gas emissions saving criteria set out in Article 29 of Directive (EU) 2018/2001 and references to the products in Annex IX to that Directive are updated 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-Making⁸. 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.

⁸ 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_interinst/2016/512/oj).

- (52) Member States shall adopt and publish legal acts necessary to comply with this Directive by 1 January of the year two years after adoption. This will ensure that Member States always have a minimum of 2 years to prepare the legal acts and ensure adoption thereof. The measures shall also apply from 1 January 4 years after adoption.
- (53) 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.
- (54) 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.
- (55) 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/EC⁹ and 2004/75/EC¹⁰,

⁹ Council Directive 2004/74/EC 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>).

¹⁰ Council Directive 2004/75/EC 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 Article 3(2).
2. However, this Directive, with the exception of Article 25, 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 Division 23 in Annex I to Council Regulation (EC) No 1893/2006¹¹, 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 Group 24.1, 24.4, 24.5 and powder metallurgy under Group 25.4 in Annex I to Council Regulation (EC) No 1893/2006, 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;
 - d) taxation of products falling within CN code 2703 until 31 December 2042.

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.

¹¹ 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)

2. Taxation shall be calculated in Euro/Gigajoule (EUR/GJ) on the basis of net calorific value as set out in Annex II.
3. Where measured values that more accurately reflect the net calorific value of an energy product are available for products falling within CN codes 2701, 2702, 2704, 2711 11 00, 2711 12 to 2711 19 00, 2711 21 00, 2711 29 00, and 2714 10 Member States may use such different specific values. Member States shall inform the Commission of such different specific values or interval of values before they are used.
4. 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 paragraph 2 and 3.
5. 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).
6. In cases where Annex II does not contain a net calorific value for the energy product concerned and a Member State does not use a net calorific value based on measured values for that energy product, Member States shall determine the conversion factor according to paragraph 5. Member States shall inform the Commission without delay of the conversion factor used.
7. A Member State may request an addition of a CN code to paragraph 3 of this Article. The request shall be sent to the Commission, who shall examine the request. The Commission may present a proposal to the Council to amend this directive as appropriate.

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/EC¹²;
- (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;
- (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;

¹² 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)

- (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 14, 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) ‘biofuels’ means liquid energy products used as motor fuels and produced from biomass;
- (b) ‘biofuels, bioliquids and biogas from waste and residues, and advanced biofuels, bioliquids and biogas’ means biofuels, bioliquids and biogas that are produced from feedstock listed in Annex III;

(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) ‘low-carbon fuels’ means recycled carbon fuels as defined in Article 2, point (35), of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70 % according to the methodology for assessing greenhouse gas emissions savings from low-carbon fuels, adopted pursuant to Article 9(5) of Directive (EU) 2024/1788;

(g) ‘Non-fossil low-carbon hydrogen’ means hydrogen which does not qualify as renewable fuel of non-biological origin and of which the energy content is derived from electricity, and which meets greenhouse gas emission reduction threshold of 70% according to the methodology for assessing greenhouse gas emissions savings from low-carbon fuels, adopted pursuant to Article 9(5) of Directive (EU) 2024/1788;

(h) ‘Non-fossil synthetic low-carbon fuels’ means fuels, the energy content of which is derived from non-fossil low-carbon hydrogen, which meets the greenhouse gas emission reduction threshold of 70% according to the methodology for assessing greenhouse gas emissions savings from low-carbon fuels, adopted pursuant to Article 9(5) of Directive (EU) 2024/1788;

(i) ‘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 emissions saving criteria as laid down in paragraph 5;

(j) ‘renewable fuels of non-biological origin’ means liquid and gaseous energy products used as motor and heating fuels, the energy content of which is derived from renewable sources other than biomass;

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

(l) ‘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 emissions saving criteria as laid down in paragraph 5;

(m) ‘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 emissions saving criteria as laid down in paragraph 5.

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

(o) ‘Waste’ means waste as defined in point (1) of Article 3 of Directive 2008/98/EC¹³, excluding substances that have been intentionally modified or contaminated in order to meet this definition.

¹³ European Parliament and Council Directive 2008/98/EC of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3)

5. For the purposes of points (i), (l), (m) 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), (l), (m) 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 (f), (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.

