VIK-Position Paper

on public consultation on the revision of the Energy Taxation Directive (ETD)

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The German association of industrial energy consumers (VIK e.V.) welcomes the European Commission's initiative to review the Energy Taxation Directive (ETD) as part of policy reforms in relation to the European Green Deal. We appreciate a possibility to participate in public consultation on the revision of the ETD.

The primary objectives of the ETD revision are as follows: to align tax borders for energy products and electricity, to contribute to net-zero greenhouse gas economy in the EU by 2050, to harmonize the energy tax rates within the EU and to define the new optional tax exemptions and reductions. VIK welcomes the Commisson´s intention to update the ETD Directive, which remained unchanged since 2003. However, the amendments concerning the tax exemptions/reductions as well as the intention to reduce fossil fuel subsidies, require further refinement.

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This position paper addresses several issues, which are particularly significant for energy-intensive manufactures in Germany: the impact on the global competitiveness of the European energy-intensive industries, the avoidance of double taxation mechanisms (e.g. carbon pricing mechanism), the keeping of differentiated tax rates for energy-intensive industries, the introduction of tax exemptions for investments in alternative fuels and comments on the legal aspects of the EU intervention in the ETD evaluation.

1. The impact on the global competitiveness

One of the consequences of the COVID-19 pandemic is the current economic recession. Although energy taxation is one of the efficient fiscal instruments of environmental policy, *the increased minimum tariffs* on energy products will cause negative effects for the EU energy-intensive industries, as for example, an increase in energy prices. To meet the climate targets, the EU needs a stable industry for the further development of innovative technologies and products. Another aspect of *global competitiveness* is related to an economic pressure from developed and emerging markets, as the USA, China, India, etc. High energy taxes in the EU enable so-called carbon leakage and industrial relocation (including investments replacement outside the EU), which limits the international competitiveness of European energy-intensive industries and obviously, complicate the climate mitigation. Therefore, the minimum tariffs should remain at an acceptable level or left to the jurisdiction of the member states.

2. The avoidance of the energy tax duplication measures

The energy prices in EU are already relatively high in comparison to other "developing" and "developed" world regions. To finance the EU climate targets, the member-states introduced and implemented the EU-ETS and further national carbon-pricing mechanisms. Germany, for example, introduces carbon price mechanism[1] from 1 January 2021 on the national level.

A possible taxation of energy products based on the energy content and greenhouse gas emissions (GHG) would mean a profound system change in energy taxation and might cause a double regulation for GHG-emissions. That would negatively impact the competitiveness of the European energy-intensive manufacturing companies on the global market. Furthermore, it will lead to the increase of energy costs and future investment risks as well. Consequently, if a system change in energy taxation is politically aspired, the current regulation must be reviewed and transformed. In this regard, tangible regulatory proposals are required as well.

As an alternative to the possible introduction of CO2-component or inclusion of environmental externalities into the energy taxation, we suggest to focus the climate diplomacy efforts on the introduction of carbon pricing instruments at a global level (at least G20).

3. Differentiated tax rates and exemptions

The taxes mentioned above should remain unchanged in order to ensure the competitiveness of the EU energy-intensive manufacturing companies. The possible EU tax burdens have a high impact on the national tax policies and therefore, influence energy markets and the use of primary energy sources.

[1] Fuel Emissions Trading Act (e.g. Brennstoffemissionshandelsgesetz)

The optional tax exemptions envisaged in the revised version of ETD should be considered as approved by default[2] and not be treated in compliance with current State aid rules. For example, the absence of such a regulation will endanger the current tax capping system. It cannot not be prolonged after the expiration of the present regulation, because the needed State aid measures will no longer be provided.

Another aspect of energy tax exemptions is related to electricity taxation.

The minimum level of taxation applicable to electricity used in industrial processes should not be increased due to the already existing carbon reduction policy and rising carbon prices in the EU. Additionally, the increase of energy taxes, including minimum and nominal tax rates on the electricity will endanger the required market-based industry investments for the green transition.

In this sense, the EU ambitious decarbonization target 2050 and, especially electrification of industrial production processes, requires immense long-term investments and are not possible to achieve without favourable energy tax treatment.

4. Tax reductions for alternative fuels

VIK generally supports the EU Commission´s initiative on *tax exemptions for alternative fuels*. Special tax regime will support investments in innovative technologies. In addition, special tax frameworks might be introduced for secondary energy carriers and recycling of raw materials or industrial waste. Thus, for example, the incineration of industrial waste, which is necessary for the treatment of toxic waste compounds, should not lead to additional production costs. The deployment of innovative incineration plants with

[2] Unless the relevant tax exemptions are outside the scope of the ETD

combined heat generation should not be penalized similar to simple burning and direct climate-relevant emissions. This will be particularly important for the manufacturers promoting circular economy production models.

5. The specific features of the decision-making in the EU (legal basis and subsidiarity check)

Finally, we would like to concentrate on the specific nature of legislative decision-making in the EU. In our vision, the legal basis for the revised ETD should still remain the Article 113 of the Treaty on the Functioning of the European Union whereby the Council acts unanimously, including the veto right. The Commission´s reference to the Article 192 of the Treaty (i.e. environmental measures of fiscal nature), which allows the EU institutions to adopt legislative proposals through the Qualified Majority Voting, will have a speculative influence on the member-states jurisdiction on the national level.

VIK is the association of industrial energy consumers in Germany. For more than 70 years VIK represents in his role as industry-wide association the interests of companies from e.g. aluminum, chemicals, glass, paper, steal and cement. VIK advises it´s members in all energy and energy-related environmental issues.