9. 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).
10. References in this Directive to codes of the Combined Nomenclature shall be to those of Commission Implementing Regulation (EU) No 2024/2522¹⁴, amending Annex I to Council Regulation (EEC) No 2658/87¹⁵.

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 shall 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 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.

¹⁴ Commission Implementing Regulation (EU) 2024/2522 of 23 September 2024 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L, 2024/2522, 31.10.2024)

¹⁵ 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).

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 and 6.
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 Annex I, tables A, B, C and D of this Directive shall be adapted every three years starting from [1 January 2038] to take into account the cumulative changes in the harmonised index of consumer prices excluding energy and unprocessed food as published by the Commission (Eurostat). 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 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. Arithmetic rounding is used in those calculations.

In any case, each of the three-year adaptations shall not exceed 10%.

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 according to the automatic adaption mechanism laid down thereto in paragraph 3. Member States shall apply the new minimum levels of taxation from 1 January of the year following the year of adoption of the respective delegated act. The first delegated act shall be adopted by [31 March of 2037].

Article 5

Fiscal categories

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 10(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 5 of this Article, Article 14(3) and (7), Article 16(3), Article 17(1), Article 18 to Article 23 and Article 29, including the subcategories of these articles.
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, biofuels, bioliquids and biogas from waste and residues, and advanced 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, without any reference to other fuels. The use of electricity for any other specific purposes as referred to in paragraph 5 of this Article, Article 14(3) and (7), Article 15(1), Article 16(1), Article 17(1), Article 18 to Article 21 and 23 and Article 29 shall be considered as single use, including the subcategories of these articles.
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.

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 2030 to 31 December 2035], where the rules referred to in paragraph 3, point (b), are not applied on [1 January 2030] for two products of different categories, the superiority of tax rates of those products shall be gradually achieved at least every second year.
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.

Article 6

Fiscal categories during transitional periods

1. By way of derogation from Article 5, paragraph 2, point (a), paragraph 3, point (b), and paragraph 6, Member States may apply from 1 January 2030 to 31 December 2042:
 - 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 10(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 10(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 2030 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.

Article 7

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. In addition, or alternatively, Member States may use one or several of the following systems:

- (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;
- (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;
- c) until 2035 tax the whole energy product in accordance with the rate of the main component.

Article 8

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 9

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 2030], [1 January 2034] and [1 January 2038], respectively.

Article 10

Products used as motor fuels for specific purposes

1. Notwithstanding Article 9, 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 2030], [1 January 2034] 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 11

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 2030], [1 January 2034] and [1 January 2038], respectively.

Article 12

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 2030], [1 January 2034] and [1 January 2038], respectively.

Article 13

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 specific uses and reduced rates

Article 14

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 15 and 16 tax the products referred to in Article 3(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 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 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.

Article 15

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 are used for the carriage of persons, including empty flights, and have 19 seats or less, with the exception of those used for scheduled air service as defined in Article 2(16) of Regulation 1008/2008¹⁶, armed forces, other national security forces, search and rescue services and public authorities.

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 (77) of Annex I to Commission Regulation (EU) No 965/2012¹⁷.
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, it may also waive the exemptions provided for in paragraph 1. In such cases, Member States may apply a level of taxation below the minimum level set out in this Directive.
4. In [2035], the Commission shall assess the option of amending this Directive 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.

¹⁶ European Parliament and Council Regulation (EC) No 1008/2008 of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (OJ L 293 31.10.2008, p. 3)

¹⁷ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1)

Article 16

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, it may also waive the exemptions provided for in paragraph 1. In such cases, Member States may apply a level of taxation below the minimum level set out in this Directive.

3. Without prejudice to other 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 17

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 Council¹⁸;
 - (d) renewable fuels of non-biological origin, biofuels, bioliquids and biogas from waste and residues, and advanced biofuels, bioliquids and biogas;
 - (e) products falling within CN code 2705 used as heating fuels.
2. Member States may also refund to the producer some or all of the amount of tax paid by the consumer of electricity referred to in paragraph 1, point (b).

Article 18

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

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

¹⁸ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1-56)

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

2. For the purposes of paragraph 1 and Article 22, '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, 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 19

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:
 - a) the carriage of goods and passengers by rail, metro, tram and trolley bus and for other public passenger road transport,
 - b) waste collection, armed forces and public administration,
 - c) 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 public passenger road transport, the minimum level of taxation of electricity shall be set to 0 EUR/GJ from [1 January 2030 to 31 December 2032].

2. From [1 January 2030 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 following purposes

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

Article 20

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 14 of this Directive.

However, the minimum level of taxation shall be set at 0 EUR/GJ from [1 January 2030 to 31 December 2032] 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 2030 to 31 December 2033] and at [0,52 EUR/GJ] from [1 January 2034 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 2030 to 31 December 2033] and at [0,26 EUR/GJ] from [1 January 2034 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 2030 to 31 December 2033] and at [0,09 EUR/GJ] from [1 January 2034 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 2030 to 31 December 2047].
 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.

Article 21

Exemptions and reduced rates for households in certain Member States

1. Without prejudice to Article 5(3) and by way of derogation from the minimum levels of taxation as set out in Tables C, E3, F3 and D of Annex I to this Directive, 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 from [1 January 2030 to 31 December 2047] when:

- a) used by households in those Member States;
 - b) used for combined heat and power generation for households in those Member States.
3. 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 22

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 10(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.

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. 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 10(2), points (b) and (c), are included. All taxes are included, except deductible Value Added Tax.
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 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 Council¹⁹.

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

7. By way of derogation from minimum levels set out in Tables B, E2, F2, C, E3, F3 and D of Annex I to this Directive 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 from 1 January 2030 until 31 December 2042.

Article 23

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, 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.

Article 24

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 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 the measure by the Council or inform the Council of the reasons why it has not proposed the authorisation of 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 25

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 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. If a Member State 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 inform the Commission of their findings forthwith. This provision also applies to electricity. The Commission shall forward the information regarding the findings to the other Member States within one month of receiving it. Within two months of the Commission's communication, the Member States shall communicate their views regarding the detected practice of evasion, avoidance or abuse concerning those energy products and electricity. Where the Commission, based on the views 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 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 33(2) of this Directive.
3. Member States may, pursuant to bilateral or multilateral arrangements, dispense with some or all of the control measures set out in Directive (EU) 2020/262 in respect of some or all of the energy products referred to in paragraph 1 of this Article, insofar as they are not listed in Annex IV 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.
4. 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), (l) and (n). Such agreements shall not affect Member States which are not party to them. All such bilateral or multilateral agreements shall be notified to the Commission, which shall inform the other Member States.

Article 26

Taxable event and chargeability for specific products

1. In addition to the general provisions defining the chargeable event set out in particular in Article 6, 8, 9 and 34 of Directive (EU) 2020/262 and the provisions for payment set out in particular in Article 7 of Directive (EU) 2020/262, the amount of taxation on energy products not referred to in Article 25(1) of this Directive shall also become due at the time they are intended for use, offered for sale or used as motor or heating fuels.
2. Member States may also provide that taxation on energy products and electricity become due when it is established that a final use condition laid down in national rules for the purposes of a reduced level of taxation, specific rate or exemption is not, or is no longer, fulfilled.
3. Articles 1 to 5, 11, and 52 of Directive (EU) 2020/262 shall apply to products referred to in paragraphs 4 to 6 and 8 to 10 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.

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 14(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.

7. For products falling within CN codes 2711, 2804 10, and 2814 Member States may determine the chargeable event when these products are transformed from liquid or compressed form to gaseous form and subsequently injected into a pipeline.

Member States may also determine the chargeable event when these products are taken out of a pipeline and subsequently transformed from gaseous form to liquid or compressed form.

The Member State shall ensure that the rules laid down according to this paragraph will not limit other Member States' obligation to tax as laid down in paragraph 6 of this Article.

8. 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 14(1), (2) and (3) shall not apply to energy products and electricity used to produce biogas exempted in accordance with this paragraph.

9. 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.

10. Products falling within CN code 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 27

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.

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 29

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 30

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 31

Information about measures taken pursuant to the Directive and about measures that are considered State aid

1. Member States shall inform the Commission of measures taken pursuant to Articles 14 to 24.
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.
3. 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 32

General implementation

1. 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.
2. The exemptions provided for in this directive shall apply in addition to those provided for in Directive (EU) 2020/262.

Article 33

Committee procedure

1. The Commission shall be assisted by the Committee on Excise Duties set up by Article 52 of Directive (EU) 2020/262. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁰.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

Article 34

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(5), 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 [OJ, please insert 1 January 2 years after adoption].
3. The delegation of power referred to in Article 2(5), Article 3(6), Article 3(7), Article 3(8) 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-Making²¹.

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

²¹ OJ L 123, 12.5.2016, p. 1.

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(5), Article 3(6), Article 3(7), Article 3(8), or Article 4(4) shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.
7. The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

CHAPTER V

FINAL PROVISIONS

Article 35

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 2(3), (5) and (6), Article 3(1), points (b) to (p), Article 3(3) to (9), Article 5 to 7, Article 14(2), (4) and (7), Article 15(4), Article 16(3) to (5), Article 17(1), point (d), Article 19(1), points (b) and (c), Article 20(4), Article 21, Article 23, Article 24(4), Article 25(1), points (b), (f), (g), (k) to (o), second subparagraph, (4), Article 26(4), second subparagraph, (6), third subparagraph, (7), (8) and (10), Article 30(3), Article 32, Articles 35 to 38 and Annexes I to IV 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.

Article 36

Reporting

1. By 5 years after [OJ, please insert 2 years after adoption] 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 37

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 1 January 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) 2018/552²² and (EU) 2022/2521²³ 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 V].

Article 38

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 8(1), Article 10(2), Article 17(1), points (a) and (b), Article 25(1), point (a), (h) and (j), Article 25(4), Article 26(2), Article 27, Article 28(1) and Article 30(2), which are unchanged by comparison with Directive 2003/96/EC, shall apply from [OJ, please insert 1 January two years after adoption].

²² (OJ L 91, 9.4.2018, p. 27)

²³ (OJ L 326, 21.12.2022, p. 57-58)

Article 39

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 9 (in EUR/GJ net calorific value)

Category	1.1.2030	1.1.2034	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 10 (in EUR/GJ net calorific value)

Category	1.1.2030	1.1.2034	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 11 (in EUR/GJ net calorific value)

Category	1. 1.2030	1.1.2034	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 14 (in EUR/GJ)

	1. 1.2030	1.1.2034	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 6(1), point (a)(i), for the purposes of Article 9 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 6(1), point (a)(ii), for the purposes of Article 10 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 6(1), point (a)(iii), for the purposes of Article 11 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 6(1), point (b)(i), for the purposes of Article 9 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 6(1), point (b)(ii), for the purposes of Article 10 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 6(1), point (b)(iii), for the purposes of Article 11 (in EUR/GJ net calorific value) from 1 January 2030 to 31 December 2042

	1. 1.2030	1.1.2034	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 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	9,76 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	7,06 GJ/1000 kg**
19		Blast furnace gas	1	2,47 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 1*
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 1* 44 GJ/1000 kg* 32 GJ/1000 1* 44 GJ/1000 kg* 33 GJ/1000 1* 44,5 GJ/1000 kg**
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	
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	
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	

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

49		Gas oils excluding items 50 to 58	1	43 GJ/1000 kg** 36 GJ/1000 l***
50		Hydrotreated oil of biomass origin to be used for replacement of diesel excluding items 51 and 52	1	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	ex.2710 19 42 to	Hydrotreated oil of biomass origin to be used for replacement of diesel (advanced sustainable)	3	
53	ex.2710 19 48, 2710 20 11 to 2710 20 19	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	44 GJ/1000 kg*
57		Fischer-Tropsch diesel (sustainable, other than food and feed crop)	2	34 GJ/1000 l*
58		Fischer-Tropsch diesel (advanced sustainable or renewable of non-biological origin)	3	
59	2710 19 62 to	Fuel oil excluding item 60	1	40,4 GJ/1000 kg**

60	2710 19 67, 2710 20 32, 2710 20 38	Shale-derived fuel oil	1	38,1 GJ/1000 kg**
61	2710 19 81 to 2710 19 99	Lubricating oils	1	40,2 GJ/1000 kg**
62	2710 91 to 2710 99 00	Waste oil	1	40,2 GJ/1000 kg**
63	2711 11 00 and 2711 21 00	Liquefied natural gas and natural gas in gaseous state	1	48 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	24 GJ/1000 1*
75		Hydrotreated oil of biomass origin to be used for replacement of LPG (advanced sustainable)	3	
76		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG excluding items 77 and 78	1	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	23 GJ/1000 1*
78		Co-processed oil of biomass or pyrolysed biomass origin to be used for replacement of LPG (advanced sustainable)	3	
79		Fischer-Tropsch LPG excluding items 80 and 81	1	
80		Fischer-Tropsch LPG (sustainable other than food and feed crop)	2	46 GJ/1000 kg*
81		Fischer-Tropsch LPG (advanced sustainable or renewable of non-biological origin)	3	24 GJ/1000 1*
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*
101		Bio-Methanol (sustainable other than food and feed crop) if it is intended for use as heating fuel or motor fuel	2	16 GJ/1000 1*
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*
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	25 GJ/1000 1*
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*
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	27 GJ/1000 1*
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*
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*
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*
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*
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 1*
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 1*
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 1*
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

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	33 GJ/1000 1*
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	

*See Annex III in Directive (EU) 2018/2001 of the European Parliament and of the Council of 11. December 2018 on the promotion of the use of energy from renewable sources

** See Annex VI in Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012

*** Other source.

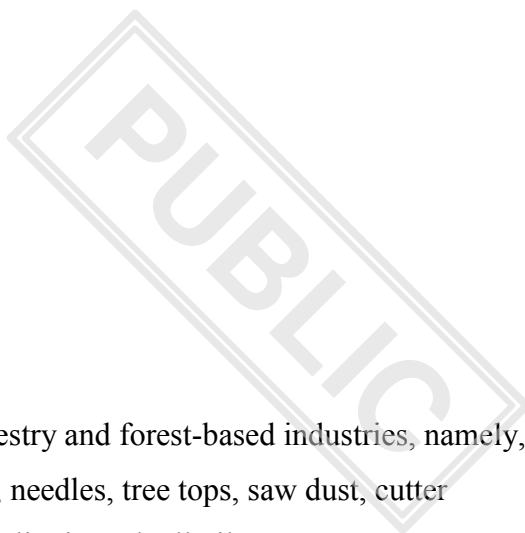
ANNEX III

FEEDSTOCK FOR THE PRODUCTION OF 'BIOFUELS, BIOLIQUIDS AND BIOGAS FROM WASTE AND RESIDUES AND ADVANCED BIOFUELS, BIOLIQUIDS AND BIOGAS' AS REFERRED TO IN ARTICLE 3(4)(B)

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

LIST OF ENERGY PRODUCTS TO WHICH ARTICLE 25(3) SHALL NOT APPLY

Energy product	CN codes
Leaded petrol	2710 12 31 2710 12 51 2710 12 59
Unleaded petrol	2710 12 31 2710 12 41 2710 12 45 2710 12 49
Gas oil	2710 19 43 to 2710 19 48 2710 20 11 to 2710 20 19
Kerosene	2710 19 21 2710 19 25
LPG	2711 12 11 to 2711 19 00
Natural gas (except where transported by pipelines)	2711 11 00 2711 21 00
Heavy fuel oil	2710 19 62 to 2710 19 68 2710 20 31 to 2710 20 39

ANNEX V
CORRELATION TABLE

Directive 2003/96/EC	This Directive
Article 1	Article 1(1)
-	Article 2(3), (5) and (6)
Article 2(1), point (a)	Article 2(1) and 3(1), point (a)
Article 2(1), points (b) to (h)	-
-	Article 3(1), points (b) to (p)
Article 2(2)	Article 3(2)
Article 2(3), first and second subparagraph	Article 3(1), point (q)
Article 2(3), third subparagraph	Article 3(1), point (r)
-	Article 3(3) to (9)
Article 2(4)	Article 1(2)-(5) and (6), points (a), (b) (c) and (d)
Article 2(5)	Article 3(10)
Article 3	-
Article 4(1)	Article 4(1), (3) and (4), and Article 5(3)
Article 4(2)	Article 4 (2)
-	Article 5
-	Article 6
-	Article 7
Article 5, first indent	Article 18(1) a)
Article 5, second indent	Article 18(1) b) (i)
Article 5, third indent	-
Article 5, fourth indent	Article 18 (1) b) (ii)
Article 6	Article 8

Article 7(1)	Article 9
Article 7(2) and (3)	Article 19(2)
Article 7(4)	-
Article 8(1)	Article 10(1)
Article 8(2)	Article 10(2)
Article 9(1)	Article 11
Article 9(2)	-
Article 10(1)	Article 12
Article 10(2)	-
Article 11(1) to (3)	Article 18 (1), third subparagraph, and (2)-(4)
Article 11(4)	Article 18 (1), second subparagraph
Article 12	Article 2(3)
Article 13	Article 13
Article 14(1), point (a)	Article 14(1) and (3)
-	Article 14 (2) and (4)
Article 14(1), point (b)	Article 15 (1) and (2)
Article 14(1), point (c)	Article 16 (1) and (4)
Article 14(2)	Article 15(3) and 16(2)
Article 15(1), point (a)	Article 17(1), point (a)
Article 15(1), point (b)	Article 17(1), point (b)
Article 15(1), point (c)	Article 20(1), point (a), and (2)
Article 15(1), point (d)	Article 17(1), point (c)
-	Article 17(1), point (d)
Article 15(1), point (e)	Article 19(1), point (a)
-	Article 19(1), point (b) and (c)
Article 15(1), point (f)	Article 16(3)

Article 15(1), point (g)	-
Article 15(1), point (h)	Article 20(1), point (b) and 20(3)
-	Article 20(4)
-	Article 21
Article 15(1), point (i)	Article 6(1)a)
Article 15(1), point (j)	-
Article 15(1), point (j)	-
Article 15(1), point (k)	-
Article 15(1), point (l)	Article 17(1), point (e)
-	Article 17(1), point (d)
Article 15(2)	Article 17(2)
Article 15(3)	Article 22(7)
Article 16	-
Article 16(1), 1. subparagraph, point 4	Article 1(6), point (b)
Article 17	Article 22(1)-(6)
-	Article 23
Article 18(1) to (6)	-
Article 18(7)	Article 29
Article 18(8) to (14), Article 18a and 18b	-
Article 19	Article 24(1) to (3)
-	Article 24(4)
Article 20(1), point (a)	Article 25(1), point (a)
-	Article 25(1), point (b)
Article 20(1), point (b)	Article 25(1), point (c)
Article 20(1), point (c)	Article 25(1), point d
-	Article 25(1), point (d)

Article 20(1), point (d)	Article 25(1), point (e)
	Article 25(1), points (f) and (g)
Article 20(1), points (e), (f) and (g)	Article 25(1), points (h), (i) and (j)
-	Article 25(1), points (k) to (o)
Article 20(1), point (h)	Article 25(1), point (p)
-	Article 25(1), second subparagraph
Article 20(2) and (3)	Article 25(2) and (3)
-	Article 25(4)
Article 21(1)	Article 26(1)
Article 21(2)	-
Article 21(3)	Article 14(5) and (6)
-	Article 14(7)
Article 21(4)	Article 26(2)
Article 21(5), first subparagraph	Article 26(3), (4), first subparagraph, and (6), first subparagraph
Article 21(5), second subparagraph	Article 26(6), second subparagraph
-	Article 26(4), second subparagraph
Article 21(5), third subparagraph, first sentence	Article 26(4), third subparagraph
-	Article 26(6), third subparagraph
Article 21(5), third subparagraph, second sentence	Article 26(5)
Article 21(5), fourth subparagraph	Article 26(3) and (9)
-	Article 26(7)
-	Article 26(8)
-	Article 26(10)
Article 21(6)	Article 14(8)
Articles 22 and 23	Article 27

Article 24	Article 28
Article 25	Article 30(1) and (2)
-	Article 30(3)
Article 26	Article 31
Articles 27	Article 33
Articles 28 to 31	-
-	Articles 32 to 38
Article 32	Article 39
Annexes I, II and III	-
-	Annexes I to V
